Croatian Accession to the European Union : Institutional Challenges

CROATIAN ACCESSION TO THE EUROPEAN UNION

Institutional Challenges

Second volume

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Editor

Katarina Ott

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FOREWORD

"Monitoring the Process of Croatia's Accession to the EU" is the title of a project launched in 2002 by the office of the Friedrich Ebert Stiftung Zagreb in cooperation with the Institute of Public Finance. The principal aim of this research project is to have the different phases of the Croatian process of accession to the EU monitored and evaluated by Croatian researchers. In addition to the regular official reports on the progress of the implementation of reforms in Croatia by the government and international organisations, this project aims to present on an annual basis a critical view by independent domestic experts on the accession process, covering political, economic and social fields. The first results of this work were published last year in a report under the title *Croatian Accession to the European Union: Economic and Legal Challenges.* The positive response to the publication within the Croatian public as well as in international circles encouraged us to continue with the work. In order to enlarge the view and analysis of the reform process, this second report – as compared with its predecessor - concentrates rather on institutional aspects of policy and the legislation, as presented in the different chapters of the book.

Since the publication of the first report the situation of Croatia with regard to the accession process has changed. Croatia's strong commitment to meeting the requirements of the Stability and Association Agreement (SAA) of November 2001, despite some critical voices, led to many positive reactions from EU-countries and in February 2003 the Croatian government applied officially for EU membership. Finally, after the voluminous EU questionnaire has been answered and handed over to the European Commission, a final decision is expected for spring 2004, whether or not Croatia will receive candidate status. The country has made already considerable progress on its way to becoming a member of the EU. However, apart from this positive development there remain a number of deficits to be overcome that require further steps and activities in the process of adapting to EU standards.

Like the first publication, this second report attempts to give the reader an in-depth view of some of the problems and political approaches in this context. To allow an intensive discussion of the problem areas presented in this study the Institute of Public Finance and the Friedrich Ebert Stiftung have agreed to organise a series of workshops in the course of the year on the topics of the different chapters. Through this publication and the subsequent workshops we hope

that we will be able to provide a useful contribution to the public debate on Croatia's accession to the EU, thus making the way for further steps on this way a little smoother.

Finally, I would like to thank all those who contributed to this project, particularly Dr. Katarina Ott, director of the Institute of Public Finance and editor, as well as Prof. Dr. Nenad Zakosek for assisting in editing the contributions.

Zagreb, December 2003

Dr. Rüdiger Pintar
Friedrich Ebert Stiftung
Head of the Regional Office for
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I also thank translator Graham McMaster and copy-editor Zlata Babić. Thanks go to Marina Kesner-Škreb, who prepared the glossary, Martina Matejčić, who put the bibliographies of all the papers into order, Pava Turudija who saw the book through the press, Ana Mamić and Goran Vukšić who read all the papers.

Finnaly, I would like to express my thanks to Marina Nekić, who coordinated the whole project and without whom this book would not have seen the light of day.

Katarina Ott
Editor

ABBREVIATIONS

BD	Bologna Declaration
BIS	Bank for International Settlements
BP	Bologna Process
CAP	Common Agriculture Policy
CARDS	Community Assistance for Reconstruction, Development and Stabilisation
CCP	Code of Civil Procedure
CEI	Central European Initiative
CEPEJ	European Commission for the Efficiency of Justice
CEPES	Centre Européen pour l'Enseignement Supérieur
CNB	Croatian National Bank
CoE	Council of Europe
CPI	Corruption Perception Index
CRE	Rector's Confederation of Europe (from 2001 EUA)
CSCE	Conference on Security and Cooperation in Europe
DANCEE	Danish Cooperation for Environment in Eastern Europe
DEPA	Danish Environmental Protection Agency
EBRD	European Bank for Reconstruction and Development
EC	European Community
ECB	European Central Bank
ECHR	European Court of Human Rights
ECTS	European Credit Transfer System

EEC	Environmental Emissions Cadastre
EHEA	European Higher Education Area
EIB	European Investment Bank
EIONET	European Environment Information and Observation Network
EIZG	Institute of Economics, Zagreb
EMU	Economic and Monetary Union
ENA	Ecole nationale d´administration
ENAR	European Network Against Racism
ENIC	European Network of Information Centres
ENQA	European Network of Quality Assessment
EPIS	Environmental Protection Information System
ERA	European Research Area
EU	European Union
EUA	European University Association
EURASHE	European Association of Institutions in Higher Education
EVS	European Values Survey
FDI	Foreign direct investment
GATS	General Agreement on Trade in Services
GDP	Gross domestic product
GND	Gross national product
GNI	Gross national income
GtZ	Deutsche Gesellschaft für technische Zusammenarbeit
HAGENA	Croatian Agency for Monitoring Pension Funds and Insurance
HE	Higher education

IDEA	International Institute for Democracy and Electoral Assistance
IMF	International Monetary Fund
ISZO	Environmental Protection Information System
LLL	Life-long learning
LRP	Legislative Reform Program
MEI	Ministry of European Integration
MZT	Ministry of Science and Technology
NAPincl	National Action Plan against Poverty and Social Exclusion
NARIC	National Academic Recognition Information Centres
NN	Narodne novine *(Croatian Official Gazette)*
NPPRH	National Plan for Croatian Association with the European Union
NUOSE	National Unions of Students in Europe
OECD	Organization for Economic Cooperation and Development
OLAF	Office Européen de Lutte Anti-Fraude
OSCE	Organization for Security and Cooperation in Europe
OSI	Open Society Institute
PHARE	Pologne-Hongrie: assistance á la restructaration économique
REGOS	Central Registry of Insured Persons
RC	Republic of Croatia
SAA	Stabilization and Association Agreement
SFRY	Socialist Federative Republic of Yugoslavia

SGP	Stability and Growth Pact
TRAPEX	Transitional Rapid Exchange of Information System
UK	United Kingdom
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
USKOK	Office for the Suppression of Corruption and Organised Crime
UZUS	Constitutional Law Concerning the Constitutional Court
VAT	Value Added Tax
VRED	Croatian Energy Regulation Council
WB	World Bank
WHO	World Health Organization
WTO	World Trade Organization

Chapter 1

CROATIAN ACCESSION TO THE EUROPEAN UNION: INSTITUTIONAL CHALLENGES

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What Brussels has said, essentially, is that if we work hard, we will get into the EU. This means we will definitely not get in.

Ognjen Pribičević, director of Belgrade's Center for South Eastern European Studies. Quoted in the "Financial Times" of 7 July 2003.

ABSTRACT

The objective of this chapter is to sum up the results of the monitoring of Croatia's accession to the European Union (EU). This is a project in which a number of authors have taken part, each of them wanting in his or her own area to draw the attention of the politicians, experts, the media and the public to the requirements of the EU, and the weaknesses and strengths of Croatia, and to offer their recommendations for a better and faster accession to the EU, as well as a better and faster development of both the economy and society. After an introduction in which stress is placed on the importance of institutions for the development of the economy and society, the second part starts off optimistically with the opinions of others concerning us, goes on pessimistically with EU views about itself and its own development, and in part three the results are summed up in terms of topics – macroeconomics,

the budget deficit, poverty, inequality and social exclusion, the rule of law and the judiciary, governance and the public administration, consumer and environmental protection, and legal aspects of the protection of ethnic minorities, science and higher education, and social values. In the fourth part, there is consideration of what has changed in Croatia during the year since the printing of the previous book; in the fifth, the degree of Croatian preparedness to join the EU is discussed; in the sixth, recommendations are offered for as good an adjustment as possible; and in the seventh, conclusions. Very briefly, it can be concluded that Croatia is working hard at implementing the Stabilisation and Association Agreement (SAA) and at adjusting to EU requirements, but that a better implementation of regulations will be required, together with a more rapid establishment of new, and a better functioning of existing, institutions. Crucial in this respect are problems in the public administration, in conjunction with the establishment and strengthening of the institutions essential for market liberalisation. This project too shows, once again, that irrespective of developments within the EU itself and its attitude with respect to Croatia, the country needs to work on its own institutions, launch the necessary reforms as rapidly and thoroughly as possible, and achieve better results in knowledge and education; in addition, the active participation of all those involved in the process is also a matter of vital importance.

Key words:
European Union, Croatia, institutional adjustment

INTRODUCTION

After Croatia submitted its application for membership in February 2003, there were many speculations in the public at home and in Europe at large as to whether Croatia would be able to get into the EU in 2007, no matter whether Bulgaria and Romania will be able to enter, or whether it will have to depend on the development of events in those two countries. The basic hypothesis of this paper is that Croatia will be able to enter the EU at the moment it is ready for this, that is, when it meets all the necessary conditions, irrespective of the states of affairs in Bulgaria and Romania. As distinct from the amusing scepticism of the author quoted in the epigraph, the second hypothesis is that Croatia will indeed make the effort, and that it will meet the conditions for EU

entry. Whether this will be in 2007 or perhaps in 2010 is not the subject of this chapter. Of course, we should count on the situation in the EU possibly being at that moment, irrespective of Croatian efforts and success in meeting the conditions, such as to militate against the entry of any country at all, including Croatia, then.

And so this book, like that of last year, speaks of the degree of Croatia's preparedness to join the EU in terms of various selected topics. While last year we focused on economic and legal, this year we have attached particular importance to institutional, topics.

For it is increasingly manifest that it is the institutions that hold the key to the development of both the economy and the society. In the literature, too, these topics hold sway. The IMF (2003), for example, concentrated on growth and institutions. Briefly, the conclusion of the IMF is that the growth of the quality of institutions leads to a rise in the level and rate of growth of per capita GDP and reduces oscillations in growth. Developing countries can perform much better economically if they improve the quality of their institutions while at the same time maintaining a healthy macroeconomic policy.

This includes the necessity for institutions to protect the rights of ownership, to support the rule of law, to secure proper market protection, back up macroeconomic stability, encourage social cohesion and stability. The form of the institutions is not set hard and fast, rather must be adjusted to the local conditions in each country. Particularly important is to increase competitiveness, including the openness of the market, which will lead to reduction of the influence of interest groups, a better flow of information and greater transparency. The consequence will be a more effective handling of economic policy and a reduction of corruption. It is a good idea to make use of additional external opportunities such as, for example, joining the EU, which can contribute to the improvement of institutions. It is most important, however, that there should be the while a firm will for institutional reform, that there should be decisiveness and dedication within the actual country, and that they should not be imposed from outside.

Hence, in this book we have decided to discuss macroeconomics, fiscal aspects, welfare, the rule of law and the Croatian judicial system, governance, public administration, consumer protection, environmental protection, the legal aspect of the protection of ethnic minorities, science and higher education, and social values.

In the first part of the text that follows we shall start off optimistically and ask what others think of us. In the second part pessimism

will descend as we wonder what the EU thinks of itself. In the third part of the text we shall ask what we think about ourselves and the EU, that is, briefly sum up the basic results of this project per chapter. In part four we shall indicate what has changed in the year that has elapsed since the printing of the previous work, and in the fifth we shall show the current degree of readiness in Croatia for joining the EU. In the sixth part we shall sum up the basic recommendations, and in the seventh provide the shortest possible conclusions.

LET'S START OPTIMISTICALLY: WHAT DO OTHERS THINK ABOUT US?

IMF experts in a survey of the state of affairs in the transition countries show that an external anchor, such as joining the EU, does speed up institutional reforms. The total transition indicator of the EBRD – which quantifies advance in areas such as market liberalisation and competitiveness, privatisation and corporate restructuring, financial sector reform – shows that there are much more powerful structural reforms taking place in accession countries than in the other transition countries. "Indeed, only one other transition economy (Croatia) currently outperforms any of the accession candidates" (IMF 2003:102).

Alesina and Spolare (2003) say that most of the ten richest countries in the world in terms of per capita GDP have populations below five million, and that for small countries success crucially depends on the openness of their markets and liberal trade. Hence in their view economic integration and political disintegration should go hand in hand, supporting each other, and the EU could by combining large economies of scale and political independence be ideal for small countries. From this we could conclude that for Croatia, with 4.3 million inhabitants, size itself should not be any obstacle at all, and EU accession could certainly help us in economic integration.

Bilek (2003) wonders whether Croatia can catch up with Romania and Bulgaria. According to certain economic indicators – per capita GDP, GDP growth, inflation, wages, foreign direct investment – Croatia is in any case much better off. Romania and Bulgaria, on the other hand, have better indicators regarding budgetary deficit, public debt and current balance deficit. Still, with the positive development of the economy and learning from the experience of the trailblazers, Croatia could conclude all the chapters of the *acquis* faster than those who ha-

ve gone on in front, and it will not need the three to four years that it took them. Croatia can enter the EU together with Bulgaria and Romania, perhaps not in 2007, but very likely between 2008 and 2010.

Even in that ever-sceptical journal *The Economist* one can read: "… the club of 25, and soon to be 27 or 28 members…" which might indicate that calculations are already being made about the entry of Croatia together with Romania and Bulgaria.[i]

Thus there are some reasons for optimism.

CONTINUING PESSIMISTICALLY: WHAT DOES THE EUROPEAN UNION THINK ABOUT ITSELF?

Some of the readers of last year's book complained about our scepticism regarding the future of the EU and the entry of Croatia. This year, many events – the failure of the EU constitution to be voted in, the fall in the popularity of the EU and the euro among EU citizens to the lowest level to date, dissensions about the failure to respect the rules about the amount of the budgetary deficit, the unequal treatment of old and new or big and small members – can only make observers from countries that hope to join the EU even more sceptical.

Although dissensions about the manner of voting are commonly blamed for the recent debacle in the negotiations concerning the EU constitution, it is increasingly apparent that there are more profound reasons. In fear that it will be difficult to coordinate a community of 25 members, there is increasing debate about the opportunities for the creation of a smaller community of countries or a pioneers' club within the EU, that is, a strengthening of the original founders of the European Commission (France, Germany, Italy and the Benelux countries).[ii] Yet there is little likelihood that this will be realised formally, for some of the countries are not interested, and there are legal obstacles within the EU to any such arrangements.[iii] Still, it is fairly logical to expect that within such a large community an inner circle of countries, naturally the older members, the richer and the larger will, formally or informally, make the key decisions, while the more recent members, who are poorer and smaller, will ineluctably have a marginal role.

For a few years France and Germany have regularly run budgetary deficits in excess of 3%, but a majority of finance ministers of the EU at a meeting held in November 2003 deferred the undertaking of

any measures against these countries. As against this, in 2001, when Portugal overstepped its budgetary deficit of 3%, in response to severe pressure from the EU, it had to slash public spending and in 2002 keep the budgetary deficit within the given framework of 3%, the Portuguese economy as a result falling into a deep depression and hence taxation dropping and the budgetary deficit once again rising to 5% in 2003.

In recent times there has been a marked fall in the popularity of the EU and of its currency unit the euro. According to opinion research carried out by the European Commission in autumn 2003, only 48% of EU citizens were of the opinion that it had been a good thing for their country to join the EU. Only 52% of those who used it thought that it had been on the whole worthwhile bringing in the euro. Just a year before that these percentages had been much higher.[iv]

In short, there are reasons in plenty for pessimism concerning the future of the EU. But in spite of scepticism concerning the outlook for the Union and Croatian entry into it, there is every reason to endeavour to meet the majority of the conditions that the EU requires, because the benefits from making the adjustments can be enormous for us. Imagine that we are living in a country with a proper judiciary, with universities whose degrees are recognised throughout Europe, with an efficacious public administration – "Europe" would then be here among us with or without the EU.

BUT WHAT DO WE THINK OF OURSELVES AND OF THE EUROPEAN UNION?

In this part of the paper we shall briefly abridge the views of the authors of this book on individual topics: macroeconomics, the budgetary deficit, welfare policy, the rule of law and the judiciary, governance and the public administration, protection of the consumer, of the environment and ethnic minorities, science and higher education, and social values.

The challenges of macroeconomic stability

Dubravko Mihaljek points out that Croatia, albeit with oscillations, has since 1995 recorded an average rate of growth of over 4%, and since 2000 an upward trend in economic growth. Despite widespread beliefs, the role of private consumption in this growth has not increased dramatically, and the share of consumption in GDP has not yet reached

the levels that are considered normal in this phase of development. Even more important, investment is growing, and its structure is improving, while government spending is no longer the main generator of growth. Although a more powerful contribution by exports to growth would naturally be very welcome, instead of the selective promotion of exports, the author suggests the establishment of a higher quality legal and judicial system, transparent regulation of market competition, provision of infrastructure, education and social services in cases when the market alone is incapable of providing for them properly. The greatest challenge to macroeconomic policy could be contained in symptoms of too great a success, that is, of large inflows of capital, and not lack of success, particularly in conditions of inadequately firm fiscal discipline. Hence it will be necessary to set interest rates at an appropriate level, because rates that are too high could lead to exaggerated inflows of short-term capital, and rates that are too low to over investment and inflation.

Can we enter the European Union with a budgetary deficit?

Judita Cuculić, Michael Faulend and Vedran Šošić have calculated that the net costs of Croatian membership in the EU in 2007 or the net loss to the budget could come to about 1% of the expected GDP. If we add these effects of membership to the Government's fiscal projection, according to which the budgetary deficit of general consolidated government in 2007 should come to 2%, we can predict a deficit of about 3%. It will be difficult with a deficit of this order to conduct a fiscal policy in line with the Stability and Growth Pact. The reasons for such predictions are changes in budgetary revenue and expenditure brought about by joining. Where revenue is concerned, a country gains transfers from the EU budget, revenue from excise rises, but customs duty revenue is lost. As for expenditure, there are adjustment outgoings, such as in transport and environmental protection, as well as a change in the structure of expenditure because of the joint financing of transfers from the Structural Funds.

Poverty, inequality and social exclusion

There are no express EU requirements to do with the adjustment of social policy. Predrag Bejaković therefore opts to compare the situa-

tion in Croatia with that in the members and the candidates. Absolute poverty is low in Croatia, while the characteristics of the poor are very similar to those in other countries. Above all, the poor are the unemployed and the inactive. Economic growth in Croatia, although at a reasonable level, does not create adequate opportunities for the poor, while they are anyway in a disadvantaged position with respect to taking advantage of those that do exist. In parallel with the reduction of the role of the state in the economy, its active intervention in critical areas where the market fails to provide an effective distribution is essential. Croatia spends considerable resources on social programmes, but it does not collect information and does not adequately monitor who is receiving aid or what the benefit of such aid is. There is no need to expect the impossible from joining the EU, rather one should look to the coordination, control and direction of assistance to areas where it is most necessary.

The rule of law and the Croatian judicial system

Alan Uzelac states that the judiciary is faced with many problems, such as the shortage of experience and knowledge, poor decision making, the impossibility of obtaining unbiased and fair trials for some categories of parties and cases. One of the greatest problems lies in the long court cases, or, put in another way, in the necessity to ensure a trial within a reasonable period. The Ministry of Justice is optimistic, but the author is sceptical concerning the success of reforms because of the lack of any clear vision or conception of changes. He stresses the absence of any serious or sincere will for thoroughgoing reforms and the lack of readiness of justice and the ruling elites for the shock that an effective and high quality justice system would have to lead to. The essential adjustments must be institutional, and not just in the letter of the law. Unfortunately, the process is lengthy and difficult to implement, but it is nevertheless essential not only for joining the EU but also for the construction of a liberal democracy and a successful market economy.

Governance and the public administration

Marijana Bađun claims that Croatia lags behind the EU and the CE candidates in terms of all governance indicators used – rule of law, democracy, corruption, political stability and the effectiveness of go-

vernment – as well as in terms of the quality of the public administration. There is nevertheless a positive side in that all these indicators are slowly improving. The problems in the civil service derive from inappropriate education for contemporary needs, inadequate monitoring of the performance of officials, a high degree of politicisation, an absence of an appropriate organisation culture and inherent values, an inheritance of clientelism and paternalism, and a lack of orientation to the citizen. Unfortunately, there is no clear short-term plan of implementation or strong political will for reform. Nevertheless, the Government has provided for a halt to the expansion of the civil service, for horizontal decentralisation, increased rationality and economy, and training for the EU. This is particularly important because the civil service will have to carry out many legislative reforms in the country, and should also provide high-quality representatives in the EU who will be able to face the competition from representatives of other countries.

The SAA places particular responsibilities upon the Croatian civil service in the areas of protection of competition and the rules for the giving of government or state aid. Ana-Maria Boromisa points out the weaknesses of institutions that are the consequence of ill-defined priorities and timetables for the implementation of measures. First of all, there is no defined strategy for the development of the public administration; there are frequent adjustments, legal uncertainty reigns, there is no trust in institutions, and stronger control is necessary. Effectiveness is not monitored, financial control is weak, and the budget is not activity-based. The European Commission complains of the weakness of the institutions charged with effective collaboration with the ICTY and the implementation of other obligations from the peace agreements. Reform of the public administration is essential in order to increase effectiveness, to meet deadlines better and to enhance trust in government. Here the experience of the accession countries needs using, as well as the technical and financial assistance that is available through, for example, CARDS.

Consumer protection

The SAA imposes on Croatia the obligation to adjust to both the legal system and the real protection of consumers in force in the European Community. Aida Liha shows that in this area Croatia is unfortunately a fair way behind not only the member countries but also the accession countries. The Consumer Protection Law was adopted only in

2003, and it constituted nothing more than a start to the long-term creation of a society on a consumer scale. Croatia will have to harmonise and adjust its laws, as well as to promote an active policy for consumer protection, for greater provision of information, the development of independent consumer associations, effective legal protection of consumers for the sake of improvement of the quality of products and the maintenance of appropriate safety standards. Protection is essential also for the proper functioning of a market economy, and the development of the administrative infrastructure is a precondition for control of the market and the implementation of laws. Croatian institutions are the while confronted with difficulties in the legislative and institutional spheres, as well as those of information and education.

Protection of the environment

Within the framework of the *acquis* that all the candidate states have to take on there is a special chapter on the environment, and in the SAA there are particular concrete obligations designed specifically for Croatia. Rapprochement with the EU in this area is exceptionally complex, demanding and expensive, because of the marked differences in the standards, in the legislative and administrative system, and in the actual state of affairs in the environment to date. Alida Ban analyses environmental protection with an emphasis on the institutional framework, on the information system, the educational system and public participation. For the moment, within the given periods, Croatia is successfully putting into effect the obligations deriving from the SAA, is carrying out international projects, making studies and analyses of comparative regulations, a national strategy and a national plan have been adopted, and a project has been submitted for the CARDS programme. The legislative background is fairly good, particularly in some segments, but the problem is in the poor coordination of the numerous structures of the state administration and the meagre involvement of citizens in the environmental protection procedure.

Legal aspect of the protection of minorities

Snježana Vasiljević considers the legal aspect of protection of minorities in Croatia, above all their position before and after the Con-

stitutional Law on the Rights of Ethnic Minorities came into force in 2002. Looked at from the point of view of the law, Croatia has made a major breakthrough in the protection of minority rights, both for Croatia and for the countries of the whole region. It is the duty of states, irrespective of the tragic experiences of the past, or perhaps rather because of these experiences, to ensure the coexistence of all individuals, irrespective of their ethnicity. It is not just a matter of the requirements of the international community and the EU, but a question of the construction of a democratic, multicultural and multiethnic state. And after all, the Croatian constitution too guarantees the right to ethnic equality, as well as the equality of all individuals before the law. But as in some other areas, so in the protection of minorities, the actual laws, if they are not appropriately implemented in practice and if they are not in accordance with the real needs and capacities, will not be adequate to ensure rapid accession to the EU.

Science and higher education

Darko Polšek has discussed the outlook for the development of Croatian higher education and its incorporation into the Bologna Process, that is, the European unification and reform of higher education. Croatia does not stand out from the higher education standards of the accession countries or the countries in the region, but it is faced with many problems, such as insufficient university autonomy, inadequate processes for the recognition of degrees, students and faculty that are insufficiently mobile, employment problems, financial irrationality, a poor state administration, a dubious double system (university and polytechnic), inadequate control of the quality of education, lack of lifelong learning and poor collaboration with the economy. Requirements are met only nominally, that is, the regulations that have been set are accepted in theory but are not brought to life in practice. The poor government administration and university administration will be hard put to prepare us for the keen competition, the introduction of new programmes, international programmes with international degrees and greater student and faculty mobility. By way of consolation, there are very similar problems in the most developed European countries, which in higher education are finding it difficult to keep up with the more successful United States.

Social values

The majority of Croatian citizens want the country to enter the EU, hoping thereby for a higher standard of living and general progress.[v] At a time when, according to the European Commission research already mentioned, among the actual citizens of the EU belief in the Union and its institutions is falling, Ivan Rimac and Aleksandar Štulhofer analyse social values in Croatia, endeavouring via them to assess how ready or unready Croatia is to join the EU. In connection with post-materialism and social capital, Croatia is similar to the average of the accession countries, and is sharply distinct from the mean of countries outside the EU. Citizens of Croatia have a poorer opinion of democracy and authority in their country than the citizens of the accession countries, which is probably the consequence of the ineffectual handling of the transition in the nineties. Since citizens often judge transnational institutions in the light of their knowledge of national institutions, it is essential to undertake measures to facilitate and accelerate integration into the EU, and what is even more important, to create a greater level of social trust, economic performance and political stability.

WHAT HAS CHANGED IN CROATIA IN THE YEAR SINCE THE PUBLICATION OF THE PREVIOUS BOOK?[vi]

Looked at from a macroeconomic point of view, it is encouraging that thanks to a rise in private spending and investment economic growth has accelerated (coming to over 5%), the inflation rate has fallen below the EU level (coming to 1.5%), the stability of the kuna together with a favourable access to the international capital market has been maintained, and the budgetary deficit reduced (below 5% of GDP); in addition, positive structural reforms have been carried out, for example, in the labour market, in capital transactions and in the securities market. But unfortunately, the deficit in the current balance of payments has been considerably increased (6% of GDP), and foreign debt has risen (70% of GDP), while privatisation and the restructuring of state-owned corporations is proceeding too slowly, which has resulted in the further growth of government guarantees for public (as well as private) firms.

In the recent period many new laws and regulations have been passed, often according to the parliamentary "urgent procedure", various bodies and agencies have been set up in order to meet the demands of the SAA and the EU. However, the situation in practice is often very dubious. The reason for this is the low quality of the public administration and the absence of any real will (for example, for the agencies to be genuinely independent) as distinct from the mere formal fulfilment of the requirements. Regulations have often been passed without appropriate preparation and/or even the intention to implement them.

Among the new or amended laws one might mention in particular the Law and the Ordinance on State Aid, the Constitutional Law on the Rights of Ethnic Minorities, the Law on Elections, Amendments to the Labour Law, the Law on Foreign Currency, the Law on Equality between Men and Women, the Law on Homosexual Unions (although there was a great deal of resistance, Croatia is now one of the few countries to regulate this matter in a special law) and the Law on Protection Against Violence in the Family.

As well as the new and amended laws and newly-formed agencies, we can include the following among the positive steps:

- Further liberalisation of trade in the region, although unfortunately with bilateral and not multilateral agreements.
- Croatia became a member of CEFTA. It is true, when they join the EU, some of the countries will leave CEFTA, making the association less important.
- Labour legislation has been made more flexible and a start has been made on the drawing up of the National Action Plan for Employment.
- The National Foundation for the Development of Civil Society has been founded, and work started on the elaboration of a Development of Civil Society Strategy.
- Thanks to the fine work of MEI, the transparency of the harmonisation process has been enhanced, and on the MEI Web site there are many documents, such as the Interactive Plan for the Implementation of the SAA.
- The visa regime for citizens of Serbia and Montenegro has been temporarily suspended.
- Equality between men and women has been strengthened not only by the passage of the relevant new statute, but also by the inclusion of certain essential provisions (e.g., the introduction of the principle of equal pay for equal work and that concerning sexual harassment) into the Labour Law.

- Similarly, an attempt has been made to palliate the position of victims of family violence not only by the passage of the Law on Protection against Violence in the Family, but also through adjustments to the Civil Proceedings Law preventing suits being dragged out, which is of particular importance to victims of family violence.

And yet, there are still many very serious problems.

In the SAA Croatia assumed the obligation to found an operationally independent body to monitor government aid. The new body has not been established; rather the task has been entrusted to the Agency for the Protection of Market Competition. The condition has been nominally satisfied, but because of unresolved personnel and financial matters, the Agency is not yet properly equipped for the task.

Similarly the Croatian Energy Regulation Council is only formally independent, and the shortage of personnel is a serious constraint on the development of its institutional capacity.

The laws that are passed are often poorly harmonised. From the Constitutional Law and the Election Law it was not clear whether minorities were allowed to vote twice – for the minority and then for the party list, and this led to numerous debates just before the election. Some of the laws are deficient or do not take in all the essential provisions of EU directives (e.g., the Equality between Men and Women Law) and the courts will have numerous problems in applying them.

An ill-founded optimism reigns among Croatian politicians. Projections and plans of adjustment are often unrealistic. Often the work done is scanty and feeble. Often there is money, there are instructions and support, but the plans are weakly implemented. In fact, it often seems that there is no will for genuine implementation of the harmonisation process.

ARE WE WORKING WELL AND TO WHAT EXTENT ARE WE PREPARED?

In some of the areas dealt with there are concrete EU or SAA requirements (for example, environmental protection, consumer protection, ethnic minority protection) and in some of them there are no concrete demands, rather we have focused more on a comparison with the actual state of affairs and processes in the members, the accession countries and Croatia (for example, in the case of social values, welfare policy, higher education).

In most of the areas we can say that plenty is being done, considerable effort is being invested, as well as resources, and yet the outcomes are not always as we would have them be. There is in principle a commitment to reform, there are many instructions, support programmes, new laws are passed, those that already exist are changed and adjusted, and the formal side is often more than satisfied. But unfortunately, a poor public administration, weak coordination among the institutions, poor statistics and monitoring of information, an optimism that is frequently unfounded, sometimes even an absence of any real will for reform, an ineffective judiciary, weak supervision of the political decision-makers: these are some of the basic weaknesses and shortcomings that are holding back the reform processes.

In welfare policy, for example, many different programmes have been launched, but the role of government in the redistribution is uncoordinated and there are no proper statistics; programmes and their results are not monitored. The courts are not effective and there seems to be no real desire for a thoroughgoing reform in this area. There are also serious gaps in the legal framework necessary for the development of civil society – although quite a lot has been done in this area – and an environment conducive to development is not being created.

As for the protection of ethnic minorities, formally, everything is fine, and the law provides for many good approaches, such as the dual franchise, councils and representatives of ethnic minorities in units of local self-government, councils for minorities at government level, and yet there are many ambiguities that need resolving, that is, the letter of the law needs to be harmonised with real needs and capacities.

If the social values in Croatia are compared with those in the member states, the accession countries, and countries completely outside the EU, we can see that we are equally as well prepared as the accession countries. Some trends are positive; and yet the role of the state, that is, of politics, is still too great in the economy; education and the judiciary are still ineffective. For this reason the mark given to democracy and satisfaction with the political authorities in Croatia is closer to the mean of countries outside the EU than to that of the accession countries.

RECOMMENDATIONS

Each chapter of this book contains recommendations that relate to specific areas. Here we shall endeavour to sum up those recommendations that are common to most of the authors and that are most often repeated.

Take most of the steps as soon as possible, without waiting for Croatia to become a member of the EU. This requires considerable fiscal adjustments in the next few years. A decision on adjustments will not be easy to make because there are great requirements for public expenditure, and the deficits can at the moment be relatively easily financed. In particular it is necessary to make a realistic evaluation of the structural bottom line of the budget and the effect of the budgetary stabilisers, develop an active fiscal strategy capable of rapidly and flexibly enlarging or diminishing the budgetary deficit in accordance with the movements of the business cycle, and draw up long-term projections of fiscal adjustment. In the case of the public administration, for example, institutional changes are needed that cannot be carried out overnight and that cannot wait, because the whole process of joining will depend above all on the quality of the public administration.

Become a part of international programmes that already exist. In many areas, such as environmental and consumer protection or education, there are international programmes in which Croatia as state, or some of its regions, cities, institutions, firms, NGOs, can be involved already, and advantage should be taken of this. This would improve the situation in Croatia, contacts can be made and experience gained, and the conditions created for better collaboration after the eventual joining of the EU.

Carry out institutional and not merely formal legal adjustments. It will not be enough for changes in the judiciary just to change the laws; rather, more profound personnel and social changes are required, even a change in the mind-set of judges, attorneys and public notaries. Along with changes in the letter of the law, linked objectives have to be achieved according to a plan: a quality and stable legislation, a competent and efficacious judiciary, respect for the results of proceedings, and an effective enforcement of judicial decisions and other decisions founded on law.

Reforms have to be comprehensive. In all areas it is necessary to define the objectives, strategies, order, deadlines, organisation and responsibilities. In the reform of the public administration, for example, this means a clear demarcation of the authorities of the bodies of the government administration from those of institutions with public authority; the determination of the organisation of all institutions; the reduction of the number of ministries, and the improvement in the coordination among them; establishment of performance criteria, and the foundation of budgets upon performance. In environmental protection, for example, the competent ministry has to adopt a single strategic docu-

ment for the overall procedure of harmonising regulations concerning the environment.

The public administration is of crucial importance. Croatia should devote particular attention to reinforcement of the civil service so as to make sure that the appropriate ministries can properly carry out the many legislative reforms they have committed themselves to (European Commission, 2003). Of particular importance here will be coordination, team building, motivation, accountability and internal and external control, in each and every segment of the public administration.

Strengthening the rule of law and order. In order to restore the trust of citizens, it is essential to have an effective executive branch, greater professionalism, depoliticisation, more transparent work by the ministries and the Government, and a precise definition of accountability. In order to increase trust in institutions in Croatia (and so indirectly in the EU as well) the fight against corruption is essential, to slow down the cynicism and opportunism met particularly among the young. In some segments, as for example in the protection of ethnic minorities, the harmonisation of the law is required not only with international and European laws, but also with the Croatian Constitution. In addition, the passage of a comprehensive anti-discrimination law to prevent discrimination against individuals on any basis, and not just the ethnic, is required.

Independence and transparency. To enable the better functioning of institutions and the enlargement of public trust in them, it is necessary not only to found but also to enhance the independence and transparency of independent bodies in areas like energy, environmental and consumer protection and government aid.

Statistics and research. For the better coordination and monitoring of welfare policy programmes, for example, improved statistics are essential, which holds too for further investigations into social and welfare problems.

Education. In order to reduce the educational gap with the EU average it is essential to improve the quality of education in all areas and at all levels. In higher education, for example, it is necessary to resolve the current problems of unlawfulness in legal, property and academic matters, the problem of recognition of degrees, to collaborate with foreign countries, to introduce curricula taught in English, new interdisciplinary curricula, and set up doctoral courses.

Public information. It is crucial to strengthen the openness, independence, critical ability and responsibility of the media in order to improve the quality of both media and government, to achieve a better

level of information about the EU itself and about the concrete problems, as well as the capacities of the society in for example welfare policy, environmental and consumer protection, and the protection of minorities.

CONCLUSION

At the end we may conclude that Croatia's accession to the EU is moving in the right direction, but that there are still causes for concern, and that it would be wrong to be duped by exaggerated optimism. Croatia is still not ready, does not meet many of the conditions, but with effort and exertion could well be ready even before the EU wishes to accept the country. In any event, it would be good to meet most of the EU requirements even if there were no EU.

There is in Croatia an amazingly low level of interest in the real effects of membership. And yet one should approach the costs and benefits very seriously. If not because of the desire to live in a country that is as clean and beautiful as it may be, then at least because of the great costs that await us in this area, we should look for example at the costs of adjustment in environmental protection. If Croatia entered the EU in 2007, adjustment costs in environmental protection alone would in that year come to about 300 million kuna, or about 0.1% of the predicted GDP for 2007. Since the EU offers many funds that can be used for adjustment in this area, it is essential to build up a system capable of absorbing as many as possible of these EU resources.[vii] It is especially important to stress here that important resources – depending upon our own capacities – can be used already, even before EU accession. But for this, knowledge is required and the coordination of the bodies of government, at all levels, as well as the participation of business, of the non-governmental sector and members of the public.

It is interesting that there is a gap in Croatia between the real situation and the perception. For example, in opinion research concerning the most important problems in Croatia, an ineffective civil service was in thirteenth place out of twenty. And yet, all authors of this book, and the European Commission itself, put forward precisely the weaknesses of the public administration. Perhaps the most essential thing will be depoliticisation, because as long as recruitment to the civil service is not done according to merit, but often on grounds of political acceptability, it is impossible to expect any essential improvement in the state of affairs.

It should be stressed in particular that the procedure for joining the EU is a lengthy and painful one, and that it should be initiated as soon as possible, especially since Croatia is planning to become a member in a period of time shorter than all the candidates to date. Decisive moves in the reform of the public administration should be taken as soon as possible, because the changes take a long time, improvements cannot be waited for, and the whole procedure of the current negotiations with the EU actually depends on a high-quality public administration.

One should bear in mind that the accession of neighbouring countries will have considerable consequences for Croatia. When Slovenia for example has to apply EU regulations to do with Krško NPS, the same regulations will have to be implemented in Croatia. Hence in questions to do with preparations for emergencies, nuclear safety and supply security Croatia will have to accept EU regulations even before the time provided for in the SAA.

We may, then, in brief conclude that Croatia is working hard to implement the SAA and adjust to the demands of the EU, but a better application of rules and a faster establishment of new, and the better functioning of existing, institutions will be required. Thus the problems in the public administration, and particularly in the judiciary, as well as the establishment and strengthening of institutions that are essential for the deregulation and liberalisation of the market are of crucial importance.

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i *The Economist, November 22, 2003, p. 14 "European Union Enlargement – Clubbing Together".*

ii *There are frequent articles on this in The Economist.*

iii *Obstacles decline with time, but it is still necessary for at least eight members to agree with some form of enhanced collaboration.*

iv *http://europa.eu.int/comm/public_opinion/archives/eb/eb60/eb60_en.pdf.*

v *Poll results can be found at www.mei.hr.*

vi *Here I would particularly like to thank those authors – Predrag Bejaković, Ana-Maria Boromisa, Ramona Franić, Marina Kesner-Škreb, Dubravko Mihaljek, Mia Mikić, Snježana Vasiljević, Igor Vidačak and Aleksandar Vukić – who made the effort to update their papers from last year.*

vii *For more on estimates of the costs and benefits of a possible accession in 2007, see the chapter by Cuculić, Faulend and Šošić.*

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Chapter 2

CHALLENGES OF MACROECONOMIC STABILITY: A SPEED LIMIT ON CROATIA'S ACCESSION TO THE EUROPEAN UNION?

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ABSTRACT

This paper analyses three issues that could potentially affect macroeconomic stability and hence the speed of Croatia's accession to the European Union (EU): (i) Can the economy continue to rely on domestic demand as the main source of growth or is stronger reliance on exports necessary in the medium term? (ii) Is the external current account deficit in Croatia "excessive" and how have high deficits been corrected in the past? (iii) Does the expansion of bank credit to the private sector carry the seeds of macroeconomic instability? The paper argues that clearer signs of healthier growth have emerged since 2000, and that the Croatian economy should be able to adjust to the widening external deficit in 2002–03 in an orderly manner. However, there are reasons to be concerned about the expansion of private sector credit, as recently it has been financed largely by foreign borrowing. Large capi-

* *The views expressed here are those of the author and do not necessary represent those of the Bank for International Settlements. The author is taking part in this project as an independent researcher. Helpful comments from Ante Čičin-Šain, Andrea Mervar, Katarina Ott, Sandra Švaljek and two anonymous referees are gratefully acknowledged.*

tal inflows are likely to become the main challenges for macroeconomic policy in the run-up to Croatia's EU accession. Policy makers will in particular have to address the so-called "Tošovský dilemma", i.e., set interest rates at an appropriate level: setting them too high would invite excessive short-term inflows, while setting them too low would lead to excessive investment and thus inflation.

Key words:
Croatian economy, enlargement of the European Union, transition economies, macroeconomic stability, economic growth, current account reversals, bank lending, banking system vulnerability, capital inflows

INTRODUCTION

Many Croatian citizens presently hope and expect that Croatia will join the EU in 2007. Since the government submitted its EU membership application in February 2003, the ability to meet the conditions for EU accession has become the subject of almost daily assessments in virtually every sphere of economic, social and political life in the country. Macroeconomic stability is usually not seen as a major issue in this context. One reason is that good macroeconomic performance is not per se a condition for the accession: the key economic criteria are the existence of a functioning market economy and the capacity to cope with competitive pressure and market forces within the Union. As the experience of Greece, Ireland, Portugal and Spain around the time they joined the EU has shown, these criteria can be satisfied even without a distinguished record of macroeconomic performance. Another reason is that macroeconomic stability is now largely taken for granted – low inflation, a stable exchange rate and a reasonable growth rate have been maintained since late 1993 despite considerable changes in the domestic and external economic environment.

Over the past year, however, the Croatian economy has started to face some new macroeconomic challenges. This paper focuses on three issues in particular: (i) Can the economy continue to rely on domestic demand as the main source of growth or is stronger reliance on exports necessary in the medium term?; (ii) Is the external current account deficit in Croatia "excessive" and how have high deficits been corrected in the past?; and (iii) Does the expansion of bank credit to the

private sector carry the seeds of future macroeconomic instability? These issues may have an important bearing on the speed of Croatia's accession to the EU. For instance, evidence that the economy returns quickly to a normal growth path following a reversal of current account deficits provides certain assurance that rapid growth could be sustained in the medium term, which should facilitate Croatia's accession efforts. On the other hand, evidence that adjustment is slow or partial may indicate that imbalances are accumulating. In that case, the imbalances may eventually have to be resolved through a crisis, which is bound to be costly in terms of growth and could delay Croatia's accession to the EU.

The main message of the paper is that there are reasons for cautious optimism on the outlook for continued macroeconomic stability. First, evidence of healthier growth seems to have emerged in the past few years (see Section 2). Contrary to widespread belief, the role of private consumption as a source of growth has not increased dramatically in recent years, and the share of consumption in GDP has yet to reach levels considered to be normal at this stage of development. More importantly, investment has strengthened and its structure has improved, while government consumption is no longer a major driver of growth. On the external side there is clearly considerable room for stronger and cyclically more stable contribution of exports to growth. However, a review of the experience of countries that have followed an export oriented growth strategy cautions against heavy intervention to promote selected export industries. This experience also points to the key role of strong domestic competition for sustainable growth.

If one admits that growth in the long term need not be driven solely by exports and that strong contribution of domestic demand is essential for balanced growth, a key question becomes how the economy adjusts to occasional surges in domestic demand and external deficits. The conclusion in Section 3, which studies past episodes of current account adjustment, is on the whole encouraging: the Croatian economy has so far reversed current account deficits fairly quickly. This provides at least some assurance that the correction of the external deficit, which widened considerably in 2002 and the first half of 2003, could proceed in a more or less orderly manner, i.e., through slower growth of private consumption, imports and investment on the one side, and a rebound in exports on the other.

As regards the credit expansion, the assessment in Section 4 is more cautious. The latest lending boom has exceeded a common benchmark for the "safe" expansion of private sector lending. More impor-

tantly, the expansion has been almost entirely financed by foreign borrowing, raising concerns about the accumulation of external debt and banking system vulnerability, despite the fact that prudential indicators for the banking sector are at present relatively favourable.

Concluding the paper, Section 5 elaborates on some challenges for macroeconomic policies that are hardly being discussed in Croatia at present. In particular, based on the experience of other accession countries, it seems likely that the main challenge in the run-up to the EU accession will be how to handle large capital inflows. Such inflows pose a fundamental dilemma for monetary policy to which there are no clear answers. But the more policy makers know about other countries' experiences, the greater the chances that this symptom of success will not be a harbinger of instability.

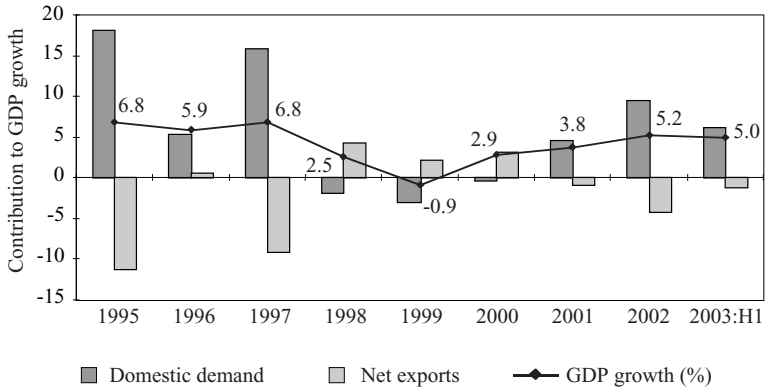
SOURCES OF GROWTH: DOMESTIC DEMAND VS. EXPORTS

What is exactly the record of growth in Croatia in recent years? Has economic growth been sacrificed for the sake of maintaining low inflation and exchange rate stability, as many critics have argued? Has more recently the *quality* of growth been sacrificed for the sake of temporarily raising the *rate* of GDP growth through a "boom" in private consumption and public investment? Or has the growth performance become more sustainable in recent years? This section attempts to shed some light on these questions.

Signs of healthier growth since 2000

When analysing sources of growth it is common to look at contributions to GDP growth rather than growth rates of different components of GDP.[i] Figure 1 thus shows data on GDP growth and its sources from 1995 through the first half of 2003. This period was chosen because macroeconomic performance in earlier years was severely distorted by the effects of the Homeland War (which partly also affected the 1995 data) and the initial stages of economic transformation. The average annual growth rate during this period was 4.2%. Three points stand out.

Figure 1 GDP growth and its sources, 1995-2003 (percentage points)

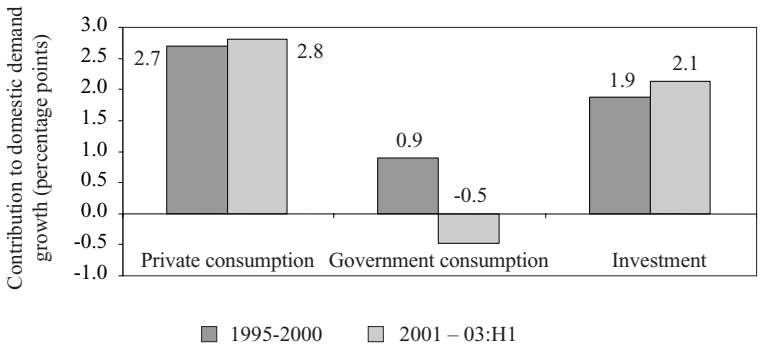


Source: Croatian Bureau of Statistics; author's calculations

- The main source of growth since 1995 has been domestic demand. Because of weak performance of exports relative to imports, the contribution of the external sector (measured by net exports, that is, exports minus imports of goods and services) was on average negative over this period. The external sector was a more important source of growth than domestic demand only during the period of weak growth in 1998–2000. However, except in 2000, net exports made a positive contribution to growth because of import compression rather than export expansion.
- In 1995 and 1997, the sources of growth were clearly unbalanced. However, in both cases the imbalance was corrected in the subsequent year (see Section 3). Both these years were also exceptional in that growth of domestic demand was driven by the post-war recovery of private consumption and investment in reconstruction. This is not surprising given that private consumption declined by 8% in real terms between 1991 and 1994, and investment by 6.5%.
- In 2002 and the first half of 2003, there was a similar but smaller imbalance between the domestic and external sources of growth. The issue here is, hence, to what extent this imbalance will be reversed by the end of 2003 and in 2004. Data for the third quarter of 2003 and current projections for the full year indicate that adjustment is already underway (see Section 3), so it remains to be seen whether it will be sustained.

To gain further insight into the question of growth sustainability, Figure 2 decomposes domestic demand growth. One can easily notice changes in the composition of growth between the period 1995–2000 and the period since 2001. Thus, while the role of personal consumption as a source of growth has been on average more or less constant, government consumption has played a significantly smaller role as a source of growth since 2001. Another positive development has been a strong revival of investment since 2001, in particular after negative contributions to GDP growth in 1999 and 2000.

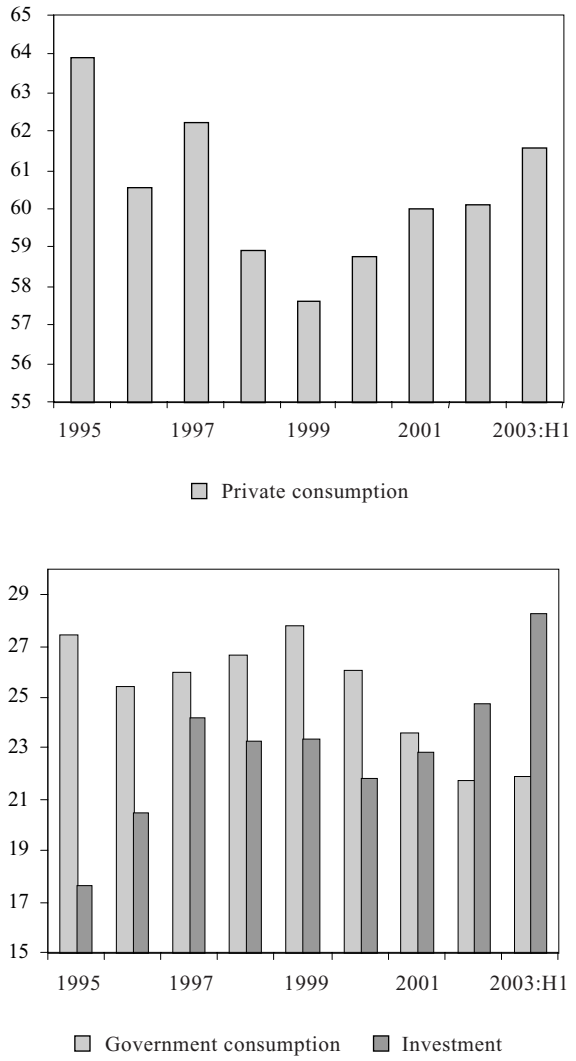
Figure 2 Changes in sources of domestic demand growth (period averages)



Sources: Croatian Bureau of Statistics; author's calculations

Changes in GDP shares of aggregate demand components also suggest that the pattern of growth may have become more sustainable in the past few years. Figure 3 (left panel) indicates that the rising share of private consumption since 2000 reflects a recovery from a trough in 1999. In fact, the share of private consumption in the first half of 2003 (about 61% of GDP) was lower than in 1995 (64% of GDP). By comparison, the average share of private consumption in GDP for a sample of the 23 largest emerging market economies during 1980–2002 was 73% (in the Czech Republic, Hungary and Poland, from 71–75%). Thus, rather than being excessive, one could argue that private consumption in Croatia has yet to catch up with a level that can be considered normal at this stage of economic development. Figure 3 also makes clear the decline in the share of government consumption (from 28% of GDP in 1999 to 22% since 2002), and the sharp increase in the share of investment.[ii]

Figure 3 Composition of domestic demand, 1995-2003:H1 (percent of GDP)

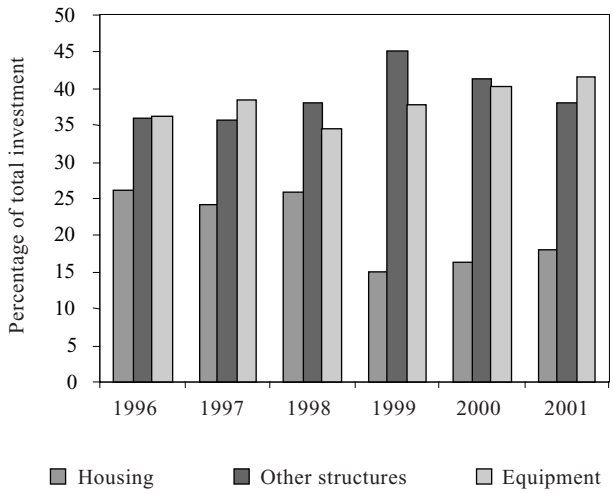


Source: Croatian Bureau of Statistics

Changes in the structure of investment have also been encouraging. Between 1996 and 2001, the share of private investment rose from

72% to 77% of the total, while that of public investment fell from 28% to 23%. Furthermore, the share of equipment rose, indicating a shift to a more growth-oriented structure of investment (Figure 4). In international comparison, the share of investment in Croatia (about 25% of GDP in 2002) was the same as the average for a sample of the 23 largest emerging market economies between 1994 and 2002, but lower than in the more advanced transition and emerging economies, where investment accounts for 28–33% of GDP. Thus, Croatia also has to catch up – rather than slow down – as regards the rate of investment.

Figure 4 Composition of investment, 1996-2001



Source: Croatian Bureau of Statistics

A final point to note is that Croatia's exports of services have become larger than its exports of goods since 2001. Thus, focusing on merchandise exports, which have stagnated at about $4.5 billion per year since 1995, ignores the other, much more dynamic half of Croatia's total exports – that of services. And when exports of services are taken into account, the share of exports of goods and services in GDP has increased significantly in recent years, rising from under 40% of GDP in 1998 to 46% in 2002. Since Croatia's exports are highly correlated with imports, the share of imports has also increased, but by less than the share of exports.

In summary, recent macroeconomic performance points to several signs of healthier growth since 2000. In particular, there has been an improvement in the structure of domestic demand. If these trends are sustained, growth will have firmly shifted towards a healthier pattern. One should not forget, however, that the main components of growth continue to follow a rather pronounced cyclical pattern, with periods of rapid expansion in domestic demand and deterioration in net exports followed by contraction (or slower growth) in domestic demand and improvement in net exports. This growth pattern is fairly typical of emerging market economies and has been also observed in successful EU accession countries over the past few years. For instance, the shift towards domestically driven growth became apparent in 2001 and has strengthened in 2002–03 throughout central Europe because of the stagnation of the western European export market (see Chapter III in BIS, 2003).

Changing views on export-oriented growth

Despite indications that growth trends in Croatia are on the whole becoming sounder, it is worth asking whether growth could be accelerated through greater reliance on exports in the medium term. This question is also relevant in other Central and East European countries. With relatively low inflation, stronger growth and improving prospects of EU accession, a key challenge has become the need to develop a policy environment that will facilitate faster catching up with EU countries. Since some of the fastest growing economies since the 1960s have been the Asian countries, which have sustained high growth rates of exports, there has been considerable interest in their export-led growth strategy. It may therefore come as a surprise that recent studies of the Asian experience cast doubt on the benefits of an export-oriented growth strategy and its applicability in Central and Eastern Europe. Four results stand out.

- The empirical evidence on the positive long-run relationship between exports and economic growth is weak. Medina-Smith (2001) reviewed for the United Nations Conference on Trade and Development (UNCTAD) 42 empirical studies on exports and growth published since the late 1960s. He concluded that recent econometric evidence does not support the view that exports cause growth, as many economists maintained until recently and as early studies suggested. For instance, internal forces – in particular strong domestic

competition – have been more important for Japan's economic success in the post-World War II period than external trade (Boltho, 1996).

- Useful lessons from the Asian experience that are applicable to EU accession countries are not the ones usually emphasised in public discussions about exports and growth – subsidies to export industries. Rather, the useful lessons are fairly commonsense and "boring": the importance of sound macroeconomic policies and strong domestic competition; an outward oriented trade regime; and public support for the development of trade infrastructure (export financing and insurance, market research, dissemination of information about foreign market opportunities, training and education in export-related skills and technology transfer) (Kokko, 2003).
- Rather than being an example to follow, heavy intervention is the single most important negative lesson of the Asian experience. Selective large-scale export promotion schemes have been very costly in terms of growth and efficiency. Such schemes have often been interpreted as a signal that market prices and short-term nominal profits do not matter in heavily supported industries. The moral hazard involved has contributed to too much risky investment, resulting in excess supply and downward pressure on prices. In addition, the sectors that have not been supported have faced a heavier tax burden and crowding-out in credit markets, with further complications if the export promotion measures have been financed through foreign borrowing.
- Finally, it is worth noting that, since the Asian crisis of 1997–98, the Asian emerging economies themselves have started to move away from reliance on exports to domestic demand as a more stable source of growth in the long term. One reason has been that, by expanding capacity in export industries and neglecting non-tradable sectors, these countries have become overly dependent on external demand and began to suffer from inefficiencies in the domestic markets. The crisis has also exposed some weaknesses of the export-oriented model that had been long ignored, such as the tolerance of financial repression and of opaque governance (Asian Development Bank, 1998).

What are the implications of these findings for the current debate on exports and growth in Croatia?

First, even though the benefits and applicability of an export-oriented growth strategy seem to be more limited than previously thought,

one should not jump to the conclusion that the observed pattern of growth in Croatia is satisfactory. As noted above, domestic demand and net exports have been fairly volatile. Such pronounced cyclicality, although a feature of the great majority of emerging market economies, does not provide assurance that rapid growth in any particular year will be sustained over a longer period.

Second, instead of trying to develop a wide-ranging "export strategy" or reinvent industrial policy, it is far more important for sound economic development to foster domestic competition and the traditional – i.e., limited – economic roles for the government: a well-functioning legal and judicial system, transparent regulation of market competition, and the provision of infrastructure, education, and social services in those cases where the market outcomes are not satisfactory. Judging by the experience of present EU members and successful transition economies, such efforts would not only help develop a vibrant export industry but would also well serve Croatia's EU accession efforts.

ADJUSTING TO CURRENT ACCOUNT DEFICITS

Have the size and variability of the current account deficits in Croatia been excessive? Economists' and policymakers' views of current account imbalances have undergone several changes over the last 25 years. Currently there is no consensus, either with respect to the critical size of such deficits or their usefulness as indicators of a potential balance of payments or currency crisis. For a while it was thought that external deficits did not matter if the public sector was in equilibrium and the deficits reflected private sector decisions. This view (also known as the Lawson Doctrine) was challenged by the Asian financial crisis of 1997–98, in which external indebtedness of the private sector led to economy-wide crises even though public sector positions were in balance. Some now argue that when the current account deficit reaches a certain critical size it becomes a source of concern regardless of whether the domestic counterpart is a public or private saving deficit. Others take the view that current account deficits might get "too large" but that it is hard to predict the size and timing of such a threshold due to its sensitivity to swings in investor aversion to risk.

Most Central and Eastern European countries have been running large current account deficits since the beginning of the transition. Such

deficits are to be expected for countries in the process of catching up, as domestic investment is likely to exceed domestic saving. For the 12 countries shown in Table 1, the current account deficits have averaged 4.5% of GDP during 1994–2002, with a peak in 1998 of 6.5%. There are wide variations across the region. Croatia has had slightly higher current account deficits (5% of GDP) and greater variability of deficits than the regional average. The Baltic countries have had the largest deficits (almost 7% of GDP on average). Slovenia's external account has been largely balanced.

Table 1 Current account balances and FDI inflows[1]

Countries	Current account	Net FDI inflows	FDI/Current Account
	Percentages of GDP		Ratio
Bulgaria	–2.2	4.0	1.80
Croatia	–5.1	3.6	0.70
Czech Republic	–3.8	6.7	1.75
Estonia	–6.8	5.5	0.80
Hungary	–4.5	4.0	0.90
Latvia	–5.7	6.2	1.10
Lithuania	–8.0	3.7	0.45
Poland	–3.9	3.5	0.90
Romania	–5.0	2.5	0.50
Slovakia	–5.5	3.4	0.60
Slovenia	–0.1	2.2	5.00
FR Yugoslavia[2]	–6.4	1.5	0.24
Average	–4.6	3.9	0.90[3]

[1] Annual data, average for 1994–2002.
[2] Data for 1996–2002.
[3] Excluding Slovenia.
Sources: Deutsche Bundesbank, Monatsbericht, December 2002; UN Economic Commission for Europe; OECD Economic Outlook; author's calculations

Foreign direct investment (FDI) inflows have on average financed 90% of the current account deficits in Central and Eastern Europe (70% in the case of Croatia). Privatisation has had a significant influence on both the size and the volatility of such inflows. Nonetheless, for most countries, including Croatia, FDI inflows have actually been more stable than the current account imbalances. Bulgaria, the Czech Republic and Latvia have been particularly successful in attracting FDI. Slovakia was a relatively late starter with

respect to privatisation and FDI, but is now catching up rapidly. Net FDI inflows in Croatia were below the average for the region over 1994–2002, but over 1999–2002 the inflows increased to 5.5% of GDP per annum. Slovenia has relied on a policy of promoting domestic saving to finance investment. Consequently, few enterprises have been privatised and FDI inflows have been moderate.

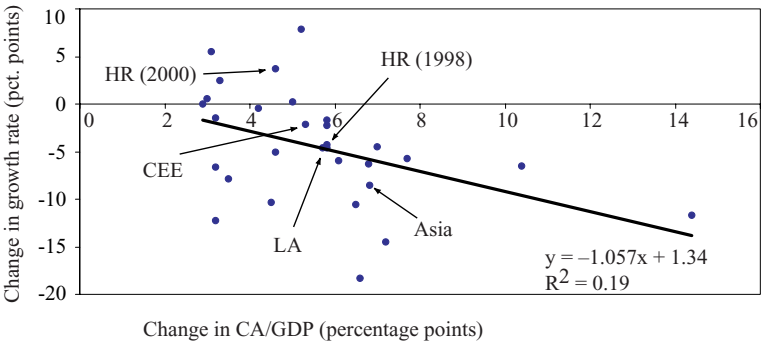
Thus, evidence that the Croatian economy has been running large current account deficits does not in itself indicate a fundamental weakness. The issue is, rather, how the economy adjusts to occasional surges in external deficits. To address this issue, Croatia's experience has been compared with recent episodes of current account reversals in a sample of 31 emerging economies over the period from 1995–2002.[iii] Following Edwards (2001), the reversal was defined as a fall in the current account/GDP ratio of 3 percentage points or more in one year. In the great majority of cases, this meant a reduction in the current account deficit or a swing from a deficit to a surplus.

Croatia experienced current account reversals in 1998 and 2000. The 1998 reversal was associated with a large decline in output – GDP growth fell by 4.25 percentage points (Figure 5).[iv] However, the reversal in 2000 was achieved without any loss in output – Croatia's growth rate actually increased by 3.75 percentage points that year. The reasons for this differing performance were both domestic and external.

- Domestically, 1998 saw a major banking crisis, with failure of several medium-sized banks (the largest one being Dubrovačka Banka). This resulted in a sharp drop in bank credit to the private sector and hence a decline in imports, production and household consumption. Externally, 1998 was marked by crises in Asia and Russia and failure of a large hedge fund (LTCM) in the United States, which threatened to cut off liquidity in international capital markets. The Croatian economy was thus exposed to both domestic and external shocks in 1998 and had to adjust the hard way: growth fell from 6.8% in 1997 to 2.5%; investment fell by 1% of GDP and the volume of imports by 8%.
- The situation in 2000 was quite different. The world economy, and in particular that of the EU, were still in an upswing, which provided an external stimulus to the Croatian economy. Domestically, the year 2000 was characterised by a sharp increase in public sector indebtedness, partly associated with the settlement of government arrears to enterprises. Together with export demand, this provided a moderate stimulus to the economy, so that the current account adjustment was

associated with a 3.75 percentage point increase in output growth and a 4% increase in the volume of exports.

Figure 5 Current account adjustment and change un GDP growth



HR = Croatia; CEE = Central and East Europe; LA = Latin America
Source: Author's calculations

Turning to the recent widening of the current account deficit – to 7.25% of GDP in 2002 and an estimated 9.5% of GDP in the first half of 2003 – the question arises which of the above two episodes provides a better indication of the likely pattern of adjustment of the Croatian economy. In particular, does the 2000 episode provide certain assurance that the large current account deficit can be corrected in an orderly manner, i.e., through slower growth of private consumption, investment and imports, and a moderate improvement in exports? Recent developments provide some grounds to expect such a scenario.

• First, the external environment improved considerably in the second half of 2003 and projections for 2004 foresee an acceleration of growth to 2% in Western Europe and 4% in the United States. Moreover, a cycle of tightening monetary policy in industrial countries is not expected to begin before the middle of 2004. Thus, the current account adjustment in Croatia should take place in a favourable international environment.

• Second, judging by preliminary balance of payments data for the third quarter of 2003 and projections for the full year, the Croatian economy is already adjusting the high current account imbalance. Private consumption is projected to slow to about 4.5% this year (from 6.5% in 2002), government consumption has continued to fall in real

terms, and investment has remained strong (a growth rate of 14% is projected for the full year; see Institute of Economics, Zagreb (2003)). Furthermore, after a good tourist season, the external sector could make a small positive contribution to growth this year.[v]

Based on these developments, one can be cautiously optimistic about the ability of the Croatian economy to adjust relatively smoothly to the run-up in the current account deficit in 2002 and the first half of 2003 in particular, so there is no need to tamper with the exchange rate. Such a course of action would unavoidably have wide-ranging negative effects on the economy, given that the balance sheets of banks, enterprises and households are heavily euroised, and given the large foreign currency-denominated public debt.

FINANCING THE EXPANSION

A major factor contributing to the dynamism of domestic demand in Croatia over the past few years has been rapid expansion of banking sector credit. This development has raised a number of concerns, from worries about the deterioration of credit quality and increased banking system vulnerability, to fears that economic growth might falter should the lending boom subside. This section examines to what extent these concerns could be justified.

The first point to note is that the phenomenon of rapid credit growth has not been restricted to Croatia. Following a period of privatisation and restructuring, commercial banks in Central and Eastern Europe have been rapidly expanding their lending to the private sector since 2000. The growth rates of bank lending in Bulgaria, Croatia, the Czech Republic, Hungary, Romania and Slovakia have recently ranged from 20–110% per annum. These growth rates to a large extent reflect base effects: with the exception of Croatia, the share of household lending in overall bank credit is still very low in the region (Table 2), and the stock of bank loans in relation to GDP is low compared to industrial and the more advanced emerging market economies. As shown in Cottarelli et al (2003), even if all the increase in credit finances additional demand, a rapid rise in credit will lead to an overheating only if the initial stock of loans is sufficiently large in relation to GDP.

The second point is that Croatia is the only country in the region where the composition of commercial bank lending has evolved closer to that found in mature market economies. At around 45% of total

loans, the share of bank lending to households in Croatia is higher than the share of corporate loans and by far the highest in the region – loans to households have exceeded 20% of total loans only in Poland and Slovenia. By contrast, net claims on government, which are insignificant in Croatia, have ranged from around 20% of total loans in the Czech Republic and Slovenia, to 48% in Slovakia (Table 2). The more mature structure of bank lending and the relatively high initial stock of private sector credit (around 50% of GDP) are features that make Croatia potentially vulnerable to lending booms.

Table 2 Composition of commercial bank lending, 2002[1]

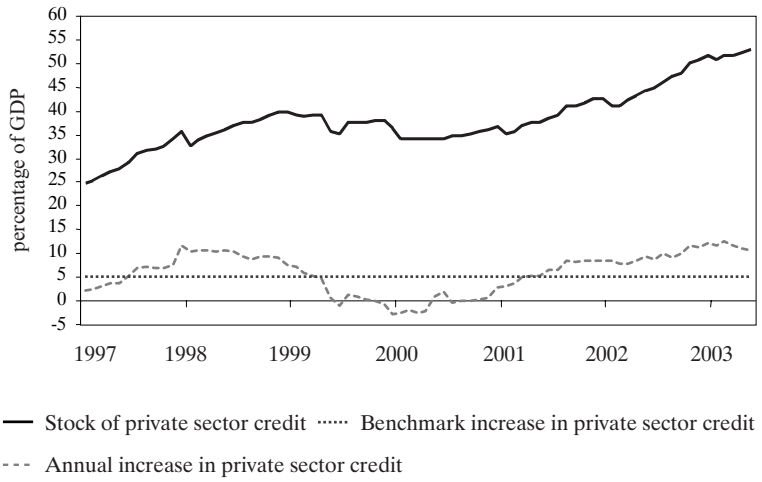
	Government[2]	Corporate	Household
Bulgaria	1.6	79.2	19.2
Croatia	5.9	48.9	45.2
Czech Republic	21.2	60.1	18.7
Estonia	6.3	56.3	37.4
Hungary	34.0	48.0	18.1
Latvia	7.2	74.6	18.1
Lithuania	36.5	53.1	10.4
Poland	26.2	43.8	29.9
Romania	23.7	58.9	17.4
Slovakia	47.5	41.5	11.0
Slovenia	21.6	54.9	23.5

[1] In percent of total credit, excluding interbank credit and credit to non-bank financial institutions. Data for end-2002 or the latest period available.
[2] Net claims on government.
Sources: BIS; IMF; national data

To what extent, then, has credit expansion in Croatia been "excessive"? A useful benchmark in this regard is the annual increase in credit equivalent to 5% of GDP or higher. Countries that experienced credit booms followed by a banking crisis have often seen credit expanding by 5–10% of GDP per year for an extended period (see Demirguc-Kunt and Detragiache, 1997). Credit growth in Croatia was above this benchmark from mid-1997 to early 1999, and has exceeded it again since March 2001 (Figure 6). During both booms, the annual increase in private sector credit peaked at around 13% of GDP. The first credit boom was followed by the banking crisis of 1998–99. The causes of that crisis were more complex, however, and were only partly related to the credit boom (see Kraft and Jankov (2003), and Vujčić, 2003). The second boom apparently started to subside in 2003.

One of the key differences between the two episodes is that the banking system in Croatia has become more robust since the late 1990s. Most banks have been privatised and are now partly or fully owned by reputable foreign banks. Reflecting better risk management and greater efficiency, prudential indicators have improved considerably in recent years: the share of non-performing loans declined by one-half since 1999; a high capital adequacy ratio has been maintained (close to 20%); provisions for loan losses have increased to 86% of non-performing loans (the second highest level in the region); and return on assets has more than doubled (Table 3). In addition, commercial bank liquidity has improved: the primary liquidity ratio (the ratio of highly liquid assets to deposits which are subject to reserve requirements) has increased from 1.3% at end-1999 to 3.3% in May 2003.

Figure 6 Growth of private sector credit, January 1997-May 2003



Source: Croatian National Bank

Nevertheless, one needs to wonder for how long banks can continue to expand their balance sheets by 10–15% per year without running into funding difficulties. Figure 7 indicates that, from mid-2000 to mid-2002, savings and foreign currency deposits of residents expanded at annual rates of up to 40%, making it possible to finance credit expansion entirely from domestic sources. Since mid-2002, however, the

growth of savings and foreign currency deposits has sharply decelerated, turning negative in December 2002 and becoming virtually flat in January 2003. At the same time, foreign liabilities have jumped sharply (by 14 billion kuna, almost 2 billion, between May 2002 and May 2003), implying that commercial banks have financed the continuing expansion of domestic credit almost entirely from foreign sources. This situation is unsustainable. Precautionary measures taken by the Croatian National Bank in 2003 to restrict the growth of commercial bank lending are thus justified.

Table 3 Prudential indicators for the banking sector

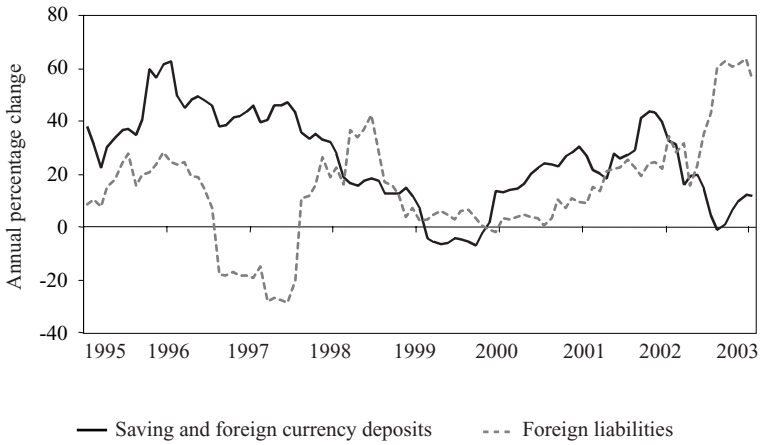
	Non-performing loans[1]		Capital adequacy[2]		Loan-loss provisions[3]		Return on assets	
	1999	2002[4]	1999	2002[4]	1999	2002[4]	1999	2002[4]
Bulgaria	29.0	13.0	43.0	29.0	9.9	8.7	2.5	2.2
Croatia	11.8	6.2	20.6	18.5	77.1	86.1	0.7	1.6
Czech Republic	22.0	13.7	13.6	15.4	52.2	59.1	–0.3	0.7
Hungary	3.6	2.6	14.9	13.9	52.6	53.8	0.6	2.0
Estonia	1.7	1.6	16.1	14.4	...	...	1.4	2.5
Latvia	6.0	2.8	16.0	14.2	79.3	80.4	1.0	1.5
Lithuania	12.5	8.2	17.4	15.7	...	...	0.5	1.0
Poland	13.2	17.8	13.2	15.0	104.4	102.0	1.6	1.4
Romania	0.7[5]	0.7	42.7[5]	55.0	...	...	1.5[4]	3.1
Slovakia	23.7	14.0	29.5	21.9	6.4	2.5	–4.0	1.2
Slovenia	5.2	5.4	14.0	11.9	44.6	39.1	0.8	0.4

[1] As percent of total loans.
[2] Risk-weighted capital-asset ratio.
[3] As percent of non-performing loans.
[4] Data for end-2002 or the latest period available.
[5] Data for end-2000.
Sources: Central bank publications and websites; IMF country reports

Another potential concern is that greater competition among banks can result in excessive contraction of intermediation margins, affecting the financial position of banks. This has been a major issue in recent years for banks in the Czech Republic, Hungary, Poland, Slovakia and the Baltic states, as intense competition has pushed margins below or very close to those prevailing in banks located in Austria, Germany and Italy (Table 4). This situation is probably untenable in the medium term given the higher efficiency of banks in western Europe.

However, margins between lending and deposit rates, as well as between lending and interbank rates (a good indicator of banks' funding costs), are still relatively high in Croatia. This indicates that commercial banks in Croatia still have room for manoeuvre left and that their financial position may not immediately suffer in the case of a slowdown in business activity.

Figure 7 Commercial bank liabilities, May 1995-May 2003



Source: Croatian National Bank

In summary, there are reasons to remain cautious with regard to the financing of the recent lending boom. While prudential indicators point to a relatively sound banking system, one should keep in mind that these indicators are backward looking. On the other hand, there is evidence that credit growth to the private sector has entered a zone where increased vulnerability is not excluded. In particular, the surge in foreign liabilities of commercial banks raises both macroeconomic and prudential concerns.

Table 4 Bank intermediation margins

	BG	HR	CZ	EE	HU	LV	LT	PL	SK	SI	AT	DE	IT
Lending minus deposit rate													
End-2002 (or latest available)	7.1	6.9	2.5	4.1	2.5	3.5	4.2	5.9	4.2	3.9	3.2	3.7	4.4
Change since end–1999	–1.4	–1.4	–1.4	–2.2	–1.0	–4.9	–0.7	–1.0	–2.3	–0.7	–0.0	–0.2	0.4
Standard deviation	1.7	1.0	0.5	0.8	0.3	1.9	1.4	0.6	0.7	0.5	0.2	0.4	0.2
Lending minus interbank rate													
End-2002 (or latest available)	6.6	7.9	1.1	4.1	0.7	3.4	5.0	2.3	1.4	7.2	2.7	3.2	2.9
Change since end–1999	–2.6	–0.4	–1.0	–1.3	–0.2	–6.5	–3.8	–1.3	–3.4	–1.5	0.4	0.0	0.6
Standard deviation	1.8	0.8	0.5	0.8	0.3	2.3	2.6	0.9	1.2	1.0	0.3	0.5	0.4

BG = Bulgaria; HR = Croatia; CZ = Czech Republic; EE = Estonia; HU = Hungary; LV = Latvia; LT = Lithuania; PL = Poland; SK = Slovakia; SI = Slovenia; AT = Austria; DE = Germany; IT = Italy.
Sources: IMF; national data

CONCLUDING REMARKS: PREPARING FOR CAPITAL INFLOWS

The Croatian public has for some time been presented with a fairly pessimistic assessment of the growth performance of the Croatian economy and the outlook for the external sector. According to this view, rapid expansion of bank lending to households and government borrowing for infrastructure projects have led to an unsustainable growth of domestic demand and imports. At the same time, it has been argued, Croatian exports have disappointed over the past decade because of an "overvalued" exchange rate, the lack of an "export strategy", and failed privatisation and restructuring efforts. The result of such unbalanced growth has been excessive current account deficits and unsustainable increases in external and public sector debt. According to this view, then, a balance of payments crisis before or in lieu of the EU accession is more or less inevitable.

In contrast to this view, this paper has argued that clearer signs of healthier growth have emerged in the past 3–4 years. Moreover, the Croatian economy should be able to adjust to the widening external deficit in 2002–03 in an orderly manner. However, as regards the expansion in private sector credit, there are reasons for concern, and precautionary measures taken by the Croatian National Bank are justified.

Looking ahead, a major challenge for macroeconomic policy in the run-up to the EU accession could come from symptoms of "too great" success – i.e., large capital inflows – rather than the lack of success. If Croatia becomes an official EU candidate in 2004, it will have good chances to join the EU together with Bulgaria and Romania in 2007. This could lead to increased inflows of both long-term and short-term capital, putting pressure on domestic money supply, the exchange rate and aggregate demand. The Croatian economy, like other central European economies, has several features that make it susceptible to such inflows. The first such feature is the much higher (pre-inflow) rate of return on investment, reflecting imbalances in initial stocks of capital and a relatively rich endowment of skilled labour. This differential will induce capital inflows for so long as the present value of expected gains from investment exceeds the cost of funds to investors. The setting of macroeconomic policies will therefore need to take account of the strength of underlying investment demand that capital inflows represent. [vi]

The second such feature is the tendency for consumer price inflation in Croatia, as in other accession countries, to be higher than in

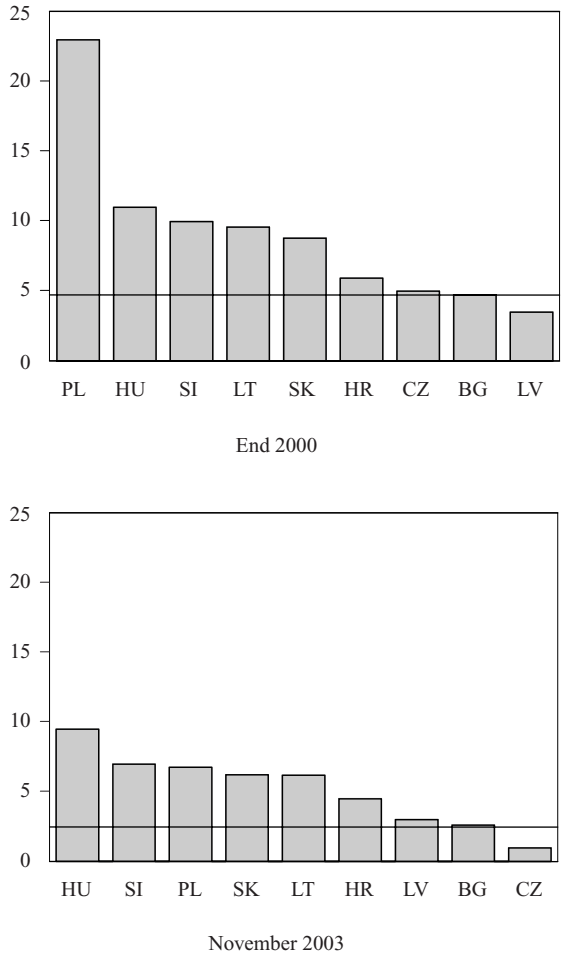
the euro area. This may reflect macroeconomic policies that are too lax (especially fiscal policy). But it may also reflect important real factors related to the transition process, in particular the tendency for prices of non-tradable goods to rise faster than the prices of tradables as real wages rise in the wake of rising productivity (the so-called Balassa-Samuelson effect; see Mihaljek and Klau, 2003). In countries with fixed exchange rates, these forces have manifested themselves in (CPI-based) real exchange rate appreciation, while in countries with floating exchange rates they have manifested themselves partly in nominal exchange rate appreciation, and partly in higher inflation. Given this inflation differential and the associated tendency of real exchange rates to appreciate, nominal interest rates in the accession countries have tended to be higher than in the euro area.

Such nominal interest rate differentials, although narrowing (Figure 8), remain sufficiently large to have an important impact on capital flows. The recent Hungarian experience illustrates this point vividly. Short-term inflows estimated at some 4–5 billion (equivalent to 7–8% of annual GDP) entered Hungary within only a few hours on 15–16 January 2003. The inflows were fuelled by both high interest rate differentials and the speculation that the 15% limit for appreciation of the forint above its central parity against the euro would be lifted. To deter inflows, the National Bank cut policy rates by 200 basis points within two days, introduced a quantitative restriction on short-term deposits, and intervened heavily in the foreign exchange market. While these extraordinary measures calmed speculation, lower interest rates combined with the ensuing depreciation of the forint have aggravated inflationary pressures, forcing the central bank to raise its inflation forecast for 2003.

A second problem potentially facing Croatia is that, like all emerging market economies, it remains exposed to capital flow reversals, especially if inflows result in both overvaluation and rising inflation. A particular concern is what might happen if the ambitious fiscal deficit reduction strategy were to go off track. Since non-residents are expected to become major buyers of newly issued public debt, given the promise of medium-term sustainability, such an event could lead to a sudden reversal of portfolio capital flows, causing the currency to depreciate sharply. This course of events can again be illustrated by the Hungarian experience. In mid-June 2003, monetary policy was tightened sharply after a poorly communicated decision to devalue the forint's fixed fluctuation band damaged investor confidence and trig-

gered heavy selling of domestic currency bonds. In order to reduce these risks and lessen the problem of capital flow reversals, Croatia would thus be well advised not to rush with liberalisation of the remaining capital controls.

Figure 8 Official interest rates (%)



BG = Bulgaria; HR = Croatia; CZ = Czech Republic; HU = Hungary; LV = Latvia; LT = Lithuania; PL = Poland; SK = Slovakia; SI = Slovenia. The horizontal line refers to the euro area official rate.
Source: National data

Third, large capital inflows might worsen pre-existing currency mismatches. While banks in Croatia are required to balance their open foreign positions by prudential regulations, by granting loans in euros they may simply replace foreign exchange risk by credit risk, as their customers may not be earning foreign currency. Because of such currency mismatches, Croatia's banking systems is highly vulnerable to volatile exchange rate movements. Furthermore, as debt is already skewed towards foreign rather than domestic liabilities, volatile exchange rate movements could also give rise to debt sustainability problems.

It should be emphasised that the policy challenges facing the accession countries in the presence of large capital inflows are largely independent of the exchange rate regime. Because the mechanisms motivating capital inflows are real rather than monetary, the only question is whether a real appreciation takes place through nominal appreciation or through inflation. Under a fixed regime (or a fixed but adjustable peg), capital inflows will reduce interest rates and increase investment relative to domestic saving. If inflation rises, external competitiveness would decline. Under a floating regime, capital inflows would lead the exchange rate to appreciate, again causing a loss of competitiveness and potentially generating a current account deficit. While various fundamental and institutional factors may impart some friction to this process, it is not likely that these frictions would be sufficient to afford the accession countries any significant interest rate autonomy, given capital mobility and the convergence of long-term interest rates to euro area levels.

In summary, policy makers in Croatia will have to conduct a very careful policy aimed at setting interest rates at an appropriate level: setting them too high would invite excessive short-term inflows, while setting them too low would lead to excessive investment and thus inflation. This is often referred to in the literature as the "Tošovský dilemma" (see Lipschitz et all., 2002b). As Croatia has limited capacity to respond to large movements in capital flows, it may find it necessary to satisfy the Maastricht criteria even before it becomes a member of the EU. This will require substantial fiscal adjustment in the next few years. Mobilising support for such adjustment will be difficult, however, given the large public expenditure needs and the fact that the deficits can be financed relatively easily at the moment.

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i *For instance, the contribution of domestic demand is calculated as (DDt – DDt-1)/Yt-1, where DDt is given by the sum of private and government consumption and fixed investment in year t, and Y is gross domestic product. By definition, contributions of individual components of GDP add up to the growth rate of the GDP.*

ii *The share of government consumption in GDP (22% in 2002) is smaller than the share of general government expenditure in GDP (50%), as the latter also includes redistribution through the pension and social security system (which is included in private consumption in national accounts) and public investment (which is included in gross fixed capital formation).*

iii *For details of the data sample and analysis, see Mihaljek (2003b).*

iv *The points in Figure 5 indicate changes in the growth rate of GDP (in percentage points, measured along the vertical axis) during different episodes of current account reversals (measured in percent of GDP along the horizontal axis). The regression line shows that, for each percentage point reduction in the current account deficit, the growth rate in emerging market economies declined on average by 1.06 percentage points.*

v *Exports of goods and services are projected to expand by 11% in 2003, and imports of goods and services by 8.8% (Institute of Economics, Zagreb (2003)). This would imply a decrease in the balance of goods and services and hence a positive contribution of net exports of about 0.25 of a percentage point.*

vi *Lipschitz et all. (2002a) estimate the marginal product of capital to be 8.5 times higher in the accession countries than in Germany, and on this basis calculate potential capital inflows at close to 5 times the initial (pre-inflow) GDP in central Europe.*

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Chapter 3

FISCAL ASPECTS OF ACCESSION: CAN WE ENTER THE EUROPEAN UNION WITH A BUDGETARY DEFICIT?

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ABSTRACT

Although there is no common fiscal policy at the European Union (EU) level in Croatia, accession will entail important changes in budgetary revenue and expenditure. On the one hand, accession brings transfers from the EU budget, but also means the loss of customs revenue as well as the need to adjust the structure of tax revenue. On the other hand, in conjunction with significant expenditure for adjustment in areas such as transportation and the environment, as well as expenditu-

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res for the EU budget, there will be a change in the structure of expenditure, in order to be able to check on transfers from the Structural Funds. The objective of this paper is to evaluate the intensity and direction of fiscal effects that accession will lead to, as well as the changes in their structure and the possibility of meeting the convergence criteria.

Key words:
fiscal policy of Croatia, structural funds of the European Union, harmonisation of tax legislation, convergence criteria

INTRODUCTION

When considering the fiscal effects of enlargement we come upon a kind of absurdity. This concerns matters that are regularly dominant in negotiations about EU accession, although they are actually negligible in relation to the total costs and benefits of joining. We shall nevertheless direct our analysis precisely to the fiscal aspects of accession, because for a number of reasons we consider them exceptionally important. First of all, irrespective of the principle according to which new members should not have to make a net contribution to the EU budget, it seems that accession will regularly increase fiscal pressure in new members, even to the extent that there will have to be discussion of a possible fiscal crisis occasioned by the enlargement. Secondly, new members will have to run their fiscal policy in line with the principles of the Stability and Growth Pact (SGP), which can also have certain negative consequences.

In line with this focus, in the first chapter we shall consider the sum effects of joining on the revenue and expenditure of the Croatian budget. This kind of harmonisation of the Croatian tax system with EU guidelines could result in new revenue from excises on mineral oils, while a reduction of revenue is expected because of payment of some of the customs duty into the EU budget and also due to the harmonisation of the customs system. The most important new revenue item will consist of various transfers from the EU budget, since some of these transfers, due to the substitution effect, will reduce the expenditures of the Croatian budget. Nevertheless, some of the transfers, because of the need to pre-finance and joint finance projects, will increase the expenditure side of the budget. A considerable increase in expenditure will primarily be the consequence of payments into the EU budget, as well

as of essential investment in the infrastructure and environment areas. Because of the harmonisation of the system of state aid with the EU rules, considerable fiscal savings can be looked for, although it is impossible to predict when this could be expected.

In the next chapter the effects of joining on the handling of fiscal policy will be considered, particularly the implementation of the SGP. First of all, most of the future members still have to reduce their budgetary deficit considerably so as to harmonise with the fiscal rules of the EU. After that, since these rules are tailored to the situation of the current members, from whom the new members will differ in several factors important for the shaping of macro-economic policy, the new members will have to adapt a somewhat different approach to the management of fiscal policy so as not to violate the common rules. Finally, we consider what effects the management of fiscal policy will have on the dynamics of the public debt in the future members.

We conclude the work with recommendations that, according to our analysis, might improve the preparation for the handling of fiscal policy within the context of the EU.

FISCAL EFFECTS OF ACCESSION

Effects on the national budget revenue

We shall start our analysis of the fiscal effects with an analysis of revenue that on entry into the EU will inevitably be subject to certain changes. On the one hand, some of the budgetary revenue, from VAT and customs duty, will be channelled off by the standard mechanisms into the EU budget, while on the other hand there will potentially be a wide open space for the increase of certain kinds of revenue (like excises) as a result of the harmonisation of the tax system. As counterbalance to this net drain of resources, there will also be transfers from the EU budget into our own national budget. However, as we have already pointed out, it is a question whether all these trends will ultimately have a neutral, positive or negative effect on public finances. From this point of view, the analysis below will focus on the quantification of given effects, to the extent that this is possible.

Value added tax

We start with an analysis of VAT, a part of which through the indirect key[i] will drain into the EU budget. The task is to evaluate the revenue from VAT in 2007, and this figure will then, later on in the paper, be used to estimate the amount of the drain into the EU budget.

In order to estimate the amount of revenue from VAT in 2007 we shall use the knowledge that there is a significant link between VAT revenue and nominal GDP (EIZG, 2003), according to which for each 1% rise in nominal GDP, VAT revenue rises by 1.2%. From this point of view, the key is to estimate the growth of GDP in the period up to 2007. Without entering into details about considerations of which GDP growth rate to use, it seems most correct to use estimates of potential rates of growth (Mihaljek, 2002) as guidelines, which from 1994 to mid-2002 came to almost 5%, and to reduce this by one percentage point, in order to get as realistic, or conservative, as possible a projection of GDP growth. Thus, the assumption is that in the next three to five year period the Croatian economy might rise on average at a real rate of 4%, that is at a nominal rate of 7.1%, considering the assumed average annual rate of inflation of 3%.[ii] Considering the assumption stated concerning the growth of nominal GDP, and the standard ceteris paribus assumption that the VAT system will not change, revenue from VAT in 2007 can be estimated at 38.4 billion kuna or 15.4% of the GDP of that time.

Taxes on international trade (customs)

There is a dual loss of revenue from customs. First, there is direct loss according to the key by which 75% of the revenue from customs duties is automatically channelled into the EU budget. There is also an indirect loss, arising because of harmonisation with the EU customs tariff structure.

In order to estimate the direct loss, we shall assume that the value of imports will come to 55% of GDP in 2007,[iii] and that 80% of this[iv] import will come from countries with which we have free trade treaties. From this point of view, of the 137 billion kuna value of imports in 2007, no more than 27.4 billion kuna will be subject to customs duties. Since on accession Croatia will have to take on board the current EU customs tariff, according to which the average customs rate is

2.6%, the total revenue of customs duty can most simply be estimated on the assumption that the current average EU customs rate will not change.[v] In this case, it can be estimated that in 2007 a revenue of 712 million might be collected, which means a direct drain of 534 million kuna (75%) or 0.2% of the then GDP into the EU budget.

Finally, one should bear in mind the additional loss of revenue from customs duty because of the adoption of the customs tariff structure of the EU. Considering the current difference between the average customs rate in the EU and Croatia (2.6% as against 6.3%), the loss that might come about on this basis in 2007 would be about one billion kuna, or 0.4% of GDP.[vi] It is useful to emphasise once again that this is money that is simply lost because of the transition to a new customs tariff (part of the harmonisation process), and that this amount has to be included into the amount of the total loss of revenue from customs duty, which with this climbs to 0.6% of GDP.

Excises

Unlike VAT and customs duties, excise or special taxes are the only item on the revenue side that might, as a result of the harmonisation of some of the rates in line with EU guidelines, increase budget revenue. However, it is worth pointing out that there are EU members that have not totally harmonised their structure of excises,[vii] which leads to the conclusion that Croatia then does not at once, on entry into the EU, have to harmonise the whole structure of its excise duties.[viii] Harmonisation will have to be carried out in an agreed transition period. From this point of view, one should thus talk about the potential of larger budgetary revenues in 2007.

At the very outset it would be useful to point out that the EU aims at the harmonisation of three kinds of excise – mineral oils, tobacco products and alcohol, and that these three kinds of excise in Croatia – in terms of both coverage and amount – are already fairly well adjusted with those existing in the EU. In essence, harmonisation of the amount of the excise on alcohol is not at all necessary (Arbutina, Kuliš and Pitarević, 2002), so that on this basis alone no additional revenue can be anticipated. As for the excise on tobacco products, only a minor adjustment is required – the raising of the excise on cigarettes expressed as a percentage of the retail price from the existing 49.1% to 57% (for the Standard Group). Because of the specific nature of the product

and the market, as well as of the workings of the black market, we think that such an increase, if it actually happens, will not entail considerable additional revenue for the Croatian budget. Thus all that is left is the excise on mineral oils, which are also the most important from the point of view of their share in the overall revenue from excise (60%). In Croatia the excise on unleaded petrol is 12% lower than the EU minimum, and that on diesel fuel 22%. On the other hand, excise on heating oil is already harmonised and here no additional revenue can be expected.[ix] The newly created additional revenue – in the event of the application of minimum excises for unleaded and for diesel, and on condition that the existing excise on heating oil is not changed - would come to 1 billion kuna in 2007, or 0.4% of the GDP at the time. This would be the total additional revenue from the harmonisation of excises.

There is also potential additional space for revenue from excise connected to mineral oil fuel, since in the EU there are also excises on fuels such as kerosene, natural gas and LPG. From this point of view we can expect the introduction of new excises on additional products, and then the restructuring of the amount of excise depending on the purpose the fuel is used for (for engines, for engines in commercial use, for heating). Depending on the categories, the same kind of fuel will have various excise rates, all for the purpose of meeting the broader tasks of transportation policy, environment protection policy, agricultural policy, and finally, employment policy. It seems very reasonable, however, to assume that the application of such comprehensive policies will require time, and also to take into consideration only the 1 billion kuna of additional revenue in 2007 stated above, which is also in a sense potential, in that it assumes the harmonisation of excises on unleaded petrol and diesel fuel.

New kinds of revenue for the national budget

Apart from the effect that joining will have on the existing national budget revenue (customs duty, VAT, excise), there will be new categories of revenue that will arise as the consequence of transfers from the EU budget and as a result of participation in the common policies of the EU. Although these revenues are one of the things that attract new members most, including Croatia, it is necessary to accentuate two aspects that diminish the attractiveness of obtaining transfers, particularly from the standpoint of public finance.

- Some transfers will not affect the budget, which will serve as a medium for the transfer of these resources to the end users.
- Not all transfers will be exclusively revenue for the budget; some, because of the principle of joint-financing and pre-financing, will have an effect on the expenditure side of the budget.

The positive side of obtaining transfers from the EU budget can be seen in the reduction of expenditure for the financing of existing aid systems. This is called the substitution effect, since resources from the EU budget will substitute national financing.

The estimate of the amount of transfers is made more difficult since their aggregate amount, in the case of Croatia, is determined by a new financial perspective that will work from 2007 to 2013, the creation of which will be addressed at the earliest in 2005. In addition, the amount of transfers will directly depend on the outcome of the actual accession negotiations and on the direction of reforms in regional and agricultural policy within the EU. An additional unknown variable relates to the capacity of Croatia to build up an institutional infrastructure for the administration of EU funds. It is estimated that new members, that have had more time to set up effective transfer mechanisms than Croatia will have, will not manage to use all the resources that are available to them in the first years of membership. In Croatia, such institutions are still in their infancy.[x]

Within the framework of these constraints, it would seem opportune to make use of data for Slovakia and Lithuania from the documents of the European Commission in which net budgetary items for the new member states are worked out (see Annex 1). The figures for Slovakia will be used for the calculation of transfers from the Structural Funds, since those to the greatest extent depend on the size of the population (Slovak population is 5.4 million, Croatian 4.3) and GDP (Slovakia has a GDP of 23.7 billion dollars, and Croatia 22.4). In the case of transfers from agricultural funds, we shall make use of the data for Lithuania, because they depend to a great extent on the total population (which in Lithuania is 3.5 million), the share of agriculture in GDP (7.2% in Lithuania and 9.7% in Croatia (World Bank, 2003)), and on the structure of the farm sector (in both countries there are a large number of small, unconsolidated farms, because of which they have the same structural problems). Although the results obtained in this manner cannot be completely accurate, they will nevertheless make possible a review of the order of magnitude and the direction of effects of joining on the Croatian budget.

Transfers from the EU budget can be divided into (1) those that are not related to projects and hence their sums automatically become budget revenue and (2) those that depend on projects, while the inflow depends on the power of Croatia to absorb it, i.e., to what extent projects at state and local level will be co-financed from the budget. Direct income supports, market intervention in agriculture and internal politics transfers fall into the first group. The second group includes transfers from the Structural Funds, the cohesion fund and resources for rural development. There is also a third group of revenues that include the remains of the pre-accession assistance, special arrangements and budgetary compensations. As can be seen from Annexe 1, in the first year of membership transfers will be at a fairly low level because of the inability of new members to absorb all the resources, on account of their own economic, administrative and institutional underdevelopment.

Transfers unrelated to individual projects

The first group of transfers unrelated to individual projects comprises direct income support to farmers and market interventions. Both kinds of transfer come from the agricultural fund, or more accurately, from its guarantee-related part.

In the most recent accession negotiations it was agreed that in the first year of membership income support would be paid only in the amount of 25% of total support that is obtained by EU members, with the proviso that this amount would gradually rise until in 2013 it reached 100%.[xi] If we assume that in the next round of enlargement the same principle will hold, in 2007 Croatia too will get 25% of the aid. The very nature of financing income support also tends to the detriment of new members. That is, income support payments arrive about three months late, which always shifts the payment into the following fiscal year, so that the amounts earmarked for 2007 will in fact only be paid in 2008 (the liquidity gap or the so-called Green Hole effect).[xii] Since this paper is concentrated only on fiscal effects, in 2007 we can conclude that revenue from the EU budget will be zero, but that a very considerable amount will be shown on the expenditure side. Taking the data for Lithuania, the total liquidity gap in 2007 might come to 590 million kuna. This expenditure will be reduced in the very next year, but there will not be any positive effects on the budget since the support is meant for the end beneficiaries - the farmers - and the budget will be

used only as a transfer instrument. Still, there will be positive effects on the budget, and as early as 2007. That is, already in the budget for 2003 the Agriculture Ministry has earmarked 350 million kuna for income support, and since this instrument was introduced only this year, it can be expected that the sum will have risen by 2007. Because of the substitution effect, the Croatian budget will save this small amount.[xiii]

Transfers on the basis of market support also come late, and about 205 million kuna of expenditure could be expected in the 2007 budget for pre-financing. Still, the budget will once again have savings because of the substitution effect in the amount of these 205 million kuna, since EU resources will cover the support part of the budget and free these resources for other purposes. Also, since with entry into the EU Croatia will have to accept the principles of the CAP, other aid meant for market intervention will have to be abolished.

Transfers on the basis of internal politics, which are mainly used for the financing of existing policies, institutional upgrading and the establishment of quality border controls with third countries constitute the second group of transfers. Since most transfers are calculated according to the share in the total population and GDP of the EU, for the approximate calculation of the amount that Croatia will receive on this basis we shall use the example of Slovakia again. These transfers will be exclusively the revenue of the national budget, since they will either replace or complement national financing, and they might amount to about 354 million kuna.

Transfers related to individual projects

Project-related transfers require joint financing. For this reason, in the past there have been cases of member states even refusing this kind of aid since they were not able to bear the burden. Transfers from the Structural Funds, the Cohesion Fund and resources for rural development come into this group.

The national budget bears from 25 to 50% of the costs of financing projects from the Structural Funds, the typical percentage being 25%. Resources from the Structural Funds represent additional financing, as it is called, which means that the resources of the funds may not be a substitute for financing from national sources. Countries have to keep financing at least at the level they used to in the period before they obtained these resources. Hence, the use of these resources, de-

pends on the power of absorption of each member state, and the resources that are allocated to the new members may not exceed 4% of their GDP.[xiv] Because of the requirement for joint financing, the real inflow of resources in the first year of membership is lower by about 25%.

On the basis of the Slovak data, Croatian regions (units of local government and self-government) might in 2007 get 779 million kuna, and the budget would have to find another 253 million. Some of these resources will be distributed to institutions outside general government (e.g. to privately owned firms), which means that in these cases, these institutions will have to bear the costs of joint financing. Since it is at present impossible to predict which part of the structure funds will finance projects in the private sector, for the sake of simplicity of calculation we shall assume that all these resources will enter the budget of general government.

Resources from the Cohesion Fund are meant for the financing of infrastructure and environment in member states whose GDP is less than 90% of the EU average. According to data for Slovakia, in 2007 Croatia can expect 31 million kuna of direct revenue for the budget. Since taking part in projects financed by the Cohesion Fund comes to between 80 and 85% of total costs, the burden of joint financing would be only 5.4 million kuna.

The third source of revenue and costs for the national budget will be resources for rural development. The level of joint financing amounts to 20%, so that Croatia, again on the basis of data from Lithuania, could get 438 million in 2007, and the budget would have to add another 110 million. Although these funds are meant for the ultimate beneficiaries, farmers, there will still be positive effects for the budget, since transfers from the budget will replace national financing of rural development. Since we have data only for 2003 (60 million kuna is earmarked for rural development) we can predict that, due to the substitution effect, savings will come to a minimum of 60 million kuna.

Other revenue

Other revenue includes pre-accession assistance, which will continue to flow into the budget because of its nature even after joining the EU, special cash-flow facilities and interim budgetary compensations. These transfers will be the direct revenue of the national budget and will not require co-financing.

Although it can be expected that Croatia, when it becomes a full candidate, will obtain pre-accession assistance from the programme in which other candidates take part, for now it is hard to guess how much these resources will amount to, since comparison with any other country is impossible without in-depth analysis. For this reason, we will keep to the conservative approach and assume that Croatia will keep on getting only the resources from CARDS, with the same dynamics as to date, about 450 million kuna p.a.

Special cash flow facilities are meant to neutralise the negative effects of joining during the first years of membership. The key according to which these resources are allocated is not universal, and the existing distribution was the result more of good or bad negotiating positions in Copenhagen than of real factors. For Croatia, we have taken the example of Slovakia, which means that the inflow into the budget could be 558 million kuna.

Temporary budgetary compensations relate entirely to members that would be net contributors to the budget of the EU. It would be politically unacceptable to put new members, whose GDP is much below the EU average, into the position of financing the budget of the EU. In order to avoid this kind of situation, additional resources were allocated to Cyprus, Czech Republic, Slovenia and Malta. Since we can assume that Croatia will not get into the situation of being a net contributor we shall consider this potential revenue to be zero.

Effects on expenditure of the national budget

When Croatia enters the EU, the national budget will experience a number of serious shocks. The first will be the joint financing and pre-financing of transfers from the EU budget, and the second, the bigger shock, will relate to payments into the EU budget. If one can judge from the last wave of enlargement that takes place in the countries of Eastern Europe and the Baltic, Croatia will have to pay into the budget of the EU from the moment it becomes a member.

Payments into the European Union budget

The distinguishing feature of the EU as international organisation is that it has a budget that is financed from what is called its own

revenue. This includes revenue from customs duties and sugar imports, revenue deriving from VAT and revenue from the GNI.[xv]

Since customs duties and the revenue that on the basis of customs duties will be channelled into the EU budget were treated in the previous chapter, this chapter will concentrate on payments deriving from VAT and GNI.

Payments deriving from VAT are calculated as a certain percentage of the base of VAT (which cannot exceed 50% of GDP). Since the Croatian VAT system is almost totally harmonised with European standards, on the basis of the estimate of the base for VAT for 2007, we can estimate that Croatia will have to pay in an amount of 338 million kuna.

Payments deriving from GNI will be the biggest burden for the national budget. The total revenue of the EU budget on the basis of GNI is calculated as the difference between total EU budgetary expenditure and revenue collected on other bases. In other words, this revenue patches holes in the budget and every member state pays in its own part on the basis of the size of GNI. On the basis of the estimate of GNI (GDP) for 2007, the total amount that Croatia would have to pay comes to 1.9 billion kuna.

An additional expense to the budget will be the UK rebate. After joining the EU the UK became the biggest contributor to the budget, mostly thanks to the low level of transfers from the CAP due to its relatively small agricultural sector. For this reason, in Fontainebleau in 1984 Margaret Thatcher won the right for the UK to get refunded part of its payment into the budget in the amount of 0.66% of its net position. The loss of this revenue is made up together by the other member states, with the proviso that Germany, Holland, Austria and Sweden (the largest net contributors) bear only one quarter share. The drain into the budget of the EU on the basis of this could be 177 million kuna.

Other payments

Although payments into the budget of the EU are by far the biggest payments that the Croatian budget will have to bear, it is also necessary to mention contributions to EU institutions in which Croatia will have to participate from the very beginning of its membership. This relates to the ECB and to the EIB – European Central and Investment Banks.

Since in 2007 Croatia will not enter the EMU – it will need at least two or two and a half years more – the obligation to pay for

membership in the ECB will come to only 5% of its capital share, which amounts to 5 billion euro. The calculation is based on the share of Croatia in the total population and of the total GDP in the EU. During this calculation, data for Romania and Bulgaria have been used, since the next enlargement, in our model, includes those countries too. The total costs of membership could come to 10.5 million kuna. It has to be pointed out that this payment will be one-off, and that the cost of subscribing to the capital of the ECB will be borne by the CNB, which means that it will not have immediate effects on the budget.

Payment of membership in the EIB consists of two parts. The first relates to that part of the paid up capital that the countries have to pay in, while the other is based on the obligation to cover EIB reserves. New members subscribe only 5% of their share, in eight equal annual instalments. Since the amounts are based on GDP and population, on the basis of the Slovak case we can assume that the membership fee for the EIB should be about 75 million kuna.

Finally, on the expenditure side of the budget, costs could vault over 3 billion, or 1.2% of GDP, only as a result of payments into the EU budget and the EIB.

Table 1 Payments into the European Union budget for 2007

	In million kuna	% of GDP
EU Budget		
Customs duties	534	0.21
VAT	338	0.14
GNI	1,900	0.76
UK rebate	177	0.07
EIB	75	0.03
TOTAL	3,024	1.21

Source: Calculation of the authors

State aid

Croatia will also have to harmonise its state aid system with the current system in the EU. The obligation to harmonise began at the start of 2002, when the Interim part of the SAA came into force. According to EU definition, state aid is aid that distorts or threatens to distort com-

petition by giving advantages to certain producers or products and in this way affects international trade between the member countries. The harmonisation of state aid systems actually means a gradual abolition of discriminatory or sectoral aids and reliance on horizontal aid that favours no product or producer in particular and the gradual introduction of the principle of transparency into the system of allocating aid.

According to estimates of the Institute for Public Finance (Kesner-Škreb, Pleše and Mikić, 2003), state aid in Croatia comes to 5.25% of GDP, while in the EU it comes to only 1% of GDP. Although according to these data it can be hypothesized that the final harmonisation with the EU will bring savings to the Croatian budget to the tune of 4% of GDP, it is hard to estimate the effect in the budget for 2007 itself. The harmonisation process is long in the making and expenditure for it will be diminished gradually. According to the SAA, until the beginning of 2006 Croatia will have to draw up a comprehensive list of aid programmes and then harmonise these with European criteria, which means that a large part will have to be harmonised by 2006. It is also possible that Croatia will manage to negotiate a transition period for the lifting of state aid and so shift the effects to some later years. Since without a more detailed analysis exceeding the constraints of this paper it is not possible to arrive at more exact figures during the calculation of the effects of Croatia's joining the EU on the budget, we shall not take them into consideration.

Expenditure for adjustments related to infrastructure and the environment

In this sphere, adjustment to EU standards will constitute a considerable burden on the budget, an expenditure that will be drawn out over a considerable number of years. The best guide for an estimate of the expenditures for adjustments in the sphere of infrastructure and the environment in 2007 will be the experience of new members. But this experience does not yet exist; hence, the only thing left for us to do is to rely on existing studies and expert papers that comment on the area.

There is no real knowledge about how much the existing infrastructure in the accession countries, or in Croatia, is adequate (from the point of view of quality and quantity). In addition, this matter is rendered more complex because all the costs of the adjustment will not be financed by the government, i.e., by the budget. Instead, a certain amo-

unt of costs can be financed from private sources. This can come out particularly in two large and essential infrastructure sections – energy and transport (see World Bank, 2003). Still, there are some indications that speak in favour of candidate countries (see EBRD, 2002). In addition, there is a well-grounded idea that candidate countries as a group do not have the problem of underinvestment in the infrastructure (Backe, 2002) and that the key to adjustment does not lie in increasing capital expenditure as compared with GDP, but rather in increasing the effectiveness of existing funds (Funck, 2002). If we attempt to include Croatia into this picture, then measured by capital expenditure, Croatia is right at the top as compared with other candidate countries.[xvi] From this point of view, it is realistic to suppose that actual entry into the EU will not exact additional expenditures on the infrastructure, but will certainly require its restructuring at the expense of more profitable investment in the infrastructure.

With respect to expenditures on the environment, there are certain calculations (World Bank, 2003) for Croatia that estimate the total necessary capital expenditure on the environment (for the sake of harmonisation). According to these calculations, the necessary capital expenditures range between 6.1 and 11.8 billion euro.[xvii] It is important to stress that these expenditures imply total, i.e., both private and public, investments. Assuming that these costs or investments will be realised according to the dynamics and the profile of the parameters of Poland,[xviii] then in the first year public expenditure (budget expenditure) will come to 76 million euros (in the rapid implementation of reforms scenario) or 233 million euros (in the slow implementation of reforms scenario). This study of the World Bank says that in 1999 in the Croatian budget some 35 million euro was spent on the environment (last available information). Assuming that the same amount continues to be spent, this means that in 2007 it will be necessary to increase the expenditure of the budget by at least 40 million euros (or 0.1% of the GDP of that time).[xix]

Aggregate effects of Croatian membership in the European Union

The expected net costs of Croatia's accession to the EU might in 2007, perhaps the first year of membership, come to more than 2.5 billion kuna, or about 1% of GDP in 2007.

Table 2 Effects of European Union membership on the general government budget in 2007

	In million kuna	% of GDP
REVENUE SIDE OF THE BUDGET		
1. Transfers unrelated to projects		
1.1. Income supports		
Liquidity gap	-590	-0.24
Substitution effect	371	0.15
1.2. Market supports		
Liquidity gap	-205	-0.08
Substitution effect	205	0.08
1.3. Internal politics		
Revenues	354	0.14
2. Transfers related to projects		
2.1. Structural funds		
Revenues	779	0.31
Joint financing	-261	-0.10
2.2. Cohesion Fund		
Revenues	31	0.01
Joint financing	-5.4	-0.002
2.3. Rural development		
Substitution effect	71	0.03
Joint financing	-110	-0.04
3. Other transfers		
3.1. Pre-accession assistance	478	0.19
3.2. Special arrangements	558	0.22
3.3. Budgetary compensation	0	
TOTAL REVENUE	1,676	0.67
EXPENDITURE SIDE OF THE BUDGET		
1. Payments into the EU budget and EIB		
1.1. Payments into EU budget		
Customs	-534	-0.21
VAT	-338	-0.14
GNI	-1,900	-0.76
UK rebate	-177	-0.07
1.2. EIB	-75	-0.03
TOTAL PAYMENTS	-3,024	-1.21
2. Harmonisation expenditure		
2.1. Customs tariff harmonisation	-996	0.40
2.2. Environment	-300	-0.12
Total harmonisation expenditure	-1,296	-0.52
TOTAL EXPENDITURE	-4,320	-1.74
NET LOSS TO THE BUDGET	-2,644	-1.06

Source: Authors' calculations

BUSINESS CYCLES, FISCAL RULES AND PUBLIC DEBT

In conjunction with the effects on the revenues and expenditures of the budget, joining the EU will also lead to changes in the way in which fiscal policy is handled. The EU and the EMU are commonly seen as creations in which monetary policy is centralised or subject to hard rules, while fiscal policy is the opposite, that is, an instrument of autonomous national economic policy. However, although the EU budget is negligible as compared with the budgets of member states, fiscal policy has actually turned into an instrument of economic policy at the level of the whole Union. In practice, member countries come up against very tight constraints in the formulation of fiscal policies, so that a very high degree of coordination among them has already been attained.

Variables such as average level of inflation or the value of the euro in terms of other currencies have become a common asset in the EMU, hence every national policy that affects these variables can lead to an ECB reaction, and consequently, to changes in the environment for all the member states. Also, rules with respect to running fiscal policy have been introduced because of the dangers of a spill-over of effects of risk growth from one of the EU members as a result of irresponsible fiscal policy. Finally, although it is explicitly banned for the ECB to directly buy bonds of any of the member countries, there is always a danger that a panic reaction on the financial markets will lead to monetary instability in the whole EMU area.

Fiscal rules in the European Union

Getting the balance of the budget of general consolidated government close to equilibrium or into a small surplus is the main aim of each member country. Balancing the budget relates to its structural balance, while the cyclical component of the budget can be adjusted depending on the state of the economic cycle, which makes possible the working of automatic stabilisers.[xx] In addition to balancing the structural budget, the largest deficit of the budget of general consolidated government is limited to 3% of GDP. In emergency situations, which are defined as a reduction of GDP by more than 2 percentage points, the resort to sanctions laid down by the SGP is automatically suspended.

The SGP imposed constraints are stated in such a way that they allow for the working of automatic stabilisers in the case of the normal cyclical fluctuations. In the definition of the restrictions, attention was paid to the potential rate of growth of the economies, fluctuations in growth and sensitivity of the budgetary balance to cyclical movements.

The potential rate of growth in member countries is about 2.5%, while in the case of a reduction of the growth rate by 1% below the potential on average there is a cyclical budgetary deficit of 0.6% of GDP. Since the average largest output gap recorded in the member countries during the period from 1960 to 1997 was 4%, which corresponded to a 1.5% reduction of GDP, appeals to extraordinary circumstances in the context of the SGP should be a rarity (European Commission, 1999). Of course, fluctuations in GDP are not the same in all the countries, and the automatic stabilisers do not react equally strongly because of differences in the structure of revenue and expenditure. For this reason those countries that are exposed to greater shocks and that have more powerful automatic stabilisers, or that wish to back them up with active countercyclical fiscal policy, must aim at higher budgetary surpluses.

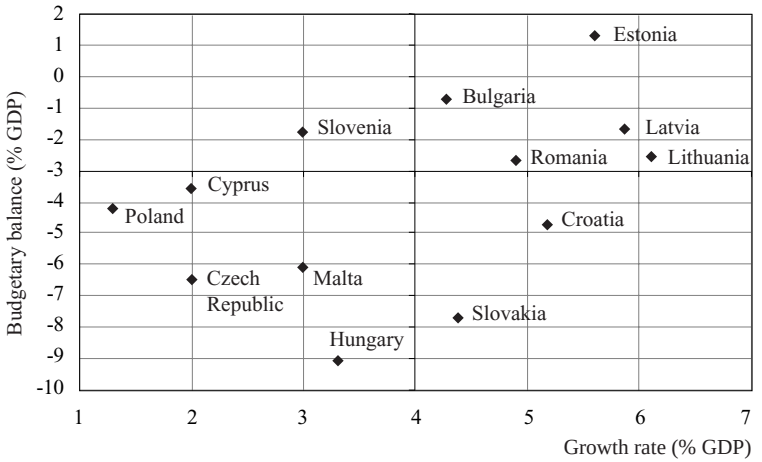
Fiscal constraints from the SGP also enable the stabilisation of the level of public debt. Thus an average budgetary deficit at the level of 3% of GDP, with an expected 5% growth rate of nominal GDP,[xxi] is in line with the maintenance of public debt at a level of 60% of GDP. This level of public debt is also prescribed by the SGP as the highest permissible level of public debt that all members with a higher public debt should aim at. Since the SGP nevertheless prescribes the balancing of public finances, in the event of achievement of it, in the mid-term reduced levels of public indebtedness should be expected (Mathieu and Sterdyniak, 2003).

Effects of fiscal rules on future members

Immediately on joining the EU new members assume all obligations laid down by the SGP. For this reason, accession countries and candidates usually take part in a pre-accession fiscal surveillance procedure in order to prepare as well as possible for the obligations that membership will entail with regard to running macroeconomic policy, within the context of which they do not have any formal obligations except to inform the EU of their economic policy and establish communication channels. Of course, after entry into the EU, before joining the

EMU, which is actually obligatory for new members after they have met the Maastricht criteria,[xxii] provisions regarding sanctions for not fulfilling the SGP do not apply to new members. Although they will not be exposed to financial penalties, they will be under very strong pressure to start running their fiscal policy in line with common rules.

Figure 1 Rate of GDP growth and budget balance in the accession countries, candidates and Croatia (2002)



Source: European Commission (2003), CBS and Ministry of Finance

If the degree of fiscal adjustment in Croatia is compared with that in the accession and candidate countries, it can be concluded that the situation is not all that bad.[xxiii] Only Estonia had a budgetary surplus, and a total of half of the twelve countries met the 3% deficit limit, although in 2002 GDP did not fall in a single country. In Croatia the deficit was 0.9% worse than the average, but the growth rate was 1.4% higher than the average, which came to 3.8%, and this should also be taken into account when assessing the differences in the structural deficit. In addition, all the countries with worse indicators with respect to budgetary deficit also had lower rates of growth than Croatia. According to these indicators, we can conclude that Croatia, like most of the transition countries, is only coming up to the process of fiscal consolidation. Hence, considering the rate of growth that can be expected in the mid-term, probably a little lower than the current rate, in Croatia the

budgetary deficit should be reduced by about 6% of GDP, so as to ensure a structurally balanced budget.

We have already mentioned that the effects of the SGP on the fiscal policy of each member depend essentially on its characteristics. Future members, like Croatia, differ in several important features from the current members. Firstly, these countries are much poorer than the current members and they possess a considerable potential for real convergence. In this paper we have assumed the potential rate of real growth for Croatia to be 4%. Secondly, because of the level of prices that is about half the EU average, nominal convergence brought about by the Balassa-Samuleson effect and a growth of the level of administrative prices can be expected. This will make the differences in rates of nominal growth, which is essential for the dynamics of public debt, still greater than the difference in the rates of real growth. Also, the levels of public revenue and expenditure in the future members, including Croatia, irrespective of the lower level of development attained, are not essentially below the revenues and expenditures of the current members. This means that the automatic stabilisers should not be any weaker than in the present members. However, the future members have a relatively unfavourable structure of expenditure, with a high proportion of fixed expenditures, like pensions and healthcare expenses, which do not change depending on the state of the business cycle (Richter and Römisch, 2003). Although it would seem that because of the weaker automatic stabilisers the new members will not be confronted with the appearance of impermissible deficits, they will actually have to depend even more on an active fiscal policy in order to stabilise the economy. This has proved dangerous to date in their case because after the end of the recession the cyclical deficits gradually turned into structural deficits (Kopits and Székely, 2003). Finally, future members, including Croatia, are on the whole smaller and more open than the present members. This means that fluctuations of production will be greater in their case, as will the need for the concomitant stabilisation, which can bring about greater cyclical deficits during some periods than those common with the old members.

All these features could well have a negative effect on the efficiency of fiscal policy in Croatia and in some other transition countries within the framework of the SGP. For example, for Croatia, because of its relatively high potential rate of growth, the sanctions provided for in the SGP would be suspended only in the case of a reduced rate of growth of GDP by 6 percentage points below the potential, while for

member countries this reduction comes on the average only to 4.5 percentage points. For this reason, Croatia will have to make a stronger effort toward fiscal adjustment if it wants to retain flexibility of fiscal policy. Furthermore, automatic stabilisers constitute a special problem. In Croatia at the moment we have no understanding of the structural balance of the budget or of the working of automatic stabilisers, because of which we are unable to say whether they will suffice to stabilise the economy, or in what way the budget balance will react to a change in the rate of growth. If it is concluded that automatic stabilisers are too weak to bring the economy into balance, of which there are already indications, it would be good to think about ways of preparing an active fiscal policy to respond fast and effectively to the state of the economy, that is, how the budget deficit could be simply increased or reduced in the current year.

Also relatively unfavourable are the consequences that EU fiscal rules will have on the level of public debt of new members in the event of the strict application of the SGP. Because of the essentially higher potential rate of growth of nominal GDP, bringing the structural budget into balance will rapidly reduce their public debt. While for EU countries with a structural deficit of the budget at the level of 3% one can expect an equilibrium level of public debt at 60% of GDP, for transition countries, assuming a nominal rate of growth of 7% and an identical start level for public debt, their convergence on 43% of GDP can be expected. In addition, in the case of a structural imbalance of the budget, in the new members it is possible to expect a much more rapid reduction of the ratio of public debt and GDP. In case of the initial assumptions concerning growth and level of indebtedness, new members could halve this ratio in some ten years. This means that new members, which because of the high expected rates of growth have a greater capacity to take on debt and a larger need for infrastructure investments, will in fact be forced into a more rapid reduction of public debt.

CONCLUSIONS AND RECOMMENDATIONS

The Government has made fiscal projections up to 2007, by which time we assume that with a bit of luck Croatia might enter the EU. According to Government's projects, the deficit of the budget of general consolidated government might by that year be reduced to 2% of GDP.[xxiv] However, the actual fact that Croatia will have greater net

transfers from the EU budget than payments into the budget does not necessarily mean that joining will not entail additional costs for the Croatian budget. Our estimates say that in 2007 we might expect negative fiscal effects of accession in a total amount of about 1% of the anticipated BDP. Of course, the reserve of potential savings through the reduction of state aid should also be kept in mind, which might be considerable, although its dynamics would be hard to predict in that year.

Additional difficulties derive from the framework of the SGP for running fiscal policy. The possibility of running an anti-cyclical fiscal policy in line with these rules will not be retained with a structural deficit of the budget of 2% of GDP, as the Government's projections look for, or even 3% of GDP, if we count on the potential fiscal effects of joining. In connection with this, certain recommendations as to how to prepare fiscal policy for the challenges of EU membership might be drawn from the paper:

- As soon as possible it is necessary to realistically assess the structural balance of the budget, and also the effect of the automatic stabilisers on the budgetary balance.
- If the automatic stabilisers are judged to be inadequate to stabilise the economy, which is likely because of the structure of budgetary revenues and expenditure, it will be necessary to develop a fiscal activism policy capable of rapidly and flexibly increasing and decreasing the budgetary deficit in line with the movements of the business cycle.
- According to an assessment of the structural balance of the budget and the strength of the automatic stabilisers, or the expected degree of fiscal activism, it is necessary to draw up a projection of fiscal adjustment to facilitate the running of an anti-cyclical fiscal policy that does not involve infringements of the SGP. Because of a rate of potential growth higher than that of current members, Croatia would very likely have to create a structural surplus so that the automatic stabilisers could act without exposing Croatia to possible sanctions in the case of a deeper recession.

It is important to realise that all these recommendations lend force to the already routine steps that the European Commission takes when estimating the harmonisation of each country with the SGP. In addition, they are a necessary part of the consideration of each of the candidates of the EU as it prepares to join the EU. On its way to membership in the EU Croatia will certainly meet the necessity of carrying

out all these steps. However, we think that these steps should be taken as soon as possible because of the long period in which fiscal adjustment is usually made, and the shortness of the time span in which Croatia plans to become an EU member. Finally, we are of the opinion that current plans for fiscal adjustment do not lead to a completely efficient policy within the context of the EU.

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i *There is an intermediate key according to which a certain percentage of revenue from VAT is paid into the EU budget.*

ii *Inflation of 3% is not essentially greater than the indirectly targeted inflation of the EU, and yet also allows space for adjustment of relative prices in the remaining protected sectors, and the working of the Balassa-Samuelson effect (which comes out particularly in the transition countries with an intensive growth of productivity). We recall that the Balassa-Samuelson effect arises when growth of productivity within a sector of internationally marketable goods rises faster than the rate of production within the sector of international non-marketable goods, which in turn assuming mobility of labour brings about a wage cost rise, and then of prices in the internationally non-marketable goods sector.*

iii *This is a negligibly greater value than the average value if the 2000-2002 period is taken into consideration. Actually, for a considerable number of years, the value of imports has come to between 50 and 60% of GDP.*

iv *The value of the proportion of imports in GDP from countries with which Croatia has made free trade agreements has remained unchanged (about 80%) irrespective of the making of these treaties. For this reason, it can be assumed that these shares will not change in the new future either, i.e., there will not be any significant effect of changes in trading.*

v *There are good reasons for expecting a reduction of the rate in the next four years (the EU is negotiating with several countries about free trade) but since we can only guess how much this might come to in the end, it seems most appropriate to work with the current rate, 2.6%.*

vi *The loss might be even greater, depending on the deepening of the difference between the average customs rate in the EU and here (see note 5 above).*

vii *Interesting here is Kischel's (2003) finding, which recalls that the harmonisation of excises on mineral oils, tobacco and alcohol in the EU started as long ago as 1972, and is still not complete.*

viii *Here it is perhaps more correct to speak of the amount of individual excises rather than of structure, because different countries can have different excises; yet what is essential is that the amount of the excises for agreed-on kinds (mineral oils and fuels, tobacco and alcohol) is harmonised among the member countries.*

ix *European Parliament Fact Sheets, ch. 3.4.7 The Taxation of Energy.*

x *It is expected that the administration of the EU funds will be done by the newly-founded Fund for Regional Development (at the current time this has only 7 employees) and the Fund for the Development of Employment (4 staff members) and specialised agencies whose organisation is earmarked for the future.*

xi *This principle has been the subject of great debates since it directly disrupts competition in the farm sector. The reasons for the introduction of such a discriminatory regime for new member states lies in the great expense of farm policy (the budget would be faced with great expenditures if new member states that have a much*

greater farm sector were to be paid the same support as old members without reform of their agricultural policy), and in claims that new members are incapable of making use of greater transfers.

xii *Income support is paid from the national budget in October, while resources from the EU budget arrive only in January.*

xiii *If we assume that Croatia will not make use of the possibility of cofinancing income support in the first years of membership.*

xiv *Estimate of absorption power made on the basis of data for existing member states (Mayhew, 2003).*

xv *GNI includes all the income of residents, irrespective of whether it is made inside the country or abroad. Since Croatian GNI from 1997 to 2002 on average differs from GDP only by 0.2%, we can use the already calculated projection of GDP for 2007 for the same period.*

xvi *In 2002 6.3% of GDP was earmarked from the budget for capital expenditures. This is well above the value for other countries (candidates), which earmark from 2.3 to 5%. Here, however, it would be important to point out that any relevant analysis should take into account a longer number of years, and in our case exclude capital expenditure for reconstruction, which is a distinctive feature of the Croatian case.*

xvii *The span of the estimate is broad, because of the uncertainty with respect to unit costs and of the uncertainty of the effectiveness of investment strategies.*

xviii *About 40% of total expenditure will be done in the first 6 years, and of this 30% will be financed by the government, 60% by the private sector and 10% by external resources.*

xix *Total expenditure (private and public) will have to be increased by at least 200 million euro (about 0.6% of GDP).*

xx *The work of automatic stabilisers implies the automatic increase or reduction of revenue and expenditure of the budget depending on the phase of the economic cycle (and not on changes in tax regulations and/or discretionary changes in expenditure).*

xxi *Expected rate of growth of nominal GDP is more or less the same as the sum of the potential rate of real growth and the rate of inflation. The ECB has adopted a rate, as unofficial rate of inflation, that is lower than 2%, but it is close to this level, so that the rate of nominal growth in the EU will probably be a little lower than 5%, though not much.*

xxii *Like Denmark and the UK, which have the right of derogation, so far Sweden has not introduced the euro, which does not have this right, because it joined in the last round of enlargement, but so far it has avoided the introduction of the euro by refusing to join in the ERM-2 exchange mechanism. This means that those transition countries that really want to, will probably be able to put off joining in the EMU, as well as the implementation of the SGP in its entirety.*

xxiii *Turkey is excepted from the comparison because of the recent financial crisis and the uncertain future vis-à-vis European integration.*

xxiv *Session of the Government of the Republic of Croatia, September 1, 2003.*

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Annex 1 Net budgetary position after N-10 enlargement

1999 prices, million euros									2003		2004
EU accession May 1, 2004					deflator: own sources + other expenditure				1.0866		1.1073
Copenhagen					deflator: farm and other funds:				1.0824		1.10408
	Cyprus	Czech	Estonia	Hungary	Poland	Slovenia	Lithuania	Latvia	Slovakia	Malta	Total
2003											
Pre-accession assistance	16	170	55	197	844	45	115	84	123	11	1,661
2004											
Pre-accession assistance	11	181	67	235	970	51	127	99	120	7	1,869
Agricultural	12	100	29	125	426	43	73	42	57	3	911
Structural assistance	6	169	39	209	859	27	94	66	118	7	1,594
Internal politics	5	44	5	42	154	12	11	10	19	2	305
Additional expenditure	0	7	25	58	131	38	84	28	21	0	392
Special cash-flow arrangement	28	175	16	155	443	65	35	19	63	12	1,011
Temporary budgetary compensation	69	125	0	0	0	30	0	0	0	38	262
Total allocated expenditure	131	801	181	824	2,983	267	423	264	398	70	6,343
Traditional own revenue	-27	-66	-8	-97	-123	-18	-22	-7	-33	-14	-415
Revenue from VAT	-10	-74	-6	-61	-194	-22	-14	-8	-26	-4	-420
Revenue from GNI	-60	-426	-37	-349	-1,114	-129	-78	-48	-148	-23	-2,412
UK rebate	-8	-56	-5	-46	-148	-17	-10	-6	-20	-3	-320
Total own revenue	-105	-623	-56	-554	-1,579	-187	-124	-70	-225	-43	-3,566
Net position	27	178	125	270	1,404	80	299	195	173	26	2,777
2005											
Pre-accession assistance	6	153	57	199	823	43	110	86	102	2	1,581
Agriculture	37	392	82	544	1,512	125	228	116	205	8	3,248
Structural assistance	14	355	88	438	1,776	59	203	151	244	13	3,343
Internal politics	9	76	9	72	266	21	18	17	33	4	524
Additional expenditure	1	9	26	61	141	38	109	29	52	0	466

Special cash-flow arrangement	5	92	3	28	550	18	6	3	11	27	744
Temporary budgetary compensation	119	178	0	0	0	66	0	0	0	66	429
Total allocated expenditure	191	1,255	266	1,342	5,068	370	674	402	647	119	10,334
Traditional own revenue	-40	-105	-12	-150	-213	-29	-33	-11	-54	-21	-667
Own revenue from VAT	-16	-116	-10	-95	-304	-35	-21	-13	-40	-6	-657
Revenue from GNI	-91	-653	-57	-535	-1,707	-198	-120	-74	-226	-35	-3,697
UK rebate	-12	-88	-8	-72	-230	-27	-16	-10	-30	-5	-497
Total own revenue	-160	-963	-86	-853	-2,454	-288	-191	-107	-350	-66	-5,518
Net position	31	293	179	490	2,614	82	483	295	297	53	4,816
2006											
Pre-accession assistance	1	98	35	124	509	27	66	52	64	0	976
Agriculture	46	483	102	653	1,934	158	294	156	260	10	4,095
Structural assistance	18	427	110	524	2,107	73	248	189	289	15	3,998
Internal politics	12	102	12	97	359	28	25	22	45	5	708
Additional expenditure	1	9	26	61	140	38	127	28	52	0	481
Special cash-flow arrangement	5	92	3	28	450	18	6	3	11	27	644
Temporary budgetary compensation	112	85	0	0	0	36	0	0	0	63	296
Total allocated expenditure	194	1,294	288	1,487	5,498	378	766	451	720	121	11,198
Traditional own revenues	-40	-105	-12	-150	-213	-29	-33	-11	-54	-21	-667
Revenue from VAT	-17	-119	-10	-97	-310	-36	-22	-13	-41	-6	-671
Revenue from GNI	-94	-670	-58	-549	-1,752	-203	-123	-76	-232	-36	-3,793
UK rebate	-13	-93	-8	-77	-244	-28	-17	-11	-32	-5	-529
Total own revenue	-163	-988	-89	-873	-2,519	-296	-196	-110	-359	-68	-5,660
Net position	31	307	200	614	2,979	82	570	341	361	53	5,538

NB: In the event of political agreement on Cyprus an additional 127 million euro if expedinture will have to be anticipated for the 2004-2006 period

Chapter 4

POVERTY, INEQUALITY AND SOCIAL EXCLUSION IN THE EUROPEAN UNION AND CROATIA

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Believing that reunited Europe intends to continue along this path of civilisation, progress and prosperity, for the good of all its inhabitants, including the weakest and most deprived.

> *The European Council meeting in Thesaloniki on 20 June 2003; Draft Treaty establishing a Constitution for Europe*

ABSTRACT

The issue of co-ordination in welfare policy in the European Union (EU) has been the subject of many analyses and discussions, but still it has not attained the same level of importance given to the co-ordination of economic policy. The aim of the paper is to determine the situations and actions in Croatia and the EU in the eradication of poverty and social exclusion. The paper starts with the theoretical and methodological framework, which is followed by an account of the states of affairs in EU member-states. After the description of the situation in Croatia, especially of its advantages and disadvantages as compared to other transitional countries and future members of the EU, the paper ends with a conclusion and proposals for improvement.

Key words:
poverty, inequality, social exclusion, European Union, Croatia

INTRODUCTION

Debates about a common social and welfare policy and common actions have long been held at a national level and are slowly but surely taking shape at the European level. In political terms, Europe has achieved its greatest successes in fields other than social policy, with the creation of a common market and the transition to phase three of economic and monetary union with the introduction of the euro. This is, of course, not to say that these successes are not also of social significance. But it is often said that they have created more social problems than they have solved, thus prompting action at a European level.

The issue of co-ordination in welfare policy in the EU has been the subject of many analyses and discussions, but still has not managed to attain the same importance assigned to the co-ordination of economic policy. One of the most important reasons for intentions to harmonise social policy is the wish to enable and enhance labour force mobility because there is a belief that the (non)existence of an adequate *safety net* is an important factor in worker mobility. On the other hand, EU members often mention that because of the different levels of economic development it is very hard or almost impossible to harmonise different welfare systems. Harmonisation would require huge financial resources that are at present not available.

The aim of this paper is to determine the situations in the EU and Croatia and actions taken to eradicate poverty and social exclusion. We start with a brief explanation of the theoretical and methodological framework. In the second part we discuss the situation in EU member-states regarding poverty and inequality, as well as activities at the EU level for reducing these unfavourable situations. Section three describes the situation in Croatia, especially its advantages and disadvantages as compared to other transitional countries and future members of EU. The paper ends with a conclusion and proposals for improvement.

THEORETICAL FRAMEWORK AND METHODOLOGICAL ISSUES

To understand poverty, it is essential to examine the economic and social context, including the institutions of the state, markets, communities, and households. The persistence of poverty is linked to its interlocking multidimensionality: it is dynamic, complex, institutional-

ly embedded, and also a gender and location-specific phenomenon. The patterns and shape of poverty vary by social group, season, location, and country. Poverty differences cut across gender, ethnicity, age, location (rural versus urban), and income source. Usually, in households, children and women suffer more than men. Poverty outcomes are the result of a complex interaction between policies and institutions in the economic and the political spheres. Poverty outcomes depend not only on what happens with the national income, but more fundamentally on how these changes in the national income translate into changes in household measures, and on what happens to the distribution of this consumption.

It is very important to fix on the manner of measuring poverty because this determines (or confuses) attempts to formulate sensible policies for helping the poor and for the redistribution of income. The most commonly used way for measuring poverty is based on income or consumption levels (for the main indicators and explanation, see Box 1. Information on consumption and income is obtained through sample surveys, during which households are asked to answer detailed questions on their spending habits and sources of income. Such surveys are conducted more or less regularly in most countries. These sample survey data collection methods are increasingly being complemented by participatory methods, where people are asked what their basic needs are and what poverty means for them. Interestingly, recent research shows a high degree of concordance between poverty lines based on objective and subjective assessments of needs.

It is common to measure inequality in living standards using income or expenditure across individuals in a given month. However, due to problems in measuring poverty, income or expenditure in a given month is only an imprecise measure of the living standard of a household. In order to obtain a more representative approximation of inequality, it is better (and more complicated) to reckon poverty and inequality using data over a longer period (presumably over four periods like, for example, the average in the current month, 12, 24 and 36 months ago) than data for a single month.

Especially for countries in transition, researchers mostly use measures of poverty and inequality based on consumption (money expenditures plus the value of food produced on the household plot). Grootaert and Braithwaite (1998) believe that this measure is more accurate than income due to the high volatility of current income, since people are paid very irregularly, with several months of wage arrears being common. Furthermore, income underreporting is widespread,

Box 1 Main indicators of poverty, inequality and social exclusion

Absolute poverty measures the proportion of a population surviving on less than a specific amount of income. This specific amount is *the poverty line*.

Absolute poverty lines set an absolute minimum standard of living and are typically based on a fixed basket of food products (deemed to represent the adequate minimum nutritional intake necessary for good health) plus an allowance for other expenditures (such as housing and clothing). Hence absolute lines can vary across countries, depending on the composition of the consumption basket. While there is clearly some arbitrariness in determining what is adequate, the notion of a poverty line still provides a useful benchmark.

Relative poverty lines define poverty relative to national living standards because irrespective of absolute needs, people may consider themselves poor when their living standards are substantially below those of others in their country. Relative poverty lines are usually set as a fixed percentage of median or mean equivalent household income. The World Bank (2000) calculates poverty profiles using 50% of median income as a base for international comparison.

The *poverty gap* measures how much income would have to be transferred to the poor population to raise every household's income to the poverty line (assuming the transfers have no effects on the recipients' work effort).

Gini coefficient is bounded between 0 and 1, with 0 indicating absolute equality and 1 indicating absolute inequality.

Poverty intensity is the common indicator taking into account the number of poor, the depth of poverty and inequality among the poor. For practical purposes, the percentage change in the poverty intensity can be approximated as the sum of the percentage changes of the poverty rate and the average poverty gap ratio.

Social exclusion is a multidimensional process which weakens the links between individuals and the rest of society. These links can take on economic, political, socio-cultural and spatial perspectives. The more dimensions by which a person is excluded, the more vulnerable this person becomes. The characteristics of exclusion are linked to accessing labour markets, basic services and social networks. Depending on the general level of development of an economy, the following dimensions can be of relevance: exclusion from goods and services, from labour market, from security and from human rights.

because survey respondents are not willing to fully disclose illegal or semi-legal income sources. Finally, produce from the household plot has become a mainstay of food consumption and this is not a standard component of money income. While consumption may be a more accurate measure of material well-being, examining income inequality offers two benefits. First, it is easier to make international comparisons using income inequality since income inequality statistics are available for more countries. Secondly, it can produce insights into the drivers of inequality by decomposing income inequality into the contributions of the various income sources (World Bank, 2000).

However, the above discussion suggests that it might be fruitful to consider income and expenditure not as alternative, but rather as complementary, measures of well-being. Support for this approach is provided by Atkinson (1989), who distinguishes between two conceptions of poverty: a *standard-of living approach*, which emphasises minimum levels of consumption of goods and leads naturally to an expenditure-based measure, and a *minimum-rights approach*, which emphasises the provision of minimum incomes but does not prescribe how they should be spent.

POVERTY, INEQUALITY AND SOCIAL EXCLUSION IN THE EUROPEAN UNION

The drive for solidarity and social integration found its initial expression in the Single European Act (1987), and subsequently in the Protocol on Social Policy in the Maastricht Treaty (signed 1992, applied from 1993). The idea was to refine social protection systems in order to improve everybody's chances in general without losing sight of the goal of more equal opportunities. The Treaty of Amsterdam (entry into force: 1st May 1999) gave concrete expression to this concern by including a title on employment and incorporating the protocol on social policy. This gave the Community some scope for action in the field of social policy, though this was somewhat restricted and bound by the principle of subsidiarity. Since then, the Commission and the Member States have had to review the employment situation annually and draw up employment policy guidelines. This has brought social policy much further into the limelight of European politics. In late 1997, when the situation in virtually all labour markets was giving cause for concern, the Luxembourg employment summit was held.

Measures were decided on to stimulate the efficiency of labour markets. The Cardiff summit (June 1998) focused on stepping up the pace of structural reform in the employment market, whilst Cologne (June 1999) concentrated on promoting sound, non-inflationary growth to create new jobs.[i]

However, it is really only since the Lisbon European Council meeting of March 2000 that we have deemed social policy to be on a par with economic, monetary and financial policy. In the course of this development, a common goal has emerged: the European social model must not just be maintained, it must also be adapted and consolidated. The EU set itself a new strategic goal for the current decade: "To become the most competitive and dynamic knowledge-based economy in the world capable of sustainable economic growth with more and better jobs and greater social cohesion". Successful implementation of the Lisbon strategy depends upon simultaneous and coherent policy action being taken in a wide range of areas in the economic, social and environmental domains.

No doubt, the issues of poverty, inequality, social exclusion and welfare policy have the key role in reaching the mentioned goal. Social policy and social cohesion are directly included in the principal areas under the shared competence of EU members. On the other hand, there are huge differences in EU members in terms of current situation and policy towards the eradication of poverty and increasing social inclusion, as well as of general attitude to welfare policy and the role of state. Thus, it is probably neither desirable nor possible to develop a single comprehensive European definition of the content of welfare policy of general interest and its role. However, existing Community legislation on welfare policy of general economic and social interest contains a number of common elements that can be drawn on to define a useful Community concept of welfare policy and its realization. These elements should have such desirable characteristics as economic efficiency, social or territorial cohesion and safety and security for all citizens. The future desired concept should be used by all countries in proposing and implementing an adequate policy capable of reducing poverty and social exclusion.

The EU Summit in Nice in December 2000 reinforced a number of the proposals made in Lisbon. The most significant of these in relation to combating poverty and social exclusion is the approval of a new Social Policy Agenda (Official Journal of the European Communities, 2001). In setting out priorities for action in social policy over the next

five years, strategic guidelines were identified as follows, all of them having a bearing on anti-poverty policy: (1) more and better jobs; (2) anticipating and capitalizing on changes in the working environment by creating a new balance between flexibility and security; and (3) combating poverty, exclusion and discrimination in order to promote social integration.

One of the most significant developments has been the approval of the proposal for a National Action Plan against Poverty and Social Exclusion (NAPincl) in EU members.[ii] The NAPincl is intended to develop a common EU-wide basis for national actions against poverty and social exclusion. The NAPincl has four main objectives: (1) to facilitate participation in employment and access by all to resources, rights, goods and services; (2) to prevent the risks of exclusion; (3) to help the most vulnerable; and (4) to mobilize all relevant bodies.

The NAPincl is intended to bring social and employment policies closer together at both the national and EU level. An increased emphasis on indicators and monitoring of progress is evident in relation to the NAPincl. A bilateral meeting to discuss the NAPincl should take place between different social representatives (including Governments, Social Partners and relevant Agencies) and the European Commission.

All countries have national insurance systems which protect their citizens from major risks like unemployment, the loss of income or subsistence; special needs for sickness, family burdens or poverty. However, both the extent and the consignment of such social insurance differ widely among these countries. Many analyses have found empirical evidence for a high correlation between expenditures for social insurance and the incidence of poverty (for example Voges and Kazepov, 1998). It seems that the differences between countries concerning the reduction of poverty incidence result more from the *extent* of the welfare state than from the varying effectiveness of poverty reduction policies.

Over the last few decades, unemployment, poverty and inequality have generally increased in Europe, although there have been periods (notably the late 1980s) and countries (for example, the Netherlands and Denmark) where social conditions have improved or at least not deteriorated. In almost all EU members a main factor contributing to poverty and social exclusion is unemployment, especially long-term joblessness. The EU average unemployment rate increased from 2.3 in 1960 to 7.7% in the year 2001. But while some countries have managed to halt and even reverse the rise (notably the Nether-

lands, Ireland and the UK), others could only achieve partial success, which still leaves unemployment rates much higher than in the 1970s (for example, Sweden, Germany, France and Spain).

Table 1 Unemployment rates in June 2003 (%)

EU15	8.1	Sweden	5.4
Euro-zone	8.9	Portugal	7.3
Luxembourg	3.7	Belgium	8.0
Netherlands[a]	4.1	Finland	9.3
Austria	4.4	France	9.4
Ireland	4.7	Germany	9.4
Denmark[a]	5.2	Spain	11.4

[a] *data for May*
Source: Eurostat (2003)

As we can see in Table 1, the average unemployment rate is over 8% (higher in the Euro-zone than in the EU15). The lowest rate is in Luxembourg and the highest in Spain. The risk of social exclusion increases with the length of unemployment. So, long-term unemployment (waiting for job longer than one year) is regarded as a primary indicator of social exclusion. In 2001, 3% of EU's active population were unemployed for at least 12 months. Again, this percentage conceals differences: from less than 1% in Luxembourg, Denmark, Netherlands and Austria, to more than 5% in Greece and Italy.

Otto and Goebel (2002), using cross-sectional equivalent income, analyze the poverty rate (incidence) and intensity of poverty in European countries. The ranking of poverty incidence among the countries analyzed is relatively robust. The representatives of socio-democratic welfare states - Denmark and Finland - have the lowest rates of poverty incidence (more than 5%). The highest poverty incidence is found in southern European countries (Portugal and Greece more than 20%). With the exception of Ireland, the poverty intensity measure yields the same picture of poverty.

Spells of poverty are also important indicators of a particular situation. Regarding permanent poverty there are also huge differences among EU members. Extreme positions are found in Denmark and Portugal: permanent poverty is a small phenomenon in Denmark, while permanent poverty in Portugal is the highest. Thus, more than 20% of the Portuguese population can be described as permanently poor. In all other EU members less than 10% are permanently poor.

In spite of many surveys, (more about this in Dauderstädt, 2002), it is almost impossible to determine the trends of (in)equality in the EU.

Inequality (not only in Europe) cannot be sensibly studied only in terms of income distribution statistics - despite the importance they have - because there is the issue of political debate linked with an inequality of another kind, that of political participation. Thus, in analyzing unemployment, poverty and the related social exclusion there should be some attention to at least some of the distinct concerns for the person and society as a whole. Sen (1997) believes that the list of mentioned concerns would have to include among other things, for a society: loss of current output and fiscal burden; for a person: loss of freedom of decision (which goes well beyond decline in income); skill loss and long-term damage (just as people *learn by doing*, they also *unlearn* by *not doing* – by being out of work and out of practice); psychological harm, health problems and damage to morale; motivational loss and loss of future work; loss of human relations and family life (unemployment and poverty can be very disruptive for social relations and may also weaken the harmony and coherence within the family, as links with friends and relatives), and finally, loss of social values and responsibility (people in long term unemployment and poverty can develop cynicism about the fairness of social arrangements, and also a perception of dependence on others. These effects are not conducive to responsibility and self-reliance).

Inequality would be much higher without the correcting influence of *redistributive and social policies*. Social expenditure as a percentage of GDP increased significantly in most countries between 1960 and 2000, due to aging populations and higher unemployment. It continued to rise, especially in the poorer Southern European countries – including Italy – as well as in France and Finland. As a consequence, the EU average share of social benefit in GDP continued to increase as well, in spite of the relatively stable or even falling shares in some countries (Germany, Austria, Netherlands). The effect of social transfers (excluding pensions) in reducing the at-risk-of-poverty rate varied greatly between Member States. Social transfers had the strongest effect in Sweden and Denmark and the weakest in Italy and Greece (Eurostat News Release, 2003).

Results by Simón et all. (2003) suggest that there is no evidence of long-run or strong convergence in social protection expenditure on GDP ratios to imply equalisation of the importance of social transfers. However, they do find evidence of catching-up or weak convergence

with respect to both Germany and the EU-12 average for all countries, except Greece. These results, in turn, suggest that some countries have been making a stronger effort as far as social protection is concerned, resulting in their situation converging on that of other countries where social protection expenditure has been much more significant all through the period. The enlargement of the Union is bringing more heterogeneous, but particularly poorer players onto the leveled playing field. Competition from the numerous poorer regions will exacerbate problems of welfare systems that are already being subjected to massive pressures of adjustment as a result of demography and globalisation. There is a risk of increasing unemployment and inequality, and this often means that national governments are unable to implement the necessary painful reforms (Dauderstädt, 2002).

It is very hard to estimate future trends of poverty and inequality in new members of the EU, but something could be learned from previous EU enlargements. The Portuguese and the Spanish experiences after accession to the EU provide a natural field in which to search for the determinants of the distributive implications of economic integration. According to the results by Jimeno et all. (2000), inequality increased, with some exceptions, for both countries after their accession to EU.

We should stress that the EU is trying to eradicate poverty and reduce inequality and social exclusion. For new members of the EU an increased future polarisation of society can be predicted. On one hand, there is an important (growing) proportion of young and relatively well-educated people with rather good employment opportunities and relatively high wages. On the other side, there is persistent or increasing number of older unskilled or semi-skilled workers, participating mostly in the unofficial labour market, who are more likely to be made redundant, to have lower wages and temporary employment. With an adequate and well targeted welfare policy, the position of the latter group could be improved.

POVERTY, INEQUALITY AND SOCIAL EXCLUSION IN CROATIA

Poverty increased dramatically in most of the transition countries of Europe during the past decade. Not only is the increase in poverty unprecedented, but it has taken place in the context of profound changes in economic, social, and political life. In most of Central and

South Eastern Europe certain subgroups of the population have a higher incidence of poverty than others - particularly the unemployed, the less educated and the rural population.

Poverty and inequality are serious obstacles to economic growth, especially in transitional countries, because high inequality leads *to a sharper crisis* in response to external shock as distributional conflicts between the rich and the poor impair the functioning of the newly established democracy. Higher inequality leads to significantly *higher rates of violent crime* because of the relatively higher pay-off from crime to those who are poor. Inequality also leads to *deterioration of the (already small) social capital* and *lower participation* in civil society, thus reducing opportunities for the poor to influence policies.

Although the collapse of output and increasing inequality can account for much of the quantitative rise in poverty, these two factors are in some sense just proximate causes, behind which lies a complex interaction of economic, social, and political processes. These underlying processes help explain why outcomes diverged as much as they did and are the key to how the worst outcomes may be improved. The question to answer is not so much whether poverty rose because output collapsed and inequality rose - the answer is an unambiguous yes - but why did output collapse so much more in some countries than in others? And why did inequality follow such different patterns? Almost the most important factor behind the path of output and incomes was the extent and quality of the economic reforms that countries chose to implement. There is a strong correlation between comprehensive reform and output performance (World Bank, 2000). Analysts, however, are beginning to realize that other factors may have mattered just as much: initial conditions (including location, initial economic distortions, and resource endowment); the state of institutions at the start of the transition; and the political system. These factors had a direct and strong impact on output as well. Moreover, these non-policy factors fundamentally affected the choice of reforms and the extent to which countries were able to implement them (EBRD, 1999). And these factors also had an independent impact on the distribution of income and consumption, and hence on the level of poverty.

Poverty

Knowledge about the incidence and scope of poverty in Croatia was very limited until analytical work on poverty and vulnerability car-

ried out by the World Bank (2001) in collaboration with the Government became available. The analysis was based on the first post-war household budget survey in Croatia, carried out by the Croatian Bureau of Statistics in 1998. Results showed that poverty in Croatia is relatively low, i.e., lower than in most transition economies in the region (except for Slovenia) (Table 2). Only 4% of the population lived on less than US$4.30 a day at PPP (*internationally comparable* standard across transition economies), and about 10% lived on less than US$5.30 a day, which the study suggested as an appropriate absolute poverty line for Croatia.

Table 2 Poverty rates according to an international poverty standard[1] (in %)

Country	Year	Poverty rate
Belarus	1996	20.5
Croatia	1998	4.0
Estonia	1998	19.3
Hungary	1997	15.4
Latvia	1998	34.8
Lithuania	1998	22.5
Moldova	1997	68.6
Poland	1998	18.4
Romania	1998	44.5
Russia	1998	50.3
Slovenia	1993-95	Less than 1.0
Ukraine	1996	35.5

[1] US $ 4.30 per person per day
Source: World Bank (2001); for Slovenia Milanovic (1998)

This international standard, however, may not adequately reflect the specific conditions of each society. For policy makers what matters is the extent of poverty based on nationally relevant standards. There is no national official poverty line in Croatia. The World Bank study has estimated the level of total expenditures (including non-food items) of households in Croatia at which families, after paying for essential non-food expenditures, just attain the minimal nutritional needs. This level of expenditure represents therefore an absolute poverty line and amounts to 41,500 kuna per year (in 1998 prices) for a couple with two children or 15,474 kuna for an "equivalent adult". Around 10% of the population falls below this nationally specific poverty line.

However, poverty in Croatia is characterized by stagnancy - those who become poor take a great deal of time to escape from pover-

ty (World Bank, 2001). There are several dominant groups of poor: the unemployed and inactive persons, the poorly educated and the elderly. Although the unemployed and inactive represent a small share of the poor population in the Croatia (2.9% and 5.4%), they are exposed to the biggest threat from poverty, while employment is a fairly reliable protection against poverty. Almost three-fourths of the poor live in families whose head has primary education or less. These individuals are likely to have little prospect of finding work if they are not employed, or to have low earnings if they are employed. The risk of poverty is particularly high when poor education is combined with unemployment. Those living in households with unemployed or inactive household heads are around 3 times more likely to be poor than the population as a whole. Thus, *poverty in Croatia* - having become much more like poverty in Western Europe – *is highly correlated with the situation in the formal labour market and the skill of individuals* (Grootaert and Braithwaite, 1998).

There is a considerable body of information about welfare recipients in Croatia. Unfortunately, this does not cover detailed analysis of welfare recipients of working age registered as unemployed. The Croatian Employment Service does not identify those registrants in receipt of welfare. The Ministry of Labour and Social Policy has limited dis-aggregations of unemployed welfare clients. And there is little research on the characteristics of the group.

However, one study (Šućur, 2001) does offer some insights into the economic and demographic characteristics of unemployed welfare recipients in Croatia (the most important welfare right is the maintenance allowance - *pomoć za uzdržavanje*). The first aim of the survey was to make distinctions between certain subgroups of users, particularly according to their working (in)activity and how long they had been receiving maintenance allowances. The second aim was to determine which factors were decisive in determining the duration of the period of receiving assistance. Šućur makes a distinction between *recipients* of social welfare (the individual appearing as the applicant for assistance) and *users* (includes formal applicants and all their family members using the received aid). The research was conducted on a sample of 500 recipients of social welfare. According to their employment status, welfare recipients can be categorized into two dominant groups: the unemployed and the incapacitated. In comparison to other transitional countries, Croatia has a higher share of unemployed in all welfare recipients. This is the consequence of structural changes that

have occurred in Croatia. It is important to stress that more than half of unemployed welfare recipients have been without a job for more than five years.

The duration of welfare assistance differs significantly in statistical terms, depending on age, level of education and region where the recipients originated. The older and less educated recipients are more likely to remain longer in the welfare scheme. The average period of welfare scheme usage is quite long (almost 5 years). According to regression analysis, it could be assumed that welfare assistance would be used for a longer period by applicants of higher age, of lower level of education, who are unmarried and living in incomplete families, who have no displaced person or refugee status and who receive other benefits available under the social welfare scheme. The finding of this research can serve to identify risk groups and to suggest certain measures aimed at improving the status of income support users.

However, despite the high percentage of social transfers in GDP (around 25%) Croatia has achieved little redistribution. This is because most social spending programmes are relatively poorly targeted, while the relatively well targeted social assistance programmes are fragmented and account for a small portion of total social spending. Instead of reducing inequality, the overall welfare system acts to enhance it (World Bank, 2001).

Poverty in Croatia is not only relatively low, but also shallow. The poverty gap is 1.8% and on average the consumption of a poor household is 20.7% below the poverty line. To raise all the poor out of poverty with perfect targeting (i.e., each poor person is given a transfer exactly equal to the poverty gap) would cost only about 1% of GDP. Croatia is thus perfectly able to eliminate absolute poverty.

Those who have the misfortune to be poor are seriously deprived. Life of the poor differs in many respects from the non-poor. The poor tend to live in overcrowded, poorly maintained dwellings; their diet is limited to basic staples (especially for the urban poor who can afford little beyond basic staples); and they are poorly educated. Only few have savings; they are often immobile, and their social networks are very limited. Poverty in Croatia has already many features of a permanent state: the poor are unlikely to escape poverty easily. This is due to two basic reasons:

- There are limited economic opportunities because growth so far has not generated enough jobs. Many old jobs have been destroyed and

very few new jobs have been created. Growth has benefited primarily those who kept their jobs. But for those locked outside employment, the effect was close to nil, if not negative. Furthermore, overregulation of employment, especially constraints on layoffs, are limiting opportunities for small businesses and flexible working arrangements. Small businesses and flexible working arrangements could constitute a viable alternative to wage employment for the poor.

- The poor are at a disadvantage with respect to benefiting even from this limited set of opportunities. Once locked outside employment, the unemployed and economically inactive have limited capacities to break out of the circle of impoverishment. Over half of the unemployed are long-term unemployed, so analysis of labour market flows suggests that both the unemployed and the inactive are unlikely to find new jobs.

Most working-age individuals who are not employed have either very low educational endowments (primary) or narrowly formed skills (vocational school graduates). Those who are currently locked outside remunerative employment due to their level of education are also likely to see their limited opportunities perpetuated for their children.

The first national study of poverty was carried out in 1998 (World Bank, 2001). According to its findings, Croatia has relatively low poverty rates, especially compared to the other countries in transition. However, poverty in Croatia is of a persistent nature: those who become poor take a great deal of time to escape poverty. There are several dominant groups of the poor: the elderly and poorly educated, the unemployed and inactive persons.

Inequality

According to the survey by the World Bank (2001) mentioned, income inequality measured by the Gini coefficient in 1998 is 0.39, which is higher than in most neighbouring transition countries. Nestić (2003) objects to the definition of income from self-employment, arguing that it results in overestimation of inequality. Contrary to the general perception that inequality increases rapidly over the last ten years, according to the data he presented there was no strong increase in income inequality. The compromise value of the Gini coefficient increased from 0.286 in 1988 to 0.297 in 1998.

Table 3 Inequality and social spending in accession countries

Country	Gini coefficient		Social spending (% of GDP)	
	1987–1990	1996–1998	Pensions (1997)	Health (2000)
Bulgaria	0.23	0.41	6.2	3.9
Croatia[1]	0.29[2]	0.30[3]	13.0	8.6
Czech Republic	0.19	0.25	8.9	7.2
Estonia	0.24	0.37	7.6[4]	6.1
Hungary	0.21	0.25	9.4	6.8
Latvia	0.24	0.32	10.7	5.9
Lithuania	0.23	0.34	7.0	6.0
Poland	0.28	0.33	15.1	6.0
Romania	0.23	0.30	6.84[4]	2.9
Slovakia	n.d.	n.d.	8.0	5.9
Slovenia	0.22	0.30	14.4	8.6

[1] Compromise value [2]1988 [3]1998 [4]1993
Source: World Bank, (2002); Barr, (2001); WHO (2002); Nestić (2003)

Inequality increased in all transitional countries, especially in Bulgaria and Estonia. In 1996-1998 the Gini coefficient for Croatia was higher than the coefficients for Czech Republic and Hungary, but much lower than the coefficients for the Baltic countries and Poland (future members of EU). Milanovic (1998) demonstrates that the increase in the Gini coefficient in transitional countries in central Europe was mainly influenced by the growth of the wage concentration coefficient,[iii] while the change in income structure contributed to the decrease in inequality. The sole change in the income composition in Croatia is similar to the changes in other transition economies. A decrease in the share of wages and an increase in the share of pensions, other social transfers and other personal income (excluding wages) during the transition period are obviously common to all transition economies. However, the changes in concentration coefficients were very unusual in Croatia. Milanovic (1998) shows that in transition countries there was a considerable increase in wage and pension concentration. A slight increase was observed in the concentration of other private income, while all other social transfers strongly contributed to the decrease in inequality. At the same time, Croatia saw a weak increase in wage concentration and a mild decline in pension concentration. The equalising effect of other social transfers weakened, while the concentration of other private income (income from self-employment and from property) grew markedly.

The percentage of pension and disability insurance and for health insurance in Croatia in GDP is high and is not sustainable in the long run. Croatia has almost concluded its pension reform, which should also be an important factor for providing security for older citizens. Of course, it will be necessary really to see its impacts on poverty and inequality in Croatia, as well as to look forward to the finalization of health reform.

In spite of the general perception that inequality in Croatia increased strongly during the transition period, according to the results of Nestić (2003) it did not rise tremendously. Thus, the Gini coefficient rose from 0.286 in 1988 to 0.297 in 1998. Decomposition of the Gini changes shows that the expansion of social transfers as well as the absence of any major rise in wage concentration account for there being only a mild increase in inequality.

CONCLUSION

We might recall that absolute poverty in Croatia is low, but this diagnosis is deceptively consolatory. The characteristics of the poor in the Croatia are very similar to those of the deprived population in other transitional countries in Central and South East Europe, and are mostly determined by education, number of income earners, employment status. The risk of poverty is especially high for households where the main income earner is unemployed or inactive. There are several dominant groups of the poor, primarily the unemployed and inactive persons. The type of economic growth in Croatia has failed to generate enough economic opportunities for the poor, and they are at a disadvantage with respect to benefiting from these opportunities.

Generally, poverty cannot be reduced if long-term sustainable economic growth does not occur. Absolute poverty can be alleviated if at least two conditions are met: economic growth must occur - or mean income must rise - on a sustained basis; and economic growth must be neutral with respect to income distribution or it must reduce income inequality. Equitable growth is of the utmost importance for several reasons. Firstly, it will raise incomes of the working poor, giving them an opportunity to escape poverty. Secondly, it will provide employment opportunities for the unemployed and inactive workers – a group with an especially high risk of poverty. Thirdly, it will provide the tax base for programs to alleviate poverty among those who cannot escape poverty otherwise.

Three conditions are required to achieve equitable growth: sustaining macroeconomic stability, creating an enabling environment for private businesses, and increasing investment in human capital. This would involve redefining the frontier between the state and the market on efficiency grounds: the state should withdraw from activities that are inherently a market domain. A major problem with the economic policies advocated for the transition period is that they have been based on minimizing the role of the state. But because of the prolonged and complex nature of the transition, *the responsibilities of the state should increase rather than decrease*. This does not imply a return to an authoritarian, undemocratic state. It also does not mean that the state should be large relative to the private economy, and certainly not that it should try to dictate the direction of the economy. It does imply that the state should be activist and intervene in critical areas where market forces cannot ensure an efficient allocation of resources or where access to basic assets and opportunities for people's livelihoods is inequitable. In all these things mentioned, accession to the EU could be helpful, but one should be realistic and not expect too much. Further strengthening of democratic institutions and opening up Croatia to closer integration with European and global structures should also help to bring about a reduction in poverty.

RECOMMENDATIONS

Future EU membership will not be able to settle any possible Croatian inconsistencies and unwillingness to seriously formulate and implement a financially sustainable and efficient social policy and programme for poverty alleviation. Although declining (Štulhofer and Rimac, 2002), there is still highly widespread and/or deeply rooted paternalism in Croatia – a belief that government should (or is obliged and able to) solve all existential problems of its citizens. However, there is no single model for the eradication of poverty, economic inequality and social exclusion that is optimal for all societies. Like every other country, Croatia has to find and develop constitutional and legal arrangements that best suit its own historical, social, cultural and economic situations, conditions and possibilities. From the abundant economic and social literature as well as from everyday practice it is quite obvious that government (not only Croatian) is incapable of solving the mentioned issues. Government could provide a stable legal

framework, the social infrastructure and with the co-operation of its citizens establish the rule of law. Otherwise, the poor and socially excluded will suffer most from the lack of clear laws and unwillingness of society to respect those that do exist. It is not so important to produce new laws and changes in the organization structure, but to enhance respect for the current laws. However, in order to make the laws work, political will and leadership commitment is vital. Just as important is the empowerment of citizens and their full participation in the political process. Such a paradigm shift takes time and is more likely to be attained through the younger generation.

Although recent economic performance has on the whole been satisfactory, Croatia *faces more demands than many former socialist states*. Both the demands of transition and of post-war reconstruction call for an increase in the level of investment. This, in turn, implies a need to raise the domestic savings rate and possibly to attract resources from abroad. This objective imposes limits on the type and scale of social programmes that can be adopted at the present time. Croatia's prospects for economic growth and job creation look good, provided that fiscal retrenchment and reforms continue. With continued political stability, the Government should be well positioned to advance reforms. There are risks, however, of policy slippage, and vulnerability to adverse external developments, including a risk of slower growth and constrained access to international capital markets.

Approaches to poverty reduction could be categorized into two alternatives: technocratic or institutional. The former emphasizes targeting and explores programme designs that try to direct limited resources to the people with the greatest need. The latter approach notes that the poor lack political power, and that administrative incompetence and corruption hinder government delivery of services. Poverty reduction therefore requires institutional development, and changed political structures, improved governance, and changed attitudes towards the poor.

Substantial poverty reduction could thus be achieved in Croatia by careful reallocation of expenditures and improvement of coordination among existing social programmes. The Government reviewed the policy and public expenditure implications, and accepted a National Poverty Reduction Strategy in early 2002 (Vlada RH, 2002). Two key recommendations emerged: (a) adopt a scheme to prompt a more comprehensive role for NGOs in providing services to the poor through outsourcing, and (b) ensure closer integration between social assistance

programmes and education and employment services, in order to enhance the chances of the poor and unemployed returning to work. Initiatives in these areas should improve the effectiveness of social spending over time. To achieve more efficient allocation of resources, free market mechanisms are vital, but so are mechanisms concerning social equity. Reforms to build thriving, sustainable market economies will only succeed if built on successful investment in people.

Successful poverty alleviation is directly linked with consistent increase in decentralization of sources and services. The structure of intergovernmental relations affects the efficiency and equity of service delivery, the social safety net, and poverty alleviation programmes. A further, more practical problem with central government failure is that often, because of poor performance at the local level, everyone who can afford it avoids governmental services. Instead of going to the public school or public hospital, citizens begin to look for private schools, private hospitals, and even private security firms. This not only weakens the role of the state but leaves the government with the weakest and most needy part of the population which increases the burdens on governmental services and often affects quality adversely. The allocation of poverty programme grants at the subnational level should be analyzed carefully within the particular Croatian context since lack of transparency, or inadequate specificity in transfer design, may sometimes result in wealthier areas receiving more resources than poorer areas.

Market forces alone can never be relied on to produce a fair or equitable society. The state must be committed to the reduction of poverty and inequality, and in order to do so, it must maintain a transparent and equitable system of social protection that relies on a foundation of universal coverage and non-discrimination. *It is necessary to strengthen the social safety net* through improved targeting and monitoring of social welfare programmes, empowering civil society in the provision of social services, decentralisation of some social services, improving the targeting of social assistance, and better design of employment policy measures. A primary aim of policy must be to get people into work - or back into work. For most people most of the time, dependency on state assistance cannot provide a satisfactory alternative to employment - in terms of either psychological satisfaction or material well-being. The opportunity of paid employment is among the simplest ways of escaping poverty and dependency. It is desirable, wherever possible, that people are found (or find themselves) jobs in the for-

mal sector. Not only are such jobs more secure, in general, they also offer more opportunities for training and the acquisition of skills. Further more, they will increase the tax base and, in some measure allow a reduction in indirect labour costs.

The low employment rate, or rather an increase in employment, currently represents one of the main priorities of economic policy in Croatia. There is clearly a strong association between poverty, education, employability and long term unemployment. The problem of long term unemployment is growing. There has been a continual rise in the share of the long-term unemployed - those who have been waiting for more than one year for a job now account for more than a half of all unemployed. *The task is to reduce both the flows into long-term unemployment and the stock of people already out of work for more than a year*. The problems faced by many of the long-term jobless are often multi-dimensional and frequently include low levels of education and of motivation. Croatia has a range of active and passive measures to assist the unemployed. The employability of the long-term unemployed should be enhanced and social exclusion reduced through participation in work related activities. There is also the lack of timely evaluation to assess the true effectiveness of policy measures on the labour market. This could be addressed through the introduction of new techniques (tracking studies) for collecting up-to-the-minute data about their impact.

There is *a need for two types of activities in order to improve public awareness of and access to social programs.* First, to support the reform of the whole social and welfare system, the Ministry of Labour and Welfare should create a plan for a public education campaign to inform members of the public about all changes in the legislation, procedures and new nation-wide social programmes. Then, social programmes available to the citizens under the reformed system and provided through the welfare centres by national, regional and local self-governments should be well publicized through the different systems of on-going publicity for the potential beneficiary. This system should include the dissemination of information through various means about the different benefits available through the particular welfare centre.

Collection of poverty indicators and an accompanying poverty analysis are important for the sake of acquiring a compact and detailed insight into the social situation in Croatia. One of the goals should be *to establish the official poverty rate*. Objective poverty analysis can help to put poverty issues in an adequate place on the political priority

list, at both a national and a local level. Poverty indicators can be a good base for defining and shaping different measures of social policy. Monitoring the effects of a social programme is also one of the purposes of these indicators.

Finally, one should recommend that some effort be invested in improving the quality, range and frequency of collecting data, information and social statistics as well as in enhancing research about poverty, economic inequality and social exclusion. Such information and research are required for social planning and for the formulation of appropriate policies. If the objective is for safety nets to reach the poor, information is required on who the poor are and where they are located, and how much of the benefits from the programme are reaching this target group. In most cases, (especially transitional) countries spend significant resources on safety nets but fail to collect data and monitor who receives the benefits and how they were affected by them. Such information should also be made available to the research community and general public. These two steps will help to make government at all levels more accountable to the electorate, by providing voters with more information about the impact of government policies, which should also raise the quality of public debate and increase the participation of citizens in the political decision-making process.

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[i] *Details about all summits and related documents can be found on http://europa.eu.int.*

[ii] *For the activities of the Council of the European Union see http://www.eapn.org, for Finland http://www.stm.fi/Resource.phx/eng/index.htx, for Ireland http://portal.welfare.ie and http://www.entemp.ie.*

[iii] *The concentration coefficient shows inner inequality in distribution of particular income, but also its correlation with total income. The coefficient ranges from -1, when the entire income source is received by the poorest (by income) recipient; through 0, when all recipients receive the same amount; to 1, when the entire income source is received by the richest recipients. A concentration coefficient's negative (or positive) value shows that a given source is negatively (or positively) correlated with overall income (Milanovic, 1998:16).*

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Chapter 5

THE RULE OF LAW AND THE JUDICIAL SYSTEM: COURT DELAYS AS A BARRIER TO ACCESSION

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ABSTRACT

An efficient system for the protection of civil and human rights is essential for the achievement of the ideals that are a precondition for joining the European Union (EU). This paper analyses the origins of the crisis of the Croatian judicial system and the factors that have brought the length of court proceedings into the centre of professional and political debates. Strategies for accelerating civil proceedings featured in current attempts at reform are presented, with an emphasis on the ongoing procedural reforms in litigation, enforcement and bankruptcy proceedings. At the end doubts are expressed about whether it is possible to make any important advances with the operations planned. Without an efficient judiciary, however, it is impossible to have a complete transition to the model of the democratic liberal state, and a dysfunctional judicial system can bring the implementation of economic reforms into question as well. To this extent, then, a thoroughgoing reform is of first-rate importance for the creation of the preconditions necessary for EU membership.

Key words:
justice, length of court proceedings, Croatia, accession, European Union

INTRODUCTION

It is universally held that the length of court proceedings is one of the fundamental and most important symptoms of the crisis in justice in Croatia. In Croatian justice, however, there are some other if less obvious and less quantifiable dysfunctions, from lack of experience and knowledge in trials that result in poor-quality results to difficulties with the possibility of providing unbiased and just adjudication for some categories of parties and types of cases. Nevertheless, the problem of providing for fair trials in reasonable time has, at the beginning of the third millennium, come to the surface as the most concrete and most striking problem on the way to creating a state of law and order, and the rule of law.

The EU enlargement process assumes the inclusion of new states that have to the greatest extent overcome the difficulties of the transition, among which is the creation of an effective system for the protection of rights granted to citizens. A functioning judiciary is a precondition for the accomplishment of the political and legal ideals on which the EU is based – the ideals of the rule of law. As community of not only economic but also political and cultural values, the EU assumes that its member states have the ability to implement proclaimed political views, and that the rights granted by the law of the Community can, if necessary, be effectively protected in the courts of the member states. Since the harmonisation of EU law is based on the principle that the legal instruments of the Community are by and large being implemented by the national courts, the functioning of these courts is a *sine qua non* for the functioning of the legal system of the Community in the territories of the new members.

THE ROLE OF NATIONAL JUDICATURES

Although the EU is increasingly taking on characteristics that, if it were not for certain resistances and historical sensitivities, could well publicly be labelled as "federalism", its legal order is to a great extent put into life through the national institutions, primarily the national courts. Accordingly, in the EU, national judicatures are losing their national or local character and becoming a part of the wider European system of justice, the national courts becoming European courts.[i]

Integration processes in the EU so far have not negated specific features of organisation and procedure of national justice systems. In principle, national procedural autonomy has been acknowledged for each state – that is, the right to organise its own judicial system in the manner it considers most appropriate. No matter how a particular justice system is organised, the protection of rights granted to individuals and legal persons (and rights recognised by EU law) has to be effective. This idea was, in various forms and manners (though with some inconsistencies), expressed also by the European Court in Luxembourg.[ii]

The emphasis of Luxembourg decisions that have commented on and directed the activities of the national courts in the EU in the context of the application of European law has most often been on the achievement of substantial harmonisation in the application of the law of the Community, and particularly on suppressing discriminatory effects through procedural mechanisms likely to vitiate the basic premises of the EU, such as free movement of people, services and good. The importance of harmonisation at the level of the *results* of procedures, irrespective of the organisational and procedural differences of the national systems, is heightened by the fact that all the countries of the Union participate in a universal system of reciprocal recognition of judgements and other final decisions made in other member states, so that a judgment made in Lisbon can without any double-check be simply acknowledged in Berlin as a judgement of value equal to those of the German courts and vice versa. In addition, every EU citizen has to be provided with a roughly equal level of protection of his rights wherever he or she might happen to be in the EU, irrespective of which court it is that is determining his or her rights. For this reason, one of the postulates of European integration is that in all the countries of the EU an equal or maximally equivalent degree of protection of subjective rights should gradually be attained.

As for countries with aspirations to be EU members, the question of the capacity and effectiveness of the judiciary appears additionally at a much more elementary level – at the level of meeting the basic political criteria that demand future members to be stable democracies with institutions capable of guaranteeing fundamental human rights and putting into effect the principle of the rule of law. Thus in the process of the accession of those countries that will join the EU in the first wave, an important role was assigned to the reform of their judiciaries, and at the local and the international level their progress in the creation of a competent and independent judiciary was monitored most attentively.[iii]

One of the indicators of the degree of the readiness of national judicial institutions for full membership is contained in the practice of the European Court of Human Rights (ECHR) in Strasbourg with respect to the candidate countries. As a kind of political entrance lobby to further integration, the Council of Europe (CoE) has so far covered practically all the potential candidates for membership in the future, and the jurisdiction of the ECHR for individual applications with respect to CoE members has enabled a comparison, among other things, of the level of protection of human rights that is attained by the national judiciaries. A particular place in this context is taken by the practice of the ECHR with regard to the right to a fair trial (Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms), both in the sense of the right of access to justice as well as the right to equality of arms and, particularly, the right to a trial within reasonable time. To the political importance of the practice of the ECHR in the future another, strictly legal element may be added, for the EU is seriously considering the possibility of acceding to the European Convention as a separate entity. At the same time, the rights that are protected by the Convention are already included in the drafts for a future European Constitution. The level of protection of fundamental rights under the Constitution would in no case be below that of the rights guaranteed by the Convention.[iv]

In any event, the integration process even within the current membership of the EU is increasing the importance of having a highly competent and effective judicial system. With the Amsterdam Treaty of 1999, home and justice affairs were shifted from the third to the first pillar of the Union, that is, into an area that is of immediate concern to the Union. Implementing this shift, the Tampere Summit of 1999 provided for concrete measures by which the EU should be made "an area of liberty, security and justice" by May 2004. Cooperation in the area of home and justice affairs is thus made a matter of common European concern, and the political priorities have set the deadlines for harmonisation that will run out in the not very far future.

THE LENGTH OF COURT PROCEEDINGS IN CROATIA

As candidate country for EU membership, Croatia too will have to attend very carefully to the challenges of harmonisation in the judi-

cial area. It is beyond any doubt that the administration of justice in Croatia is currently burdened with a series of grave problems. In this paper we shall deal in particular with the problem of the length of judicial proceedings that, in spite of all the other problems, has assumed a highly prominent position.

The reasons for taking up the topic of the length of judicial proceedings in public discourse were completely independent of the process of joining the EU, motivated in the first place by a number of inherent reasons and incentives, the most obvious of which we shall give in succinct form.

Several sets of judicial statistics published in the nineties indicated that the number of unsettled cases, alongside a constant influx, had more than doubled.[v] In addition, some highly exacerbated cases in which the procedure in court had lasted several decades came into media focus.[vi] After Croatia became a member of the CoE in 1997, the first cases put before the ECHR in which violations of human rights were found, related precisely to the infringement of the right to a trial within a reasonable time.[vii] In addition, it would seem that there are other tactical reasons for the focus on the question of length of procedure. Apparently, it is a value free, non-political question, which can draw the attention of the general and professional public away from other, more sensitive matters, such as the questions of lustration, corruption, incompetence, bias and (social and political) responsibility for the quality of justice (Uzelac, 2001:23-66). Putting the duration of procedures at the centre of interest not only may easily create an appearance of serious reform, but can also serve as argument for redistribution of the social product to the benefit of some classes (by claiming larger investments in the judiciary, particularly in the wages of judges and the quantitative enlargement of judiciary personnel).[viii]

This brief catalogue of arguments shows that the current public interest in the problems of length of court proceedings is in essence somewhat superficial. This will also be shown by the analysis in this paper, by pointing out that the reforms that are undertaken are only partial, and the will to put them into effect is questionable at the very least, even among those who consider themselves inveterate reformists. The fundamental problems of the lack of efficiency in the justice system – setting up a political system in which the citizens will have confidence in the judiciary as warrant for their personal, political and economic rights[ix] - are mainly absent from discussions about accelerating judicial proceedings. But irrespective of this, the length of proceedings is a serious problem, which we shall deal with in this paper, while other judicial problems in the creation of the rule of law will be touched on only incidentally.

COMPARISON OF THE JUDICIAL SYSTEMS

It is no easy matter to compare judiciaries in terms of their level of efficiency and quality. Because of the already mentioned national procedural autonomy both within and without the EU, organisation, competence and procedural rules of courts show such a degree of diversity that it is almost impossible to subject them to a simple methodology of comparison. Judicial statistics are adjusted to national specificities, and it is therefore very difficult to compare them even if they relate to countries of the same legal and cultural sphere. No uniform criteria for comparison have been worked out. The elaboration of such criteria is now only just getting into the agendas of international institutions interested in judicial reform, such as the World Bank and the newly founded European Commission for the Efficiency of Justice (CEPEJ) of the CoE.[x]

As a result, only an indirect assessment of the current situation is possible, from some indirect indicators and isolated examples. For this reason, such an assessment is necessarily subjective, and may become the subject of political appraisal and political negotiations.

At a professional level, it is broadly accepted that, at the beginning of the third millennium, the degree of harmonisation of the procedural rules and the organisation of the judiciary even with respect to the current members of the EU is at a fairly low level. The harmonisation of procedures – for the moment only at the level of rapprochement – is achieved only indirectly and in marginal areas. Admittedly, the Amsterdam Treaty has transferred cooperation in the area of justice and home affairs from the third to the first pillar of the Community, stressing the need for uniformity in the EU as area of "liberty, security and justice". However, the aspiration towards uniform standards has so far been limited to the area of the mutual recognition and execution of judicial decisions, i.e., to facilitating the access to the court for those EU citizens that are in the territory of other members, with the ultimate intention that every EU citizen can have equal access to bodies of state power everywhere in Europe, as if it were to do with his or her own national bodies. For this purpose, the directives of the Brussels I and II conventions on the execution of judicial judgements have been passed; directive 1348/2000 about service of process in judicial and extrajudicial matters, and directive 743/2002 about general rules for encouraging cooperation in the area of home and justice affairs. Also in preparation are uniform forms – the so-called European

Enforcement Title – for facilitating the filing of enforcement pursuant to judicial decisions made in uncontested matters in the territory of another member country. In order to stimulate cooperation and facilitate the access of citizens to courts, the launching of a European Day of Civil Justice is scheduled for 2003, as an event that would be organised in the member countries (and candidate countries) at the end of each October.

With all these activities, judicial practice, procedural style and in particular the degree of efficiency of the machinery of justice are all still very different in the countries of the EU. If we stick only to a general evaluation of the speed and user-friendliness of procedures, extremes can be found in the EU as well, from the rapid and simple procedure in e.g. Germany to the complex and lengthy procedures of Italy. In particular with regard to Italy, the problem of length of court proceedings is still far from being settled, and the number of cases in which Italy has been found liable for infringements of the right to a trial within a reasonable time at the ECHR is alarming.

As far as the state of justice systems of the candidate countries is concerned, here the assessments are also divergent, but on the whole not very good. A study of judicial capacity in the first ten candidate countries resulted in the collective evaluation that "in any country judicial reform is bound to be fraught with obstacles, difficulties and delays – and more so in Central and Eastern European countries, after half a century of communist rule during which courts and the law itself were debased and used as mere instruments of power" (Monitoring EU Accession: Judicial Capacity (2002:7). As for the assessment of reforms, it is pointed out that evaluations from national reports reveal

"...a vivid illustration of a number of paradoxes: profound structural reforms are needed in all these countries in order to provide the judicial system with the capacity to fulfil its constitutional mission according to the requirements of a democratic society. Such reforms require a strong and lasting political will from Governments and Parliaments – but one may ask if such a will really exists, or even how consistent the EU itself has been in calling for such commitment".[xi]

The fact that Croatian problems with the judiciary are not unique is not in itself consolatory. Even when it is compared with countries in which judicial problems rank high, the Croatian judiciary is bringing up the rear, vividly shown by the results of public opinion research that

have shown that only in Croatia do the courts occupy the last place regarding public trust in social institutions.[xii] This is also shown by recent surveys carried out at the request of Transparency International, in which to the question "from which institutions would you first of all eradicate corruption" respondents placed health care first, and the courts immediately afterwards. Seventy percent of citizens involved in the survey had the impression that corruption is to be found in the judiciary. Recently it became public that the national budget has already paid out over a million kuna in damages to parties for violations of the human right to a fair trial within reasonable time (of this about 110,000 euros because of decisions of the ECHR and about 200,000 kuna as a result of decisions of the Constitutional Court of the RC). According to all these indicators, even with tolerant behaviour of the competent factors, it is to be expected that essential progress in the reform of the judiciary will be among the main conditions that need to be met before joining. The more so because after May 2004 – the deadline proclaimed at the Tampere Summit in 1999 for Europe as an area of freedom, security and justice – the threshold for new members will certainly be higher than it is today.

PROJECTS FOR ACCELERATING COURT PROCEEDINGS IN CIVIL MATTERS

Acceleration of court proceedings is as a rule just as complex as every other far-reaching reform in the judicial system. Simple and unilateral interventions are not adequate where long-lasting and fundamental problems are concerned. In Croatia too changes directly or indirectly related to acceleration are being planned (and to a smaller extent carried out) in a number of areas, not only with respect to reforms of procedural legislation (which, although overburdened with some inadequate provisions, is not the main cause for the lack of court efficiency), but also in respect to organisation and human resources, and to projects directed at the users of judicial services.

We would hence attempt to group the heterogeneous acceleration projects into six strategies, which would, in our opinion, be identifiable in current initiatives. These are:

- procedural reforms (modification of court procedures and dispute resolution routines for the sake of their streamlining and simplification);

- transfer of assignments currently carried out by the courts to other state and social services and private professions (particularly to the notaries), and transfer of assignments which are not at the centre of the judicial function to other persons inside or outside the court;
- encouraging parties to resolve their disputes by arbitration or by settlement reached either through direct negotiations or with the help of mediators;
- changes in the organisational structure of the justice system at the national level (the system of jurisdiction) and at the level of individual courts (reorganisation of the court administration);
- technical and logistic improvements (introducing new technologies, particularly IT; reorganisation of the delivery and register departments);
- programmes for improving the quality of judicial personnel (tightening up the quality criteria during recruitment, a system of on-going education and professional further training).

This fairly extensive list in essence more or less covers all the possible ways in which a given country might oppose the problems of inefficiency in its justice system. In the following paragraphs, we shall devote particular attention to strategies that relate to attempts to speed up the civil proceedings in the narrow sense (current and heralded reforms of procedural codes applicable to litigation, execution and bankruptcy laws). A presentation and assessment of changes in relation to other types of procedure (criminal, administrative and so on) are not the subject of this paper, while the organisational, personnel and other aspects have also been partially dealt with in other works (Uzelac, 2002a, 2002b), and partially contained in an expanded version of this paper (Uzelac, 2003).

A REFORM WITHOUT A REFORM: CURRENT DIRECTIONS OF CHANGE IN PROCEDURAL LEGISLATION

Changes aimed at accelerating court procedures in Croatia are concerned most of all with three large procedural codes: the Code of Civil Procedure (CCP), the Law on Enforcement, and the Bankruptcy Law. As stated earlier, the process of amending these laws was not

completely logical and expected. The most important and fundamental law, the CCP, has not been essentially changed until 2003. In force was the slightly modified former Yugoslav Code of Civil Procedure of 1976 – although the draft of a comprehensive reform was prepared already back in the mid-nineties. Only in autumn 2002 was this draft sent to parliamentary procedure, and finally adopted in July 2003 (NN 117/03).

On the other hand, the two other laws had a very different fate. Nor were they modified much earlier than the CCP, but completely new legislation was passed – as early as 1996 the Law on Enforcement (NN 57/96, 29/99, 42/00) replaced the Execution Procedure Law, and the Bankruptcy Law (44/96, 161/98, 29/99, 129/00) the Act on Forced Settlement, Liquidation and Bankruptcy. Both new laws were again essentially amended only two or three years after their enactment, and another round of amendments – which partially consist of the abandonment of some features introduced by preceding amendments – are part of a new package of laws that were passed by the Parliament in 2003 in the last months before the elections.

All in all, it would seem that the changes in procedural legislation in the last ten years are affected by a hopeless chaos. There is a wide awareness that court procedures fail to satisfy the needs of the citizens for efficient and timely protection of their rights. But in spite of many announcements of reforms, in spite of the flood of new legislative drafts and new legal provisions, or even the whole new laws, the basic routines and basic structures have hardly been changed. To back up this claim, we shall attempt to pick out some of the basic tendencies of past and future reforms. The purpose of this survey is limited to the most important elements of the numerous normative changes, because irrelevant details may stand in the way of an integral picture of the essential. And this essential might be summed up as follows: numerous legislative changes, tentatively called a “reform”, have not yet led to a real and fundamental reform capable of bringing about a system of justice appropriate to the needs of modern liberal democracies in the foreseeable future.

Litigation procedure

The underlying intention of the reform of civil proceedings was to achieve acceleration of the litigation procedure by tightening up

measures to enhance procedural discipline, i.e., to put an end to strategies of procedural abuses. Although both concepts – of abuse of the procedural rights and procedural discipline – are controversial,[xiii] it would seem that a good part of the changes rests on the administrative and apparently paternalistic logic, according to which the problem of court delays can be mostly blamed on the behaviour of the parties, and hence the solution should be in increasing the amount of the penalties that the court can hand down during the process if it considers that some action of the participants is aimed at delaying or blocking the procedure.

The most far-reaching structural change in the context of speeding up proceedings is somewhat ambivalent, and partly contrary to other changes that give the court more authorities in the procedure. For the sake of accelerating the proceedings and reinforcing the liability of the parties (and their counsel), the judges are generally deprived of the authority to order evidence ex officio.[xiv] This abandons the previous inquisitorial principle in evidence taking, and limits the process of fact-finding to the evidence submitted (or requested) by the parties. It is somewhat paradoxical that the reform attempts to achieve acceleration by means opposite to those that are commonly used in similar reforms for this purpose – most trends in other countries endeavour to speed up procedures by strengthening and not by limiting judicial activism.

Many other changes from the voluminous draft of the new CCP are mainly of a partial nature. The concentration of the hearing at the trial stage will not easily be put into effect if it is left to the optional financial sanctions and possibility of reimbursement of costs caused by postponing hearings. The power to pronounce a default judgment is strengthened only in cases when the defendant failed to submit within the time limit a written statement in reply, when a new default judgement (*presuda zbog ogluhe)* may be made. Later failing of parties to appear at the hearings will continue, it would seem, to be unsanctioned.

Since the judges of the superior courts particularly took part in the shaping of the final draft, it is not unusual that the smallest changes were made precisely with respect to the appellate procedure. For the sake of procedural discipline, the possibility of invoking new facts and evidence on appeal will be limited. But apart from that, there is hardly any change: decisions on appeals will still be made in camera, without the regular presence of the parties and their counsel. The legal possibility, so far unused in practice, of carrying out a second instance public hearing, instead of being reaffirmed, has been deleted from the text of the law. The possibility of the multiple striking of judgements in the

same case and sending them back for retrial – without any final solution by the second instance – will not be changed.

Overall, it would seem that the so-called reform of litigation procedure will just be a step in the continuity, and not a discontinuity with the generally dissatisfactory practice. Some dozen years earlier perhaps it would have been enough as a first step. Today, one can express the fear that disturbance and destabilisation of the system that three hundred articles of amendments may bring will outweigh the benefits. One of the likely scenarios – that we nevertheless hope will not happen – is that after a certain period of time in which the degree of legal certainty and efficiency in the justice system will be even lower than hitherto, the courts will find a manner to go back to their present routines, including their earlier perception about the appropriate length of proceedings.

Enforcement procedure

Current plans for reforms of the enforcement procedure[xv] show an acute absence of any clear vision, even one regarding the diagnosis of the origins of the problems. Instead of deformalising complex procedures and reinforcing some of the most important enforcement methods – above all, the enforcement on movable property, traditionally and statistically most important – current plans look to a completely different scenario. The current plan of reform provides for a kind of "outsourcing" of the enforcement from courts to other services. Although the idea of taking the caseload of the courts and shifting some of their tasks in execution of their judgments to other actors and private services is a step in the right direction, almost everything else in the intended reform is bewildering. The main pillar of the reform consists in transferring jurisdiction for issuing writs of enforcement to public notaries. One might observe that this would lead to the transfer of perhaps the only activity that should have remained in courts (and that in practice led to the fewest difficulties). On the other hand, the area in which the inefficiency of enforcement was the greatest remains untouched. The symbolically and practically most important type of enforcement is seizure and sale of movable property (which can almost be taken as a metaphor for any enforcement of court decisions). This method of enforcement is still in the courts - where it has least place. This is the logical result of the first and fundamentally mistaken law policy assessment: that

enforcement can in its entirety or at least to a great part be successfully transferred to the notaries. It would seem that the drafters of the reform, blinded by the relative success that the notaries have had in their work to date, have overlooked that the logic of the functioning of the notaries is completely opposite to the logic that a successful bailiff needs to follow. Public notaries provide legal certainty, while bailiffs (enforcement agents) should provide efficiency; notaries operate by following abstract formal rules, while bailiffs have to be guided by the logic of economic rationality; public notaries carry out a sedentary office-bound job, while bailiffs have to be mobile and operational.

All in all, if these plans of reform are put into effect (which have been hurriedly and without any real discussion made law because of electoral promises to do something in this area, but with a delay that can call them at least partially into question[xvi]), only negative results can be predicted. The execution process might become even slower and more formalised than it has been so far, even more so because of the completely unnecessary shuffling of files from courts to notaries and back again. If this scenario comes into being, the most likely outcome will be that the new amendments will follow the fate of some previous reforms that have been undertaken only to be repealed after a few months or years as unsuccessful.

Bankruptcy proceeding

Reform of the bankruptcy procedure shares the fate of reform of enforcement procedure. Bankruptcy proceedings in Croatia are also inefficient: their duration is excessive and it is difficult to achieve bankruptcy's basic functions – the liquidation of the insolvent debtor and the just satisfaction of his creditors. In Croatia, bankruptcy law was for the first time radically reformed the same year as enforcement law, when a new law on bankruptcy was enacted.[xvii] After the old socialist legislation, the new law to a great extent mirrored the new German bankruptcy law. This, however, did not help to establish effective and just bankruptcy law. In the first five years of the application of the law, bankruptcies were seldom carried out, and if they were, it was with great difficulties. Two sets of major amendments aimed at "contributing to the general functioning of the procedure" and the suppression of "undesirable tendencies in practice" did not help much either (Dika, 2001:4).

The political environment played a great although not the only role in the inefficiency of the bankruptcy procedure. Right up to 2000, bankruptcies were politically rather unpopular, and were therefore discouraged. The general policy of the government at that time even encouraged an overt disregard of the law in order to avoid filing for bankruptcy and keep jobs at any cost. The government elected in 2000 attempted to change its view, but the wave of bankruptcies that followed had political consequences that once again had a negative effect. Thus, a consistent application of the law and the strict policy of bankruptcies everywhere the conditions for them were ripe was not achieved.

The incapacity to put the law into effect in the area of bankruptcy led to attempts to solve the problem with further changes in the law.[xviii] The justification for the newest set of amendments, among other things, is based on the assessment that the procedures in bankruptcy were too complex because of the great number of bankruptcy bodies; that not even the given explicit duties that the law enjoined were actually respected; that the bankruptcy procedures were unnecessarily lengthy, that they were dragged out, that they became an end in themselves and that the bankrupt estate was often mainly spent on the costs of the procedure; that the secured creditors, particularly the banks, were often not interested in a rapid conduct of the bankruptcy proceeding, since very high interest continued to accrue to their secured claims; that some legal grounds for the refutation of the illicit transactions of the bankrupt debtor were too stringent and that it was difficult to prove them; that the position of the privileged creditors in the bankruptcy process was not defined clearly enough, particularly the relation between the enforcement proceedings filed to collect the secured claims and the bankruptcy proceedings; and so on.[xix]

Planned changes, however, in this round will not be of a far-reaching character. An attempt will be made at accelerating the proceedings by abandoning the institution of the bankruptcy panel of judges and confiding its entire jurisdiction to a single judge. In addition, the draft also foresees the setting of deadlines for making certain key decisions in the procedure and their implementation[xx] and makes minor adjustments, especially between the bankruptcy and the enforcement proceedings carried out to collect the secured debt.[xxi] For this reason, here too it is hard to expect that the state of inefficiency and/or self-sufficiency of bankruptcy proceedings from the assessment of the drafters of recent amendments will be changed in the near future.

RECONCILING TO INEFFICIENCY? NEW CONSTITUTIONAL MECHANISMS FOR AVOIDING APPLICATIONS TO THE EUROPEAN COURT OF HUMAN RIGHTS

The inefficiency of trials in Croatia had an epilogue in procedures before the ECHR in Strasbourg. From November 5, 1997, when Croatia became a member of the CoE and thus recognised the jurisdiction of this court, the greatest number of applications pertaining to Croatia filed in Strasbourg relate precisely to infringements of the right to a fair trial in a reasonable time, as defined in Article 6 of the Convention. The case of Rajak v. Croatia was filed with respect to a suit that was started in 1975 and was after 25 years practically at the place where it started. However, the greatest number of cases filed on this basis related to cases started before the beginning of the 1990s, which related to individual new areas that the courts were only painfully getting acquainted with, for example, "financial engineering" (i.e. financial fraud), damages directly or indirectly related to military operations or terrorist actions, the transformation of social into private property (with the ancillary questions of denationalisation and the fate of tenants' rights), rights of political succession and so on. In most of such cases, the procedure at the time the case was referred to the ECHR was not started in the real sense of the word. Some other cases in which there was a violation of the right to a trial within reasonable time were not so long lasting but related to the sensitive area of family relations, and showed the inability of the courts to provide timely trials in cases that were legally proclaimed urgent and in which the legally protected interests required particular expeditiousness.[xxii]

When it was seen that the length of court proceedings could bring down an avalanche of procedures against Croatia, comparable with the number of cases on the same basis against Italy, the state started to work on the problem with legal interventions. Since the attempts to speed up procedure described above had to show effects only in long term, or did not show the expected success over the short term, an attempt was made to dampen the negative political consequences of the Strasbourg judgments. Thus in 1999 a new Constitutional Law concerning the Constitutional Court (NN 99/99) was passed. In this the provisions concerning a constitutional complaint because of violations of human rights were amended with a provision according to which

"The Constitutional Court may, exceptionally, examine a constitutional complaint prior to exhaustion of other available remedies, if it is satisfied that a contested act, or failure to act within a reasonable time, grossly violates a party's constitutional rights and freedoms and that, if it does not act, a party will risk serious and irreparable consequences."

After this, one of the defences that the state would adduce in a procedure before the Strasbourg court always related to the question of the exhaustion of legal remedies as defined by Article 35, Paragraph 1 of the Convention. The Government claimed that because of the failure to exhaust domestic legal remedies all cases should be declared inadmissible in which there had previously been no constitutional complaint filed because of the length of the procedure.

This defence, however, did not at the beginning bear the desired result. The ECHR in the case of Horvat[xxiii] versus Croatia ruled that a constitutional complaint defined in this way was not an effective legal remedy for the protection of the right of the person making the application. It was found that the admissibility of this kind of complaints depended on the discretionary assessment of the Constitutional Court, which would allow the suit only "exceptionally", applying its own understanding of the inadequately precisely determined legal standards such as "gross violation", and "serious and irreparable consequences". The Constitutional Court also had no other sanctions available to it than a mere determination of a violation. For this reason, in this and in other similar cases applications regarding the violation of the right to a trial in a reasonable time would still be considered admissible, even without a procedure being concluded before the Constitutional Court.

Another set of amendments came not quite three years after the passing of this Constitutional Court Law.[xxiv] These once again revised the provisions about the filing of a constitutional suit because of violation of the right to trial in a fair time. The new provision of Article 59a that became, in the revised text, Article 63 of the Constitutional Law, did away with the exceptional nature of the complaint, so that it became possible to submit it always when the party appealed to violation of the right to trial in a reasonable time. The discretionary elements in the decision-making were removed, and thus the possibility of assessing whether violations and consequences were "grave" or "irreparable". It was also provided that, if a constitutional complaint was accepted, the Constitutional Court "shall determine a time-limit within which a competent court shall decide the case on the merits" and in addition "shall fix appropriate compensation for the applicant in respect of the viola-

tion found concerning his constitutional rights".[xxv] Such compensation, according to the law, would have to be paid out of the national Budget within three months of the application of the party for payment.

New provisions on constitutional complaints soon led to changes in the attitude and practice of the European Court. From the decision in the case of Slaviček[xxvi] the Court adopted the understanding that the constitutional suit of Article 63 of the Constitutional Court Law was an effective legal remedy and that for this reason the person who submitted an application to the court because of violation of the right to trial in a reasonable time has to exhaust this remedy, too. Even more, from the case of Nogolica on,[xxvii] the court has considered that this legal remedy has to be exhausted even in those cases that were filed in Strasbourg before the most recent amendments to the Constitutional Law. In these decisions, which are in line with the efforts of the court in Strasbourg to limit the inflow of cases, there was a reference to the introduction of similar legal remedies in other countries, e.g. in Italy and Poland.[xxviii]

Over the short term, the new practice of the ECHR will certainly lead to a fall in the number of Croatian cases submitted to the court in Strasbourg, which started to rise vigorously in 2002. Namely, from the time of the entry into force of the Convention in Croatia until today, i.e. in the 1998-2001 period, 307 suits were filed against Croatia. Suddenly, in the first ten months of 2002, there were 560 new applications. The cases were mainly filed because of violation of the right to a trial within a reasonable time. The press began to talk of a stampede of Croats on Strasbourg.[xxix] It is dubious, however, whether over the long run the obligation to file a constitutional complaint under Article 36 will prove to be an effective legal remedy, or whether – as the former chairman of the Constitutional Court Jadranko Crnić stated – the new practice will turn out to be a "requiem for the Constitutional Court" (Crnić, 2002:258-288). In fact, the Constitutional Court, even before the amendments to the Constitutional Law, had experienced a considerable increase in the number of its cases.[xxx] If the annual number of over 2,000 constitutional complaints – a number that, according to statements from the Court, stretch its work to the limits of its capacity – will be increased by at least some percents of the several tens of thousands of cases in which an application for the acceleration of the procedure and a demand for a just compensation might be made,[xxxi] it could easily happen that the actual Constitutional Court itself would be just one more link in the chain of violations of the human right to a trial

within a reasonable time. The more so that its endeavours to maintain a restrictive attitude to constitutional complaints even after the new amendments have already suffered a debacle.[xxxii]

CONCLUSIONS AND RECOMMENDATIONS

At the moment, the attempts to accelerate court proceedings in Croatia are going in many different directions, both at the organisational and at the procedural level. Optimistic announcements from the Ministry of Justice argued that the new measures would eradicate delays and backlogs in Croatian justice system by December 31, 2007, "if not earlier".[xxxiii] Yet it seems that the structural difficulties with which the Croatian judicial system is faced are much more serious. The current plans for reforms, though they have the support in principle of both the government and international institutions, and are not wanting in resources, have little chance of real success, primarily because of the shortage of a clear vision and conception of the changes. In part, this shortcoming is not so illogical – the absence of vision is partially just a symptom of the lack of any serious and sincere wish for fundamental reforms. The legal establishment and the ruling elites in good part are not ready at base for the shock that an efficient and well-functioning legal system might lead to, although all the power structures nominally swear by it. Problems of adjustment of the legal system to the social structure that is based on the political principles of liberal democracy and market economy escape the sphere of the normative – they are of an institutional nature, starting off from the human resources and the social structure (as well as the structure of awareness) of all those who should see to it that the law is implemented. These are primarily the legal professionals – the judges, attorneys, notaries and others who take part in the functioning of the judicial system. Their structure and psychology change slowly, and structural and institutional advances since the period of socialism are almost insignificant.

For the sake of achieving a level of efficiency in the legal system that would bring Croatia closer to European integrations, incidental legislative changes are not sufficient. Instead of that, it is necessary to elaborate a broader plan that would aim at three linked strategic objectives. These are:

- A stable legislation of high quality. Laws and other general legal instruments should be the outcome of a rational process. Legal provi-

sions should be appropriate, consistent and easily applicable, and equally intelligible to those whose behaviour they are to regulate and to the courts and other bodies that have to apply them. To the extent that this is possible, the normative environment should be stable – frequent changes that introduce legal uncertainty and additionally contribute to lack of efficiency are to be avoided.

- A competent and efficient judiciary. Judicial institutions, in the first place the courts, should be to a high degree qualified to carry out the tasks assigned to them. Judicial officials and employees should have adequate education, capabilities and training, and the division of jurisdiction; the organisation of work in the judicial institutions and the logistics should be appropriate. Good and efficient work should also raise the degree of public trust in justice and the legal institutions in general.
- Respect for the results of legal proceedings and efficient implementation of court and other decisions grounded in the law. Efficiency of the legal system is illusory if the decisions made in the procedure prescribed by law are not effectively implemented. Irrespective of any possible political or social dissatisfaction with the consequences of the decisions made, which is inevitable in some cases (bankruptcies, for example), decisions founded on law have to be carried out effectively, because otherwise a dangerous legal inequality is created and the elementary principle of the government of the rule of law is called into question.

In the list of recommendations below measures are proposed that should be undertaken for the achievement of these strategic objectives. Most of the measures proposed are linked with strategic objective number two, which is the centre of future endeavours, and is linked by synergy with the first and third: a well-functioning judiciary will more easily overcome the drawbacks and failings of the legislative process, and, with its integrity and the public trust in it, will contribute to the results of procedures being respected.

- *Enabling strategic planning and action regarding the efficiency of the legal system.* A primary objective should be to establish reliable empirical methods of monitoring the problems in the judiciary. For this reason the government and the non-governmental sector should support research into the problems of the functioning of the judiciary on a scientific and professional basis. The monitoring of the work of the judicial system at qualitative and quantitative levels should be

reformed, considering that today's statistics are not well adjusted to modern demands. Pursuant to a new methodology, it is necessary to define criteria for the efficient work and the evaluation of judicial services. Finally, the legislative process should be linked with the requirements of future implementation, setting up the missing link between ideas and their feasibility (which sometimes includes proper informing of the bodies that apply the law about the desired aims and results that some new legal instruments wish to achieve).

- *Reorganisation and restructuring of the judicial bodies and services according to rational criteria.* The current irrational organisation and structure of the judicial bodies and services should, pursuant to new empirical methodology, be adjusted to the demands for efficiency and quality of work. Recommendations in this area would relate to, for example, the adjustment of the number of judicial bodies, their area and subject matter jurisdiction to the needs of the efficient operation of the system as a whole. There should be a clear delimitation of the fields of the work of courts and judges as against other services and professions. The framework criteria for legal services should be adjusted to European criteria and national requirements. Current roles and functions of certain judicial services and professionals (judges, court advisers, attorneys, notaries and so on) should be subject to a re-examination. As part of such a re-examination, a kind of outsourcing of some tasks currently undertaken by courts should be put into practice, following the practice of other transition countries: some of the assignments that the judicial bodies carry out now may be shifted to the jurisdiction of appropriately qualified and supervised private professions.
- *Systematic monitoring of the course of proceedings, suppression of delaying tactics, repetitions and periods of inactivity, and general increase of the speed and efficiency of legal procedures.* Efficiency is inconceivable without appropriate case management. Much of the backlog can be ascribed to obsolescent methods of court administration, which should be comprehensively reformed. For this purpose, the potentials of information technology should in particular be used, for they would make possible a centralised monitoring of legal proceedings and management of court cases. Such a system, which would require a competent body at a national level, would enable a rapid and appropriate reaction to emergencies (for example, the sudden increase of the inflow of particular cases brought about by a change in legislation or by other reasons). In addition, it would enable further concentration and acceleration of legal proceedings in routine and formulary

matters (which would be more or less automated, with a minimum input of work by senior judicial officials, particularly judges). This work should cover not only first instance proceedings, but also hearings at appeals and superior levels – which is actually the part in which the current reform of litigation proceedings has done and achieved less.

- *Increasing the motivation and responsibility for efficient work of all participants in the proceedings.* The manner of recruitment, promotion and motivation of judges and other judicial employees followed to date has not led to striving at excellence and efficient work. Systematic motivation for efficiency should be created, which would range from strengthening responsibility for inefficient work of poor quality, to rewards (higher chances for promotion and similar incentives) for exceptional achievements. In addition, measures should be undertaken to reduce the contributions of other participants in the process – particularly of attorneys and forensic experts – to the delays in legal proceedings. These measures would include the restructuring of the manner of awarding lawyers' fees to the winning party (to discourage dragging out cases over a number of hearings), and special sanctions for expert witnesses that do not submit their findings and opinions in an orderly way and in time.
- *Ensuring a high level of competence of all persons who carry out judicial functions.* Citizens can have confidence in the judiciary only if it is clear that the individuals of the highest quality perform the highest functions in it. Without high quality judiciary personnel it is hardly possible to have efficient decision-making. In order to turn current trends around, it is necessary to bring a completely new system of selection and promotion of judges and other employees in the judiciary. The basic feature should be a high level of objectivity in recruitment and the obviation of all discretionary decisions that, because of the long tradition of nepotism and political influence, have marked practice to date. In this context, it is particularly necessary to carry out thoroughgoing reform of the current bar exam, introducing strictly anonymous testing to result in the precise ranking of candidates, the success of whom should be monitored via a Gauss curve. These conditions would also include an obligatory training programme for further professional education and the training of judiciary employees. Finally, through all these essential structural changes one should shape the contours of a new Croatian judiciary, which requires new people, prepared for a changed function and the imperative of efficient work. For the successful performance of duties on the bench it

is necessary to have an adequate combination of experience and enthusiasm. For this reason mobility in the legal profession needs stimulating. Those who lack readiness to work in an environment that requires efficiency should be stimulated to retire or change jobs, while their places would have to be filled by qualified new personnel.

Today, the recommended measures may sound somewhat utopian. However, the great project of harmonising national standards with the highest standards of the Old Continent *is* somewhat utopian – it requires a great deal of changes, including those that can for some people have the significance of tectonic changes. The process that this paper has attempted to anticipate will be neither rapid nor easy, but without its successful conclusion, it will be impossible for Croatia to join the European community successfully. It will equally be impossible to realise Croatia's own ambitions to establish a state that would observe civilised standards in the area of the rule of law.

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i *See the indicative title of one dissertation: Ćapeta (2002).*

ii *Doctrine calls this thought and its variations in different ways (the principle of effective judicial protection, the principle of minimal effectiveness). Cf. ibid, pp. 104-165.*

iii *See e.g. the reports dedicated to the judiciaries of the countries of the first round of candidates deriving from the programme of monitoring the accession programme by the OSI – Judicial Capacity (2002) and Judicial Independence (2002).*

iv *See Smerdel (2000). Actually, the future EU Human Rights Charter will become, according to the current proposal, a component part of the Constitution of the EU, and it does contain the guarantee of a fair trial in a reasonable time drafted in line with the current wording of Article 6 of the European Convention.*

v *According to the Justice Ministry's Statistical Review of 2001, in 1989 there were 1,240,000 new cases before the Croatian courts; about 485,000 cases were considered to be the backlog. Five years later, in 1994, there were only 1,086,000 new cases, but the backlogs had risen to 640,000. In 1998, the influx of cases was 1,086,000, but there were 895,000 cases in arrears. In 2001, there were 1,200,000 new cases, but the number of backlogged cases had exceeded a million – 1,020,413. In 2003 backlog is estimated to about 1,200,000.These data do not include misdemeanour courts. Statistical Review, Justice Ministry, 2001, March 2001.*

vi *For example, the Rajak case, which after 25 years of litigation came to the ECHR – see the next note.*

vii *The following cases: Rajak (49706/99), Mikulić (53176/99), Fütterer (52634/99), Kutić (48778/99), Cerin (54727/00) and so on (see http://hudoc.echr.coe.int).*

viii *In 1999 the wages of judges were significantly improved, assuming that this would essentially contribute to the speed and quality of justice. In 2003 the same justification is used to support plans to increase the budgets for court buildings and equipment, and employ new judges. This was preceded by a campaign of the pres-*

ident of the Supreme Court Ivica Crnić, who several times stated that "precisely through the provision or non-provision of the conditions for the work of the courts can we see exactly how much the Croatian government cares about achieving the rule of law", at the same time expressing the view that in the Croatian judiciary no radical changes were necessary. See Ponoš, 2002.

ix *According to the results of a research into the political agendas of twelve countries of South-East Europe carried out by the Stockholm International Institute for Democracy and Electoral Assistance, in Croatia of all the social institutions, the citizens have the least trust in the judiciary - only 17% (poll carried out in February 2002). A more detailed analysis according to category of respondent shows that those who are crucial for modern liberal democracy (who have the most experience with the judiciary), the educated middle class between 30 and 60, is lowest. See http://www.idea.int/balkans/survey.cfm.*

x *See http://www.coe.int/cepej.*

xi *Ibid.*

xii *See note 10 above.*

xiii *See the assessments of one of the rare public presentation of the drafts of the new CCP held at the Law Faculty in Zagreb under the title "Abuses in civil procedure", Bulletin of the meeting, http://www.pravo.hr (May 2003).*

xiv *The previous first and second paras were deleted from Article 7 of the CCP. Under these paragraphs the court was supposed "to determine completely and truthfully the disputed facts on which the claimant's claim is granted". For this purpose the court was authorised, though not obliged, to order taking of evidence ex officio if it considered that this evidence was important. Instead of this, the court now has the same position in relation to both facts and evidence: producing of evidence (and finding facts) may be ordered ex officio only if it there are doubts regarding the legal permissibility of parties' actions, i.e., if the court considers that the parties in a suit (which, as a rule, relates only to private interests of the parties) attempt to evade the mandatory regulations and achieve effects that violate the rights of third parties and of public morality. In other words, the court can no longer determine the production of evidence if it is necessary solely for the determination of facts on which the claims that only affect rights and obligations of private parties in litigation – and this concerns the majority of civil litigation.*

xv *Amendments to the Law on Enforcement were adopted in the Parliament on October 15, 2003, but were still not published officially at the time of the last revision of this text. See the final text of the draft at http://www.sabor.hr (agenda of the 37th Session, p. 31).*

xvi *Transfer of some of the activities in enforcement to the jurisdiction of the notaries is put off for a period of one year after the law comes into force. This will perhaps open the opportunity to reconsider this plan, and abandon it.*

xvii *Bankruptcy Law (Stečajni zakon), NN 44/96, 161/98, 29/99 and 129/00.*

xviii *Amendments to the Bankruptcy Law were accepted in July 2003. See NN 23/2003.*

xix *See the explanatory notes in the draft of the Amendments to the Bankruptcy Law from April 2003 (http://www.vlada.hr, 39th session; www.sabor.hr, 32nd session) p. 2.*

xx *This is a strategy that was shown in some earlier laws to be unsuccessful. E.g. the Family Law, Art. 269/2 provides for the holding of the first hearing in marital and family matters in a period of fifteen days from the day the suit is received in the court. Article 270 orders the making of the second instance decision in a period of thirty days from the day of launching the appeal. Both provisions in practice provoked more laughter than practical results, because they were infeasible and*

hence the practice ignored them entirely. On the whole, most such deadlines, that the legislators put in with great optimism, have been interpreted as a so called "instructive deadline", i.e., as an orientation target, that may be exceeded without affecting the validity of the actions taken. Disciplinary procedures because of exceeding of such "targets," although theoretically possible, have never been taken. In fact, as almost none of the judges stuck to such deadlines, the responsibility for the breach of the law was attributed to the legislator, who has enacted a law that is not capable of being implemented.

[xxi] *These adjustments derive, it would seem, more from the incapacity of the practice to come to logical results by interpretation, than from real deficiencies in the previous wording.*

[xxii] *For example, the determination of paternity in the case of Mikulics (http://hudoc.echr.coe.int).*

[xxiii] *Horvat v. Croatia, 51585/99, judgement of July 26, 2001 (http://hudoc.echr.coe.int).*

[xxiv] *Amendments to the Constitutional Law on the Constitutional Court, NN 29/02, revised text in NN 49/02.*

[xxv] *Art. 63/1 and 2 of the Constitutional Law. In the provision that relates to the just compensation, the law went even beyond the Convention, because it assumes that compensation has to be paid in every case in which a violation of the right to a trial in a reasonable time was found.*

[xxvi] *Slaviček v. Croatia, 2086/02, admissibility decision, July 4, 2002.*

[xxvii] *Nogolica v. Croaita, 77784/01, admissibility decision, September 5, 2002.*

[xxviii] *See the view of the ECHR in the case Brusco v. Italy, 69789/01. The court also referred to changes in Polish law after the case of Kudla v. Poland, 30210/96.*

[xxix] *See the Panorama supplement, Vjesnik, October 19, 2002, p. 14.*

[xxx] *Statistics show a significant rise in the number of constitutional complaints: 25 filed in 1993; 642 in 1995; 925 in 1999; 1910 in 2001 and about 2500 in 2002. Ibid., p. 272.*

[xxxi] *It is often quoted that in only one court alone - the Zagreb Municipal Court - there were at one time (in 1998) 10,463 pending cases older than 10 years.*

[xxxii] *In the case of Šoć v. Croatia (47863/99) the ECHR in a judgement of May 9, 2003 has already determined that CC's rejection of a constitutional complaint to a violation of reasonable time, with the justification that the procedures alleged to have lasted unreasonably long have in the meantime been completed, itself violates the right to an effective legal remedy from Article 13 of the European Convention.*

[xxxiii] *From the document Judicial Reform, http://www.vlada.hr/Download/2002-/12/07/016-01.doc p. 21.*

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Chapter 6

GOVERNANCE AND PUBLIC ADMINISTRATION IN THE CONTEXT OF CROATIAN ACCESSION TO THE EUROPEAN UNION

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And so although I was to begin filled with the desire for political action, when I observed this state of affairs and saw the general confusion, I at last felt dizzy from it all. I did not, it is true, cease to think how these conditions themselves and the whole of the government of the state could be improved, but I waited for a suitable occasion for action of my own. In the end I became convinced that all current states have a bad government, because their lawgiving is incorrigible if there is no uncommon exploit aided by fortune.

(Plato, Seventh Epistle/Letter)

ABSTRACT

This paper analyses the quality of governance and public administration as key determinants for successful functioning within the European Union (EU). A comparison between Croatia and future and present EU members is made, according to separate governance indicators (rule of law, democracy, corruption, political stability, government effectiveness) and experience in reform of the public administration. The paper shows that Croatia by all quality of governance indicators,

particularly with respect to the rule of law, lags considerably behind the EU and the Central Europe candidate countries. The low level of the rule of law in combination with an inadequate public administration is potentially the greatest obstacle in Croatia's accession to the EU as well as in the creation of sustainable economic and social development.

Key words:
governance, public administration, institutions, government, economic development, Croatia, European Union

INTRODUCTION

Since all countries, including those in the EU, have as their objectives a standard of living that is as high as possible, it is understandable why increased attention is directed towards governance. In the last dozen years there has been growing awareness that good governance is the key determinant of the ability to attain sustainable economic and social development. There is ever more evidence that for development it is not enough just to hit upon the appropriate policy, but it is also necessary to have a good institutional structure. A good institutional structure implies the existence of an environment that enables effective implementation of a given policy and that encourages individuals to invest in capital, education and technology – the factors behind economic growth.

Governance refers primarily to government, and one of the pillars of government is the public administration. It has been shown that it has been precisely this that has been one of the main barriers to successful transition to a democratic society and a market economy. Its transformation and modernisation in line with the principles of good governance are becoming particularly important in the context of European integration because strong administrative capacities are necessary for the whole of the process to be successfully concluded.

At the beginning of the paper there is an explanation of the concept of governance and its connection with public administration. After citation of those conditions for EU membership that are related to the subject of the paper, the quality of governance and public administration in Croatia is described and a comparison with the EU average, with selected candidate countries and the less developed countries of the EU

is given. The quality of governance is assessed according to the following indicators: rule of law, development of democracy, spread of corruption, political stability and effectiveness of government. The paper briefly describes the experience of some European countries in the reform of the public administration. At the very end a summary of the key problems of governance and public administration in Croatia on the road to the EU is offered and some concrete recommendations for their solution are provided.

GOVERNANCE AND PUBLIC ADMINISTRATION

It is quite difficult to reply to the simple question: what exactly is governance? There is no consensus about a definition, although all start out from the idea that it is about something that has a complex historical, political and social/cultural background, and hence requires an interdisciplinary approach. The narrowest definition is: *the science about government and its performance* (Dethier 1999:5). The World Bank, which was the first to give prominence to the role of governance,[i] describes it as *the manner in which authority is exercised in the management of country's economic and social resources for development* (World Bank, 1992:1). It might be characterised as the capacity of the formal and informal institutional environment (in which individuals, social groups, civil associations and government officials and employees interact) to apply and carry through a given government policy and to improve coordination in the private sector (Ahrens, 2002:128). Thus the key words are institutions and government, and the questions that dominate are how, and how well.[ii] From these sentences one can see that there is no totally adequate translation for this concept in Croatian publications, although there have been some attempts.[iii]

All these definitions rely on a single empirical fact: identical reform measures that governments undertake have different results in different countries. It seems extremely likely that the different quality of the governance involved is very largely responsible for this. In other words, countries with better governance should be able to achieve their development aims more easily and effectively. Research has pointed out that such countries do indeed have a higher per capita income and better other indicators of development.[iv]

Government consists of three pillars: the economic, political and administrative pillar (UNDP, 1997). The economic refers to the process of making decisions that affect the economic activities of the country and its relations with other countries. The political pillar is the process of forming policy according to decisions that have been made, and the administrative relates to the implementation of this policy. This administrative pillar is embodied in the public administration. Governance describes how authority is exercised, and the public administration possesses part of this authority. Accordingly, an evaluation of governance, as good or bad, depends to an extent on the successfulness of the work of the public administration.

The next question follows logically. How do we know whether governance is good, that is, how can it be identified or recognised? And what anyway are the criteria in general for defining something as good and how can it be measured?

The elements through which the use of authority in the process of the management of resources for development, which is actually governance, are: political stability, effectiveness of the government, rule of law, development of democracy, spread of corruption, the magnitude of administrative obstacles, and others. Those countries that have these elements formed in such a way as to promote development can be said to have good governance.

Naturally, the government does not work in a vacuum: the success of its action depends on the interaction with the private sector and civil society.[v] Encouraging the partnership process among them improves the quality of provision of services, increases social accountability and ensures vigorous civil participation in the decision-making (UNDP, 2003). How successful the government is in achieving economic development depends on historical variables that are not under its direct control, such as for example the ethnic heterogeneity of the population, the origin of the legal system of the country and the confessional composition of the population (La Porta et all., 1999).

Governance can be measured reliably with great difficulty. In spite of this, the number of databases is ever greater. These are mainly indicators that are based on subjective perceptions of commercial agencies for risk rating (BERI, PRS), non-governmental associations (Freedom House, Heritage Foundation, World Economic Forum, Transparency International) and multilateral organisations such as the WB, the EBRD, and the UNDP. These indicators are only estimates and for this reason they need to be used circumspectly. They show the

relative position of some country quite well, but do not describe very precisely the trends for a given country. The problems are that the individual indicators overlap, that Croatia does not figure in many of the sources, and that there is no methodological harmonisation in the different sources. Regular or annual research hardly exists at all, and the transitional countries have only been included in it since the mid-1990s. In this work governance indicators are used so that an outline impression might be gathered of the position of Croatia relative to the EU and to the candidate countries. So as to enhance the credibility, an endeavour is made to back up all the findings with the European Commission Report on Croatia.

CONDITIONS FOR THE ACCESSION TO THE EUROPEAN UNION

The Copenhagen criteria for full membership in the EU stipulate: (1) stability of the institutions that provide for democracy, rule of law and order, respect for human and minority rights; and (2) ability to take on the obligations that are entailed by membership. From the point of view of this paper these two criteria are the fundamental conditions for the accession of new members. In the sequel it is explained how governance and public administration fit in, and then the assistance provided by the EU to Croatia in meeting the membership criteria is described.

Governance

There is no single document that states what the governance of future member states should be like. However, the EU constantly lays stress upon the importance of democracy and the rule of law (the first Copenhagen criteria) and these are also elements for the evaluation of the quality of governance. To strengthen these, the EU proposes the following principles:

- openness in communications with the public, and transparency;
- more vigorous involvement of the public in the running of policies;
- increased accountability of those in charge of policies;

- effectiveness in the execution of policies;
- harmonisation of all measures of policies and levels of government so as to achieve consistency.[vi]

The first four are also the most frequently mentioned principles of good governance.

It is important to mention that the EU can act as initiator of improvement of the quality of governance, but it too is not immune to weakness in governance. In the EU countries too, and not just in the transition countries, there is an increasing lack of public trust in institutions and unwillingness to be involved in politics (Commission of the European Communities, 2001:3). For this reason the objective of the EU is to make policy making as open as possible in both present and future member states. There is a wish to give ever greater roles to the organisations of civil society so that the services provided should be to the maximum adapted to the needs of citizens. The picture of civil society should not be too rosy, because it too can contribute to poor governance quality, but this, because of the extensiveness of the topic, is not the subject of this paper.

Public administration

Entry into the EU puts great pressure on the public administration. How well some country can function within the EU will depend on the quality of its civil service. There are no details about the demands made on future members in terms of this question. This fact is not surprising, because at EU level there are no clear rules and regulations that are uniformly applied in the public administrations of the individual countries. What is stressed in negotiations with the future member states is the need to raise administrative capacities (the supplemented second Copenhagen criterion),[vii] for which the EU provides assistance. An improvement is required in the capacities of public sector organisations to perform their tasks effectively in the development process, keeping to the principles of good governance. Reinforcement of the public administration (the enhancement of its effectiveness) is necessary so that the pertinent ministries and other bodies should be ready to put into effect the various legislative reforms the country has committed to. Similarly, it is essential for a member country to have quality representatives in Brussels, who in the endeavour to derive ben-

efits for their own country have to cope with the competition of representatives of other administrations. The improvement of the public administration (its reform) is in the long-term interest of a future member; it should not be understood primarily as pressure from the EU.

Why is the public administration in general so important? This is because it is the civil service or some other organisations that have to put into effect the decisions that are made by the policy makers. If among those who implement the policy there are persons or groups that have their own agenda, or that consider the implementation of the policy will injure them, then the whole procedure of political change or implementation will be impeded. In the process of the application of the policy, the meaning of it can be changed to such an extent that the final result will be different from what was expected. The same thing will happen if corruption is widespread in the public administration or if the personnel are incompetent. In such cases senior and junior members of the civil service privatise the use of the instruments of policy for their own benefit (Tanzi, 1997:6). Put simply, the public administration can place constraints on the effectiveness of governmental intervention; it can greatly cooperate in the work of development, but can also be an enormous hindrance.

European Union assistance to Croatia

The EU assists Croatia via the CARDS programme to meet its obligations according to the SAA. The priorities of the programme are:

- democratic stabilisation;
- economic and social development;
- justice and home affairs;
- reform of the public administration;
- conservation of the environment and natural resources (MEI, 2003a).

From the point of view of this paper, the first, third and fourth elements of the programme are particularly interesting, looked at not only from the viewpoint of harmonisation with EU standards but also, partly at least, with the objective of seeing the possibility for achieving the second priority stated: sustainable economic and social development.[viii]

In CARDS documents democratic stabilisation is concentrated on civil society and on promoting democracy and political rights. In the

domain of the judiciary, the objective of CARDS is the modernisation of the courts, that is, support to the more effective work and functioning of the Croatian judiciary.

As for the public administrations of the countries in the SAA, the European Commission has clearly identified the reform of them as one of the priority areas to which resources from the CARDS assistance programme will be directed. For the 2001-2004 period, 23 million euros have been earmarked for assistance to the reform of the public administration in Croatia, which includes assistance to reform of the civil service, enhancing administrative capacity in SAA priority regions, and enhancing competence at lower levels of government, as well as measures for the fight against corruption (MEI, 2003b). The basic objects of the public administration reform project are:

- improving the legislative framework regulating the work of the public administration, the aim being to achieve as great transparency in hiring, promotion and the salaries system as possible;
- enhancing the institutional capacities of the Ministry of Justice, Administration and Local Self-Government and other institutions crucial for the management of the public administration; and
- professional further training of civil servants.[ix]

GOVERNANCE AND PUBLIC ADMINISTRATION IN CROATIA

In this part of the paper the quality of governance is analysed via indicators that evaluate the rule of law, the development of democracy, corruption, political stability and the effectiveness of the government. Why have precisely these indicators been selected? The presence of rule of law and democracy derives from the Copenhagen criteria. Corruption indicates the level of transparency (an EU principle of good governance), and also is an essential element in the evaluation of the quality of the public administration. Political stability is a precondition for effectiveness and consistency in the execution of policy (also a principle of the EU). The indicator of state effectiveness is included because it contains elements that are particular for the evaluation of the work of the public administration. In an analysis of the public administration the emphasis is placed on the vulnerable spots, because Croatia is faced with the reform of the public administration (which is urged by

the European Commission). For this reason, in the next chapter, the experience of selected countries in the reform of the public administration is briefly described.

Rule of Law

The SAA clearly emphasises the importance of the consolidation of the rule of law. It is necessary for the full functioning of the market economy (creating an environment that stimulates economic development) and for limiting the arbitrary and opportunistic actions of those in charge of the policy. In the European Commission Report on Croatia (MEI, 2003c:5) the functioning of the judiciary and the inadequate implementation of the law are mentioned as serious problems. In November 2002 the Government adopted its Green Paper on the reform of the justice system, and at the same time augmented the national budget for 2003 in order to be able to carry out this reform. However, the 1,300,000-strong backlog of civil causes is still there. According to the report of the Commission, the Croatian judiciary is short on personnel with appropriate qualifications, an appropriate system for professional training, and a proper distribution of judicial and administrative matters in the courts. Judges spend almost a quarter of their time on administrative matters. Even the European Court of Human Rights has censured Croatia for the dilatoriness of the justice system. All this is aggravated by the fact that the Justice Ministry cannot absorb the assistance provided within the CARDS programme context to solve the failures noted. In order to acquire an insight into the relative position of Croatia vis-à-vis the EU and the candidate countries, in the sequel the indicators for the "protection of property rights" and aggregate indicators for the "rule of law" will be used.

The Heritage Foundation has set up an index of economic freedom, a component part and indicator of which is "property rights". It starts out from the assumption that individuals who consider their property rights protected will be more prepared to save, to invest, to make long-term plans and hence contribute to economic growth. The indicator evaluates the degree of protection of private rights of ownership, implementation of the laws that protect these rights, the independence of the judiciary and corruption within the judiciary. The protection of property rights inside Croatia is considered poor, very distant indeed from the European average, worse than in all the candidate countries

(Table 1). The grading of 4 for Croatia means the following: protection of private property is poor, the courts are inefficient and subject to political influence, corruption is widespread, and there is also the possibility of expropriation. Of the countries observed, only Romania has poorer results, and among the EU countries, Greece sticks out.

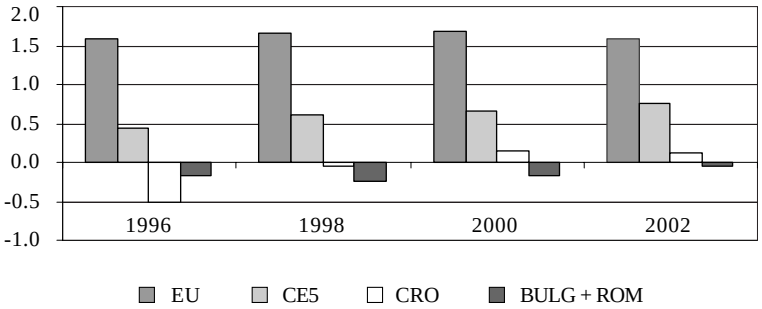
Table 1 Protection of rights of property

Country	1996	1997	1998	1999	2000	2001	2002	2003
Greece	2.0	2.0	2.0	2.0	2.0	2.0	3.0	3.0
Portugal	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0
Spain	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0
EU average	1.4	1.4	1.4	1.4	1.4	1.4	1.4	1.4
Bulgaria	3.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0
Estonia	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0
Czech Republic	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0
Croatia	3.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0
Latvia	3.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0
Lithuania	3.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0
Hungary	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0
Poland	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0
Romania	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0
Slovakia	3.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0
Slovenia	4.0	3.0	2.0	2.0	2.0	2.0	3.0	3.0

**Values range from 1 to 5, 1 being the best.*
Source: Heritage Foundation (2003)

The aggregate indicator "rule of law" evaluates the extent to which the rules of society are respected, and it includes a perception about the incidence of crime, the effectiveness of the courts and the enforceability of contracts. From Graph 1 it can be seen quite clearly to what an extent Croatia lags behind the EU, even if it is in front of Bulgaria and Romania.[x]

Graph 1 The rule of law

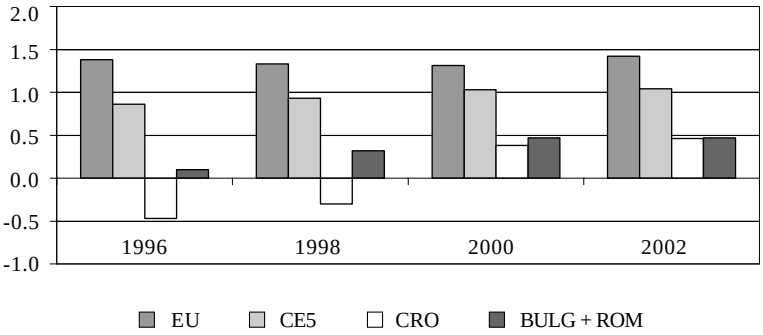


Source: Kaufmann [et all.] (2003:89-91)[xi]

Democracy

The general evaluation of the European Commission for Croatia is that democratic institutions work well and that human rights and basic liberties are in general respected (MEI, 2003c:6). In the sequel there is a review of indicators that give an insight into how much respect there is for the principles of openness, civil participation in the running of policies, transparency and accountability. Graph 2 contains indicators that aggregate political rights, civil liberties and freedom of the media – essential elements for controlling those who are in power and holding them accountable for their procedures.[xii] Croatia has made significant advances in this area in the last few years, but is still significantly behind the EU.

Graph 2 Civil participation in the process of policy making



Source: Kaufmann [et all.] (2003:89-91)

Table 2 Political rights, civil liberties, degree of liberty

Country	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
Greece	1,2,F	1,3,F	1,3,F	1,3,F	1,3,F	1,3,F	1,3,F	1,3,F	1,3,F	1,3,F
Portugal	1,1,F	1,1,F	1,1,F	1,1,F	1,1,F	1,1,F	1,1,F	1,1,F	1,1,F	1,1,F
Spain	1,1,F	1,2,F	1,2,F	1,2,F	1,2,F	1,2,F	1,2,F	1,2,F	1,2,F	1,2,F
EU average	1,1,3,F	1,1,6,F	1,1,5,F	1,1,5,F	1,1,5,F	1,1,5,F	1,1,5,F	1,1,5,F	1,1,5,F	1,1,5,F
Bulgaria	2,3,F	2,2,F	2,2,F	2,2,F	2,3,F	2,3,F	2,3,F	2,3,F	2,3,F	1,3,F
Czech Republic	2,2,F	1,2,F	1,2,F	1,2,F	1,2,F	1,2,F	1,2,F	1,2,F	1,2,F	1,2,F
Estonia	2,3,F	3,3,PF	3,2,F	3,2,F	2,2,F	1,2,F	1,2,F	1,2,F	1,2,F	1,2,F
Croatia	4,4,PF	4,4,PF	4,4,PF	4,4,PF	4,4,PF	4,4,PF	4,4,PF	4,4,PF	2,3,F	3,2,F
Latvia	2,3,F	3,3,PF	3,3,PF	3,2,F	2,2,F	2,2,F	1,2,F	1,2,F	1,2,F	1,2,F
Lithuania	2,3,F	2,3,F	1,3,F	1,3,F	1,2,F	1,2,F	1,2,F	1,2,F	1,2,F	1,2,F
Hungary	2,2,F	1,2,F	1,2,F	1,2,F	1,2,F	1,2,F	1,2,F	1,2,F	1,2,F	1,2,F
Poland	2,2,F	2,2,F	2,2,F	1,2,F	1,2,F	1,2,F	1,2,F	1,2,F	1,2,F	1,2,F
Romania	4,4,PF	4,4,PF	4,3,PF	4,3,PF	2,3,F	2,2,F	2,2,F	2,2,F	2,2,F	2,2,F
Slovakia	2,2,F	3,4,PF	2,3,F	2,3,F	2,4,PF	2,4,PF	2,2,F	1,2,F	1,2,F	1,2,F
Slovenia	2,2,F	1,2,F	1,2,F	1,2,F	1,2,F	1,2,F	1,2,F	1,2,F	1,2,F	1,2,F

**The first number relates to political rights, the second to civil liberties, and the markings F, PF and NF are free, partly free and not free. The index ranges from 1 to 7, 1 being the best result. For more information about the methodology, see: http://www.freedomhouse.org/research/freeworld/2002/methodology.htm*

Source: Freedom House (2003a)

Freedom House evaluates these control mechanisms individually. The political rights indicator assesses the ability of citizens to take a free part in the political process, and the indicator "civil liberty" includes freedoms of thought, expression, association and human rights, and the rule of law. Table 2 shows that Croatia is categorised as a "free" country, although as compared with EU countries and the candidate countries it lags where political rights are concerned. However, here too an advance can be seen as compared with the 1993 to 2000 period, in which the country was classified as "partly free". In the group of less developed EU countries, Greece again stands out with a level of civil liberties below the EU average.

In order to obtain a distinct insight into the state of Croatian media, the indicator *media freedom* is used. The criteria for the formation of this indicator are: the legal environment in which the media work, the degree to which media are independent of state ownership and influence, economic pressure on the contents of news and various limitations on press freedom. Table 3 shows that in 2002 the Croatian media were characterised as partially free, but again this was a considerable advance as against 1994. Among the candidate countries, Estonia, Poland and Slovenia are closest to the EU average.

Table 3 Media freedom

Country	1994	1995	1996	1997	1998	1999	2000	2001	2002
Greece	30	26	29	27	30	30	30	30	30
Portugal	18	16	17	17	17	17	17	17	15
Spain	14	23	17	19	17	21	18	20	17
EU average	16.5	17.6	17.6	16.5	16.7	17	16.7	16.3	16.3
Bulgaria	43	39	46	44	36	39	30	26	29
Czech Republic	20	21	19	19	19	20	20	24	25
Estonia	28	25	24	22	20	20	20	20	18
Croatia	56	56	58	63	63	63	63	50	33
Latvia	29	29	21	21	21	21	24	24	19
Lithuania	30	29	25	20	17	18	20	20	19
Hungary	30	38	34	31	28	28	30	28	23
Poland	30	29	21	27	25	25	19	19	18
Romania	55	50	49	47	39	44	44	44	35
Slovakia	47	55	41	49	47	30	30	26	22
Slovenia	40	37	27	28	27	27	27	21	20

** 0-30 = free, 31-60 = partly free, 61-100 = not free*
Source: Freedom House (2003b)

At the beginning of 2003 the European Commission emphasised that in Croatia a reform of the Media Law was important for progress in the area of freedom of speech. This refers primarily to forestalling political meddling and to increasing transparency, in the sense that information in the possession of governmental bodies has to be accessible to the press, unless it is state secrets that are concerned. The new Media Law was passed in the middle of October 2003 (NN 163/03), and the Right of Access to Information Law is in preparation.[xiii]

Corruption

Although in the 1960s corruption was held to be a potential contributor to economic development, today the idea that it holds development back prevails.[xiv] The dangers from widespread corruption are particularly great in countries in which the state has a major role in the economy (accounts for a high proportion of GDP) and in countries which do not have a long tradition of good public administration. This can best be seen in the example of the transition countries where some research has shown that corruption there is considered the second most important barrier to the work of investors (Brunetti et all., 1997: 24).[xv]

The Transparency International Index (CPI) ranks countries according to the degree of the perception about the spread of corruption among members of the civil service. Data for Croatia are available only for the 1990-2003 period; the results got better up to 2001, and after that declined (Table 4). In 2003 the perception about corruption was twice as high as in the EU, and about at the level of the candidate countries, except for Slovenia, Hungary, Lithuania and Estonia. Romania had the highest perception of corruption. It is interesting that up to 2002 the corruption perception was rising in the Czech Republic as in Greece; and then, in 2003, both countries experienced a slight improvement. Poland is the only country with a constant rise in the perception of corruption. Greece and Italy (CPI in 2003 was 5.3) best show that membership of the EU in no way eliminates the problem of corruption.

The European Commission Croatia Report (MEI, 2003c:5-6) concluded that opening shots had been fired in the fight against corruption, which comprehended all parts of the administration, but it was necessary to reinforce concrete measures for its suppression. The Parliament adopted a Programme for the Suppression of Corruption and a Law for the Office for the Suppression of Corruption and Organised

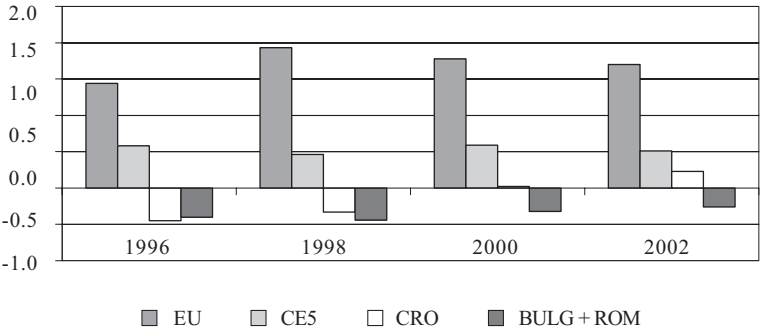
Crime (commonly known by its abbreviations as USKOK)[xvi] and ratified the Criminal Law Convention of the Council of Europe. Although the USKOK Law is harmonised with international standards, the problems of its enforcement remain. Personnel problems have not been entirely settled, there is a shortage of funds and equipment, and there are not separate prosecutors for corruption cases. The effectiveness of USKOK has been in general low. The national programme of the Republic of Croatia for the accession to the EU (Vlada RH, 2002) stressed the role of the Obligations and Rights of Government Officials Law (NN 101/98) in anti-corruption activities, because it defines the matter of private and business conflicts of interests. And then in October 2003 the Prevention of Conflicts of Interests in the Performance of Public Office Law was passed (NN 163/03). The opposition vainly resisted a government amendment according to which an official does not have to transfer management rights in a firm if he or she has fewer than 25% of the shares or equity in the firm. Graph 3 shows that control of corruption in Croatia is much lower than in the EU, but that things are getting better, at least with respect to catching up with the CE5 countries.

Table 4 Corruption Perception Index

Country	1996	1997	1998	1999	2000	2001	2002	2003
Greece	5.0	5.3	4.9	4.9	4.9	4.2	4.2	4.3
Portugal	6.5	7.0	6.5	6.7	6.4	6.3	6.3	6.6
Spain	4.3	5.9	6.1	6.6	7.0	7.0	7.1	6.9
EU average	7.3	7.6	7.6	7.6	7.6	7.5	7.6	7.7
Bulgaria	…	…	2.9	3.3	3.5	3.9	4.0	3.9
Czech Republic	5.4	5.2	4.8	4.6	4.3	3.9	3.7	3.9
Estonia	…	…	5.7	5.7	5.7	5.6	5.6	5.5
Croatia	…	…	…	2.7	3.7	3.9	3.8	3.7
Latvia	…	…	2.7	3.4	3.4	3.4	3.7	3.8
Lithuania	…	…	…	3.8	4.1	4.8	4.8	4.7
Hungary	4.9	5.1	5.0	5.2	5.2	5.3	4.9	4.8
Poland	5.6	5.1	4.6	4.2	4.1	4.1	4.0	3.6
Romania	…	3.4	3.0	3.3	2.9	2.8	2.6	2.8
Slovakia	…	…	3.9	3.7	3.5	3.7	3.7	3.7
Slovenia	…	…	…	6.0	5.5	5.2	6.0	5.9

**CPI (Corruption Perception Index) defines corruption as the use of state position for private use; it ranges from 0 to 10, with 10 meaning the absence of corruption.*
Source: Transparency International (2003)

Graph 3 Control of corruption



Source: Kaufmann [et all.] (2003:104-106)

When recruitment into the civil service depends on political connections, there is an increased danger of corruption, because the officials have a smaller incentive to stay clean. In this case it is essential to know "whom they serve" and not how successful they are in the performance of their work (Kaufman et all., 2002:4). Accordingly, meritocratic recruitment contributes to the suppression of corruption. This should be borne in mind in the case of Croatia because research has shown that political influence in recruitment to the civil service is greater in Croatia than in the CE countries, and even than in Bulgaria and Romania (Hellman et all., 2000). This was particularly expressed in the early 1990s, when political criteria were crucial not only for hiring but also for promotion (Koprić, 2002:1288).

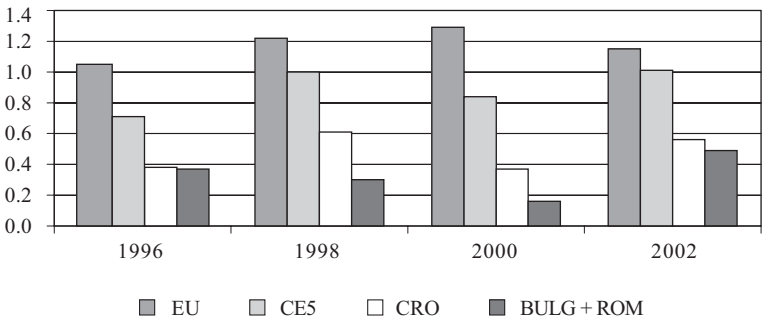
Pay rises in the civil service might reduce corruption, but to a limited extent. The first line of defence has to be internal control together with the existence of an ethical code (Tanzi, 1998:575). Of course, if leading officials do not set an example with their own behaviour, those employed in the civil service can hardly be expected to behave differently. Corruption is not a crime of passion, but a calculated act, the consequence of the conditions that have created the possibility for it to come into being. Incorrupt civil servants and citizens are not obtained by genetic engineering, by the much-touted *change in mentality*, but by the different definition of incentives within the system in which they work.

Political stability

The political stability indicator is used by Kaufmann et all. (2003) to evaluate perceptions about the likelihood of destabilisation or the overthrow of the government in some unconstitutional or violent way. Changes in government can have a direct influence on political continuity, but in the same way can reduce the chance of citizens peacefully electing and changing those in power. Political instability has a negative effect on economic growth because it increases the risk of investment. Graph 4 shows that political stability in Croatia is lower than in the EU, but that the gap is not all that great in comparison with other elements of governance.

Political stability can be looked at via the fragmentation of the political scene as well, the clarity with which the political parties are profiled. From this point of view political stability in Croatia is quite small, and hence it is essential that there should be administrative stability, so that frequent changes of officials in power should not have too much effect on political continuity.

Graph 4 Political stability



Source: Kaufmann [et all.] (2003:92-94)

The state of affairs in the civil service

The objective of this paper is not to give a comprehensive analysis of the Croatian public administration because this would exceed the constraints of the study. Instead of this, a short comparison with other

countries is offered and the points of vulnerability of the Croatian public administration are identified.

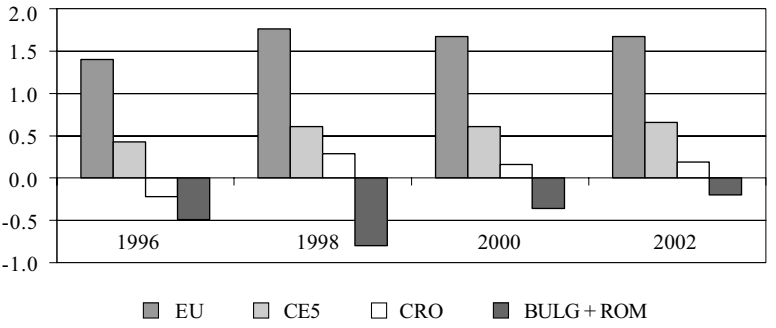
The following can be stated as being within the purview of the Croatian public administration or civil service: direct enforcement of the law, carrying out administrative and inspection control and other administrative and professional matters (Vlada RH, 2002). The bodies of the public administration comprise the ministries, civil service organisations and county offices as well as the city offices of Zagreb. In these bodies, officials of the public administration and other employees attend to the matters of public administration. The officials carry out the matters from the statutorily defined jurisdiction of the body in which they work, and other employees carry out ancillary and other matters. The situation in the public administration at a local level requires a separate analysis and hence is not the subject of this paper.

Comparison with other European countries

The degree of success of the public administration can be defined in numerous ways, but there is no single indicator to quantify it and thus make possible a comparison among different countries. If we were to review it only from the aspect of economic growth, then data about the corruption of officials and efficiency in dealing with investors (number of regulations, time needed to set up a firm, costs of new starts)[xvii] would all be important. In this paper, however, the public administration is largely considered with the aim of improving its capacities to carry out its tasks within the EU effectively and hence a description of it is made with broad strokes.

The given governance indicators cover the perception of the work of the public administration. The problem here is that there is no conceptual distinction made among the terms: government, state, bureaucracy and public administration, the result being that the indicators are fairly confused. Thus, for example, the indicator "effectiveness of government" combines perceptions about the quality of the provision of public services, the quality of the bureaucracy, the competence of civil servants, the independence of the civil service from political pressures and the credibility of the state in carrying out its policies (Kaufmann et all., 2003:3). In Graph 3 the big gap between the countries of CE Europe and the EU can be seen; Croatia itself is in a slightly better position than Bulgaria and Romania, with the provision that progress over the years has been little and even negative.

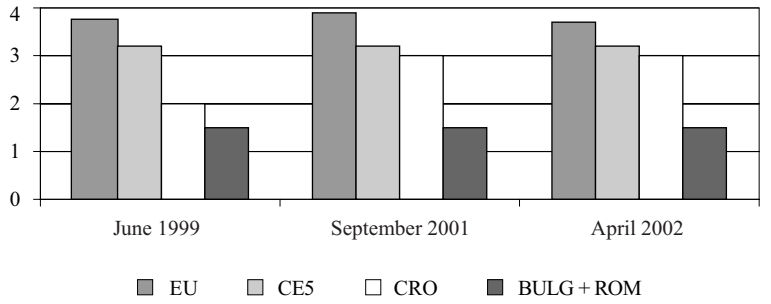
Graph 5 Government effectiveness



Source: Kaufmann [et all.] (2003:95-97)

The commercial agency Political Risk Services Group formulated an indicator called "quality of bureaucracy" that assesses the expertise and competence of governance without drastic changes in policy, independence of political pressure and the existence of a regular mechanism for hiring and further training (PRS, 2003). According to this indicator, Croatia is ranked fairly high vis-à-vis the EU, but has to be taken with a deal of caution because these are monthly data involved (Graph 6), and it is at odds with the results of the earlier mentioned research about recruitment in terms of political acceptability.

Graph 6 Quality of bureaucracy



** Value of indicators ranges from 0 to 4*
Source: PRS (2003)

Vulnerability of the Croatian public administration

Modern societies assume a public administration that is professional, socially accountable, independent from political influences, open to the public and effective. The Croatian public administration is not perceived as such. "Citizens consider the administration distant, formal and corrupted, the media subject it to constant criticism. It is not perceived as professional and unbiased, but riddled with connections and the exchange of friendly services. It is expensive. The people in the administration do not get there because of professional criteria and are not promoted according to expertise and performance" (Ured za strategiju razvitka RH, 2001:7). According to public opinion research (IDEA, 2003), the biggest problems that Croatia is faced with are: unemployment, corruption and poverty. Crime and the legal system occupy the 4th and 5th positions while an inadequate public administration is only in 13th place out of 20.[xviii]

The qualification structure of civil servants is improving, but it is still unsatisfactory. About 33% of the employees have degree-level qualifications, 15% some tertiary qualification, 49% secondary qualifications, and about 3% are unqualified (Vlada RH, 2002). Still, it is possible that the kind of knowledge obtained in tertiary level institutions is a greater problem than the qualification structure. The system for promotion is both automatic and free, but there is mainly automatic promotion, which lessens individual responsibility.

As in most countries, in Croatia people with university degrees are paid less in the administration than in the private sector (Bađun and Obadić, 2003:18), which reduces motivation and increases the likelihood that the most competent will depart. Although lower wages are partially compensated for with lower stress than that experienced by managers in the private sector, there is a shortage of additional motives to keep educated young people in the public administration.

According to the law, during their employment officials are bound to undergo further professional training, the organisation of which is in the jurisdiction of each body of government. The institutional framework has thus been established, but the problem is that this did not happen at the beginning of the 1990s and that the implementation of it has not been adequately coordinated among the bodies of the civil service, among which communications are in general not devel-

oped enough. It would seem that the Ministry for European Integration (MEI) has put much more into the training of employees than the other ministries, but it is worrying that it also has the greatest turnover of employees.[xix] After they have obtained training and experience, young people move to the private sector. The problem of human potentials will be still greater because it is realistic to expect that the best will leave for Brussels, leaving the Croatian public administration with personnel that are not qualified enough.

The basic regulation governing the rights, obligations, responsibilities and pay scales in the civil service is the Government Officials and Other Employees Law (NN 27/01).[xx] The EU did not implicitly require the introduction of this Law. The law contains the system for evaluating officials according to the criteria established by the minister in whose jurisdiction lie matters of the general administration. The rating comes annually and is entered into the "personal record", grades ranging from unsatisfactory to particularly successful. However, it is somewhat absurd to see that in the law one of the "minor infringements" is "unjustified absence from work of one day" while on the other side little attention is paid to ethics. Similarly, the law says that job vacancies must be advertised in the Croatian Official Gazzette and perhaps in a daily or weekly paper. Usually these invitations are open for a very short time and they are seen by a very small number of people, which increases the likelihood of lack of transparency and negative selection.[xxi] This only feeds the high degree to which the Croatian public administration is politicised.

The Ministry of Justice, Administration and Local Self-Government is institutionally responsible for control of the enforcement of the regulations governing the organisation and jurisdiction of the bodies of the government administration, but the impression is given that there is not any adequately developed culture for surveillance and assessment of the public administration at all levels.

As for organisation, there is clearly too large a number of ministries (19) and there is some overlapping of responsibilities. Merging and reviewing of the functions of some of the bodies of the public administration are necessary.

It can be expected that there will be a necessary rise in the share of budget spending for the public administration infrastructure, because of the new obligations related to membership. In the last few years this happened in Estonia, Latvia and Czech Republic, even in Sweden and Finland before accession. When this is put into the context of the per-

sistent claims that it is necessary to cut government spending, it is clear there will be problems.

One of the main points of vulnerability is the lack of appropriate organisation culture in the public administration and of certain values that ought to be interwoven with it. It is very difficult to break up the inheritance of clientelism and paternalism in which the administration has been focussed too much only upon itself. A culture of secrecy has been cultivated, favouring nepotism and arbitrariness, and citizens have always been made to feel subordinate in their encounters with the administration. It is disturbing that even today among the citizens resignation and scepticism prevail to do with any kind of reform relating to the government.

REFORM OF THE PUBLIC ADMINISTRATION

In the European Commission's Second Annual Report about the SAA for 2003, it is stressed that "Croatia ought to pay particular attention to the strengthening of the public administration so that the appropriate ministries and other public bodies should acquire the position for the correct implementation of the many legislative reforms that Croatia has obligated itself to" (MEI, 2003c). It is also stated that the Government is probably incapable of pushing through reform of the administration since it is largely occupied with internal dissensions.

Although the Government is aware of the importance of reform, there is no clear short-term plan for its implementation, and there is no strong political will. Two years have elapsed since the "Public Administration" proposal in the *Croatia in the 21st Century* project, and the Government has still not adopted it. The emphasis is on the raising of the effectiveness of the system, effectiveness being taken to mean social accountability to the citizens (Ured za strategiju razvitka RH, 2001). In the agenda of the government for the 2000-2004 period, special attention was devoted to the administration: halting expansion,[xxii] horizontal decentralisation, increased rationality and efficiency (avoiding overlapping), and attaining qualifications for the process of harmonisation with the EU (Vlada RH, 2000). The sequel describes the experience of selected European countries in the reform of the public administration.[xxiii]

European Union countries

The actual bureaucratic machinery in Brussels itself is not something to aim at, irrespective of the quality of the individuals that work there. For this reason it is better to look at individual EU countries. Since the 1980s, public administration trends in EU countries have been towards:

- opening up to the public;
- promotion according to additional criteria, not just seniority;
- transfer of some responsibilities to the public sector;
- decentralisation;
- introduction of financial motivation to the system (fees of different amounts according to how long the procedure lasts).

Each country has a specific public administration, and we shall mention here only the examples of the UK, Sweden, France and Germany, which are known for their good administrations, and of Spain before the accession.

The example of the UK best shows that even a 150 year long tradition of public administration does not guarantee immunity to reforms, because they go on all the time. The change of government in 1997 was a vivid illustration of the way this civil service works. In 24 hours, the ministerial changeover was effected, but those who had previously advised the Conservative government were still doing the same for the Labour government (Behrens, 2002). This shows that there is a fair amount of separation between politicians and civil service in Britain. The prestige of this public administration is derived from its professionalism, and not from the law about it, while its success is derived also from the powerful civil society that is actively involved in an assessment of its work.

In spite of the civil service in Sweden having a long history of experience in international cooperation, joining the EU was a dramatic change for it (Lindgren, 2002). The basic action of the Swedes on this occasion was to make their civil service every bit as professional as those in other member countries in order to achieve the maximum of benefit for their own country within the EU. On accession, the obligations were 50% greater, and the resources considerably smaller. A specific feature of Sweden is the small size of ministries, since there are semi-independent agencies for the implementation of policy in which

the largest number of civil servants are employed. Since 1994 (the year before accession) the Forum Europe has been at work; this is a body within the government charged with the professional further training of civil servants.

After World War II, France realised the need for a new and different public administration. Leading French statesmen realised that a job in the civil service required specific kinds of knowledge, and for this reason in 1945 the Ecole nationale d'administration (ENA) was set up – an educational institute run and controlled by the government (Šimac, 2002:50-60). Today ENA is one of the leading tertiary level educations concerning public administration in the world. Education at ENA lasts about two and a half years and consists of a study part and one year's practical work.[xxiv] There is an entrance procedure to get into ENA, for which every year from 10 to 20 candidates apply for every place.[xxv] All the candidates accepted automatically enter the civil service and obtain a corresponding salary (ca 8,000 francs a month). During their practical work and study the candidates are constantly being evaluated, and the order is regularly published. This order is essential for their future career, for those at the top of the list have the right to choose the job that the administration is currently offering. It is interesting that President Chirac is himself a former student of ENA. It is criticised for having become a school of the "snappy and self-satisfied Parisian bourgeoisie" because the share of candidates from well-to-do families comes to about 65% (Šimac, 2003:61). Apart from that, the need for in-service training of civil servants is neglected.

The institutionalisation of the administration in Germany goes back to 1794 and the Prussian "general law" (Derlien, 2003). It can be said that in Germany the civil service preceded democracy, which had a permanent effect on the separation of politicians from civil servants. In spite of some changes, it can be said that the public administration in Germany is still founded on Weber's principles of bureaucracy.[xxvi] It is marked by high professionalism, strict organisational hierarchy, employment according to merit, promotion by objective criteria of professionalism, neutrality in the provision of public services, and security of employment. The German specific feature is that all improvements in the public administration have been generated within the service, not as a result of political pressure.

From the beginning of the 20th century, Spain endeavoured to adjust the always insufficiently flexible structure of its public administration to the rapid and sometimes radical changes in its society. In

1984 (two years before accession) a law concerning the reform of the administration was passed, but it was subject to sharp criticism from the public because of the poor technical performance and problems in the application (Subirats, 1990). In 1986 the Ministry for Public Administration was set up, and in 1987 the law concerning the public service was passed. The basic aim was to change the administration from being that which "regulated life" to one that was subordinate to results and serving the public. A great gap was felt between the tasks to be done and the old methods of management used in the public administration. Particular attention was devoted to human resources – to attracting and retaining qualified personnel; an inspectorate for the services of the public administration was set up, its purpose being to improve its work through constant assessments and evaluation. The main barriers to reform were: (1) the impression among the civil servants that this was "just another reform"; (2) resistance of the unions; (3) departure of highly ranked officials for the private sector; (4) shortage of NGOs to demand changes in the public sector; and (5) political instability. The situation with reform of the Spanish administration before accession recalls that in Croatia.

From the example of these countries it can be seen that the process of reform and modernisation of the public administration is an ongoing one, and that it is never simple, even in highly developed countries. Still, however much reform of the administration might seem imperfect, painful and expensive, it is not less ruthless than the methods used in market competition (Pusić, 1999:241).

The candidate countries

In earlier years of the transition of the countries of CEE, the basic method for reform of the public administration was to cut the number of employees and cut wages to achieve fiscal savings (UNDP, 2001:1), without paying much attention to the consequences in terms of quality. Looking at the results of public administration reforms in these countries, it can be said they are not totally satisfactory, but that some kind of general progress has been made. At the beginning of the 90's, these countries were suddenly in the situation of having too few and too many civil servants. On the one hand they were hampered by the communist heritage of the bureaucratic machinery, and on the other the need for the development of a modern administration had arisen.

This kind of civil service needed to be different from the inherited structure in that it was freed from external influences – political parties, business and regional lobbies, and had a transparent hiring system.

The basic problems of the public administrations of the transition countries are the following:

- the legislative framework is centred too much on details and has retained the bad structure of promotion based mainly on years of work experience;
- not enough attention is devoted to ethics;
- it is not clear who is charged with surveillance of the public administration;
- pay policy is such that many employees went off into the private sector; in Estonia and Czech Republic, for example, highly positioned managers earn 6 to 10 times the amount in the private sector than in the civil service (Nunberg, 2000:13);
- there is not a precise enough recruitment system;
- the countries do not have an education system to apply to the whole of the public administration, and not only to the part of it that is in charge the most for European integration.

According to research into the opinions of civil servants and politicians in Estonia, Lithuania, Poland and the Czech Republic, the first step in the reform should have been depoliticisation – the separation of the administration from politics (King et all., 2002).

Poland adopted a public administration law back in 1997, according to which some of the places in the public administration were defined as the civil service. For the transition, certain qualifications and examinations were required. The new version of the law was adopted in 1998 (after the change of government), and it has to be said that on paper it looks good because it contains the elements that should lead to improvements in the work of civil servants (O'Dwyer, 2002:29). However, from the time the second law was passed, only 560 of the 110,000 employees employed in the public administration met the conditions to be part of the civil service. The rest are part of the newly formed "state body", which is nothing but a change of name and a leaving of the opportunity for protection in employment and promotion. Most do not want to go to the civil service, because the advantages are slight and the dangers unknown. Alongside this law, in 1991 Poland formed the National School of the Public Administration.[xxvii] At the

beginning it excited great interest and enthusiasm but in time it lost its character and its influence was minimal. Too few people graduated from it for them to be able to bring about any changes, only 400 of them in 10 years. In addition, the ability to get employed in the public administration depended on various politicians. The biggest problem was the inimical attitude of the remainder of the service, which perceived them as a threat, as outsiders who belonged nowhere. The example of Poland best shows that laws are not enough if political pressures are not eliminated.

In *Slovakia* the law on the civil service was adopted in 2001, but from talks with those employed in the public administration the opinion emerges that this law was only a formality necessary for satisfying EU requirements. That is, the law only fixed the existing positions of those employed in the public administration and institutionalised protectionism (O'Dwyer, 2002:31).

In the *Czech Republic* the many necessary steps have not been taken, but at least the situation has not deteriorated because of badly implemented reforms. The law on the civil service is about to be passed; they are thinking about setting up an Institute for public administration and local self-government[xxviii] and an ethical code is being worked out (EPF, 2002). Nevertheless, there are still regular complaints from the European Commission about the public administration in the Czech Republic.

CONCLUSIONS AND RECOMMENDATIONS

The comparison of the quality of governance in Croatia, the EU and in selected candidate countries shows, unfortunately, that governance constitutes a considerable barrier in the accession of Croatia to the EU, as well as to the achievement of economic and social development. In terms of all the selected governance indicators, Croatia lags behind the average of the EU and the CE5 countries; this is particularly prominent in the area of rule of law. However, what is positive is that all the indicators have been slowly improving in the last few years; the only suspect element of governance in this point of view is government effectiveness. This just shows that it is necessary to fix one's gaze on the public administration as one of the potentially weakest links in the institutional development of the country. A poor public administration in combination with a low level of rule of law is probably one of the greatest hurdles in the way of European integration. If certain rules and

standards that will encourage civil servants of whatever rank to achieve the general aims and limit them in their arbitrary actions do not exist, they will become increasingly opportunistic. Without the rule of law, primarily of an effective judiciary, it is impossible to exercise surveillance over those in charge of policy, there is no legal framework necessary for the development of civil society, and a setting is created that does not promote economic development.

Public administrations change, because the society changes too. However, the society always changes faster. The aim is not to create a given structure for the public administration and then to cement it. The experience of highly developed countries with good civil services shows that reforms are going on all the time. Reform of the public administration cannot be separated from reform of the government, its role and function. There is bound to be resistance from threatened interest groups, but it is possible to handle it with good public support for the reforms.

Recommendations

- *Strengthening the rule of law.* On this depends the success of all other reforms. It is necessary to put into action the recently adopted judicial reform strategy with the assistance of a concrete action plan and to reduce the number of backlogged cases; to carry out a problem for training the judges and prosecutors and other court personnel.
- *Depoliticisation of the public administration.* The first move in the reform of the public administration should be to depoliticise it, which is achieved by recruitment according to merit (education and checks of knowledge) and not political connections. One of the solutions for the depoliticisation is to found an independent agency charged with recruitment in the public administration and in general the management of human resources. An alternative is to found a body within the Government that would be charged with this task, with the provision of the possibility of court appeals against decisions related to hiring. Beside this the foundation of an institute for the training of state officials should be considered.
- *Opening up towards the public.* Like a person of good reputation, the government should not hide anything. Vigorous involvement of members of the public in the work of the public administration will be difficult; it is something that has not been totally mastered anywhere in the EU. Citizens should be deemed authorised to receive information about the work of the administration; civil society must develop into

a powerful control mechanism on the work of the public administration and be its associate. The increase of transparency necessarily also requires a greater freedom of the media. This will likely be assisted by the new Media Law, but there is still no Access to Information Law.

- *Increased motivation of civil servants for their work.* The motivation of the employees has a great role in the improvement of the work of the public administration. It must not happen that the government pretends to pay its workers and they in return pretend to work. If wages are given that are comparable with those in the private sector for the same level of responsibility and skills, the best staff will be retained. Since the budget puts constraints on the desired level of expenditure for the pay of employees in the pubic administration, additional motivation is required to keep the young and highly educated in the civil service. The public administration must not be perceived as a springboard for a career in the public sector; a job in the civil service should be a matter of prestige.
- *Additional criteria for promotion in the civil service.* Promotion must not be based only on years of work (which is predominant in Croatia) but on performance at work, for which constant evaluation of the employees is required, caution being exercised to make sure this does not turn into an instrument for the involvement of politics. As additional stimulus, selective pay rises can be introduced.
- *Suppression of corruption.* With good incentives, the desire to receive bribes diminishes. Although the first steps to do with the suppression of corruption have been taken in Croatia, more vigorous measures must be taken to step up progress in the area, and it is necessary to make the results as visible as possible to the public.
- *Development of a new culture among civil servants.* It is necessary to set up new values and attitudes among those working in the public administration - to create a new culture. Civil servants should be more public-oriented and more interested in results, which can be achieved with stimuli that are not related to pay, such as public recognition and awards. It is also necessary to test public opinion about the civil services in an ongoing way.
- *Education and training.* Training must not be directed only at the MEI, but spread vigorously throughout the whole of the public administration. People are the key factor in the quality of the public administration.
- *Higher quality work from officials.* The quality of government officials should be an element complementary to the public administra-

tion, because after all a civil service can only be as good as the politicians and the objectives they set up. For the quality to improve, public pressure is crucial; the public has to insist that the politicians represent their interests. In addition, they need to be able to have further training, of the kind that ministers go through in the UK, for example. If nothing else, an environment of highly qualified assistants can be created.

- *Debureaucratisation.* It is possible to contribute to debureaucratisation by bringing in various prices for the same service, depending on the speed with which one wants it to be done. It would be good here if all forms were easily understandable to the members of the public and if they could carry out some of the formalities of the administration online.
- *Monitoring the quality of governance.* So as to be able to have ongoing monitoring of the quality of governance in all countries, including Croatia, it is necessary to do a lot of work on raising the quality of the governance indicators. This can be done primarily via in-depth and systematic research specially adapted to the given country.

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i *Although the World Bank set off the avalanche of research on the theme of governance, it cannot be said that no one had dealt with it earlier. The question of public administration and governing occupied many political philosophers. Thus for example the term politeia, in Plato, is close to the meaning of governance as defined by the World Bank.*

ii *For an additional explanation of the term governance, see: Ahrens (2002).*

iii *Jones (2002) instead of the term governance uses in a similar context the expression social infrastructure.*

iv *For the connection between governance and development see: Aron (2000); Basu (2002); Campos (1999); Dethier (1999); Kaufman and Kray (2002).*

v *Civil society includes all kinds of voluntary associations – social movements, the church, unions, professional associations, local communities, charitable associations, interest groups (Office for the Strategic Development of the Republic of Croatia, 2001:21.*

vi *These principles are: openness, participation, accountability, effectiveness, coherence.*

vii *The European Council in Madrid 1995 stressed the importance of administrative capacity as criterion for accession to the EU.*

viii *Article 75 of the SAA (Strengthening Institutions and the Rule of Law) relates to governance and public administration: "In cooperation within the sphere of justice and home affairs, parties shall give special attention to the consolidation of the rule of law and to the strengthening of institutions at all levels in the general area of administration, especially in the implementation of justice and in applying judiciary mechanisms. Cooperation in the sphere of justice shall focus primarily on the independence of the judiciary, the improvement of its efficiency, and further education within the field of law".*

[ix] *The execution under the leadership of an international consortium began in November 2002 and is planned to last for 21 months.*

[x] *CE5 consists of Czech Republic, Hungary, Poland, Slovakia and Slovenia.*

[xi] *In the making of all graphs except for Graph 6, data from Kaufmann et all. (2003) are used. Since the methodology of aggregating indicators is fairly complex, this paper can be recommended for more information.*

[xii] *It can be stated for certain that democracy has a positive effect on economic growth, but it is an essential element in social development.*

[xiii] *In October 2003, the opposition in parliament was against this law being passed by the urgent procedure.*

[xiv] *Corruption increases transaction costs, and reduces investment.*

[xv] *The questions can be asked if the real problem lies in corruption or in the size of the administrative barriers that breeds corruption.*

[xvi] *NN 88/01, Amendments to the Law, NN 12/02.*

[xvii] *For more on this see: Bađun and Obadić (2003).*

[xviii] *According to this research, inadequacy of the public administration can be seen in its doing its work slowly and incompetently.*

[xix] *Since 1998 the Government has given scholarships for post-graduate studies abroad to get quality civil servants. In addition, MEI is doing a cycle of seminars called "ABC of Europe", one of the ways of training civil servants.*

[xx] *There is a special category of government officials, i.e., politically appointed civil servants, whose rights are regulated by a special Law concerning the Obligations and Rights of government Officials (NN 101/98). The many changes to this law are published in NN 101/98, 135/98, 105/99, 25/00, 73/00, 131/00, 30/01, 59/01, 114/01, 153/02).*

[xxi] *According to sociologist Max Weber (1968) a civil service founded on employment by merit and lucrative careers for civil servants is one of the fundamental institutional bases for capitalist growth.*

[xxii] *An attempt will be made to avoid the foundation of new administrative organisations and the hiring of new civil servants.*

[xxiii] *For more information about the reform of the public administration in general see: Šimac (2002).*

[xxiv] *Course work includes such areas as public law, economics, international relations, public finance, social policy, governance, EU law, globalisation, demography, and computer science.*

[xxv] *The entrance exam consists of an eliminatory written and then an oral part. The written exams (checks of knowledge of economics, public law, general culture and one optional) last 5 hours, and the papers are handed in under conditions of strict anonymity.*

[xxvi] *In this context the word bureaucracy does not have any negative meaning, but relates to a specific form of the organisation of the public administration.*

[xxvii] *Krajowa Szkola Administracji Publicznej.*

[xxviii] *The negative side of the founding of such an institute is the creation of a close elite that is likely to create a monopoly on the making of decisions about the functioning of the public administration. If such an institute is located in the capital, then the marginalisation of the regions can occur too (O'Dwyer, 2002).*

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Chapter 7

THE READINESS OF THE PUBLIC ADMINISTRATION FOR EUROPEAN UNION ACCESSION

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ABSTRACT

Institution building is crucial for successful integration into the European Union (EU). Through the Stabilization and Association Agreement (SAA), Croatia bound itself to strengthen institutions at all levels in the area of the administration, priority areas being protection of competition and state aid.

According to the demands that the EU has made on the public administrations of the accession countries in the pre-accession period, we shall identify the criteria for membership. We shall define the level of the fulfilment of conditions for membership and the measures that should be carried out during the process of the reform in Croatia by a comparative analysis of the state of affairs in Croatia, the candidates and the EU members. The main conclusion is that institutional weakness in Croatia is the outcome of failure to define the priorities and the timetable for the implementation of given reforms.

Key words:
public administration, market competition, institutional criteria for membership, single market, European Union, Croatia, candidates

** The views expressed herein are the standpoint of the author, are not binding upon the institution in which she works, and do not necessarily coincide with the official views of the Croatian Energy Regulatory Council (VRED).*

INTRODUCTION

The objective of this paper is to analyse the role of the public administration in meeting the economic criteria for membership in the EU. The concept of *public administration* in this work refers to the institutions necessary for the enforcement of the rules, the focus being on institutions that are charged with positive action at the national level (Table 1).[i]

*Table 1 The Public Administration in Croatia**

State administration			Other bodies
Ministries	State administration organisations	Offices of the Government	Legal entities with public authorities*
- foreign affairs - interior - defence - European integration - finance - economy - Croatian homeland war veterans - public works, reconstruction and construction - culture - trades, SMEs - agriculture and forestry - maritime affairs, transport and communications - justice, administration and local self-government - environmental protection, urban development and construction - education and sports - labour and social welfare - tourism - health - science and technology	State Geodetic Directorate State Directorate for Water Management State Weather Bureau State Institute for the protection of family, maternity and youth State intellectual property office State bureau of standards and metrology Central Bureau of Statistics State Inspector's Office	- for internal supervision - for Internetisation - for state property - for national minorities - for public relations - for social partnership - for development strategy - for legislation - for cooperation with NGOs - for prevention of drug abuse - for cooperation with the ICTY - for cooperation with international institutions - for detainees and missing persons - of the Government's agent at the European Court of Human Rights in Strasbourg	Agency for the protection of market competition Securities Commission Agency for Supervision of Pension Funds and Insurance Companies (HAGENA) State Agency for Deposit Insurance and Bank rehabilitation Directorate for supervision of insurance companies (DINADOS) Central Register of Insured Persons (REGOS) Telecommunications Council** Radio and TV Council** Croatian Energy Regulatory Council

** The Table shows the public administration that is the subject of this paper. It does not include offices of the state administration at the local level (county offices of the state administration or local self-government). Not all the bodies with public authorities are shown in the table, only those that have regulatory authorities according to OECD criteria (OECD, 2003). The government categorises the public sector differently. See www.vlada.hr.*

*** According to the new Telecommunications Law (NN 122/03), the authorities of the Telecommunications and Radio and Television councils should be assumed by the Croatian Telecommunications Agency.*

At the outset we shall present the conditions for membership and analyse the role of the public administration in the attainment of them. In accordance with the criteria for membership and the role of the public administration in attaining them, in the second part we shall identify elements capable of being used to evaluate the ability of the public administration to fulfil the membership criteria. In the third part, on the basis of elements thus identified, we shall evaluate the level to which the public administration in Croatia meets the membership criteria, and to the extent possible make comparisons with the candidates and with the members. The fourth part is focused on the points of vulnerability of Croatia, and will help conclusions and recommendations to be made at the end of the paper.

THE ROLE OF THE PUBLIC ADMINISTRATION IN SATISFYING EUROPEAN UNION CRITERIA

According to the Founding Treaty[ii] (Articles 6 and 49), any European state that respects the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law may apply to become a Member of the Union. A candidate has to meet other criteria too, as defined by the European Council in Copenhagen in 1993. Usually political, economic and legal criteria are stated, although the candidates are also required to accept the objectives of economic and monetary union. The fifth criterion for membership is the ability of the EU to accept new members. The Copenhagen criteria were additionally explained at a meeting of the European Council in Madrid in 1995, when, inter alia, the institutional criterion was also expressly laid down (Table 2).

The institutional requirement is implicit in the Copenhagen criteria: the political criterion (stability of institutions guaranteeing democracy, and the rule of law) and the *acquis* criterion (implementation of Union legislation) together imply the institutional criterion, i.e., the effective implementation of rules harmonised with the EU. At the same time, an evaluation of the ability of the EU to accept new members is based on the capacity of EU institutions to take in the representatives of the new members without the effectiveness of decision-making being diminished (Table 2). In Madrid the European Council actually hig-

Table 2 Criteria for membership

Description	Element for evaluation
1. Amsterdam criteria*	
Geographic	European state
Political	Respect for liberty, democracy, human rights, rule of law
2. Copenhagen criteria	
Political achieve stability of institutions that guarantee the rule of law	– description of various institutions (parliament, executive, judiciary) – examination of way in which individual rights and freedoms are exercised in practice
Economic existence of market economy	prices and trade are liberalised – significant barriers to market entry (establishment of new firms) and exit (bankruptcies, liquidations) are absent – enforceable legal system, including property rights, is in place – achieved macroeconomic stability including adequate price stability, sustainable public finance and external accounts – broad consensus about the essentials of economic policy – sufficiently well developed financial sector to channel savings towards productive investment
development of capacity to cope with competitive pressure and market forces within the Union	adaptability of enterprises – existence of functioning market economy with sufficient degree of macroeconomic stability for economic agents to make decisions in a climate of stability and predictability – sufficient amount, at an appropriate cost, of human and physical capital, including infrastructure, education and research and future development in this field – the extent to which government policy and legislation influences competitiveness (trade policy, competition policy, state aid, support for SMEs) – degree and pace of trade integration a country achieves with the with the EU before enlargement (volume and nature of goods already traded with Member States) – proportion of SMEs, partly because SMEs tend to benefit more from improved market access, and partly because a dominance of large firms could indicate a greater reluctance to adjust (European Commission, 1997)
Legal adopt the acquis	– screening – harmonisation of national legislation with the *acquis*

Adherence to the aims of objectives of economic, political and monetary union	– defined during negotiations
Ability of EU to take in new members	– implementation of EU institutional reforms making possible the functioning of an enlarged EU – adoption of a budget for enlargement – adoption and implementation of reforms of given policies (agricultural, structural)
3. Madrid Criteria	
Institutional Effective application of legislation through appropriate administrative and judicial structure	– specific demands on institutions are made if adjustments in terms of Copenhagen are ineffective

** Amsterdam criteria are those contained in the founding treaties; they were supplemented through the Amsterdam revision, but I quote them under these names (not as criteria from the founding treaty) for the sake of consistency, because they are so referred to in official documents in Croatia.*

hlighted the importance of the implementation of regulations and the role of institutions, while no additions to the criteria for membership were made. This can be seen in the method of monitoring the progress of the candidates, the European Commission tracking this according to the Copenhagen criteria. No explicit element for evaluating a candidate's harmonisation with Madrid exists, while the assessment of institutional progress is based on the degree of success with which the Copenhagen criteria are met. This is the result of the fact that a considerable part of the law of the Community consists of directives and that the EU respects the principle of subsidiarity. A directive is binding, as to the result to be achieved, upon each Member State to which it is addressed, but leaves to the national authorities the choice of form and methods. At the same time, the principle of subsidiarity is the principle whereby the Union does not take action (except in the areas which fall within its exclusive competence) unless it is more effective than action taken at national, regional or local level. It is closely bound up with the principles of proportionality and necessity, which require that any action by the Union should not go beyond what is necessary to achieve the objectives of the Treaty. For this reason, at the EU level harmonisation of institutions is limited in a small number of areas, and candidates are expected to fulfil the conditions, themselves selecting the necessary measures and the manner of achieving them. The EU gives explicit recom-

mendations about the organisation of given bodies of the public administration in candidates in the advanced phase of progress monitoring, when it gets to know in greater detail the state of affairs in each of the candidates. These recommendations are based on an analysis of specific problems of the given state or institution. Thus the institutional demands that the EU made on candidates in the beginning of the negotiations process were general – such as consolidation of democracy and strengthening public administration. With the development of the integration process, these demands were formulated more openly, and for example, the Accession Partnership with Estonia in 2001 identified the need to increase the number of staff in the statistical department of the audit office.

Membership criteria are also contained in the conditions for the institutional relations between the EU and states that are not included in the enlargement process. In the development of relations with third countries, the EU applies the principle of conditionality, attaching particular importance to the political conditions. Delays in meeting these hold up further progress in the commercial and institutional links with the EU.

The political criterion for the progress of these relations is the same for each country: establishment of the rule of law, i.e., stability of those institutions that guarantee the enforcement of the law. Various levels of meeting this requirement are reflected in the diversity of levels of relations with the EU. For countries included in the stabilisation and association process, including Croatia, there is explicit mention of the obligation to respect peace agreements, cooperation with the ICTY and the return of refugees. However, this is not, like the conclusions of the Madrid European Council, adding a criterion for membership, rather interpreting existing criteria on an individual basis.

Depending on the level of the fulfilment of criteria for a conditional approach to states in the stabilisation and association process, six levels of fulfilment of the conditions for membership (Table 3) can be identified. The first condition is necessary for the approval of unilateral trade preferences. The second is necessary for the establishment of institutional relations. The third, for candidate status, implies the achievement of a higher level of fulfilment of political criteria for membership than for the establishment of institutional relations. The progress of negotiations and accession are conditional upon further progress in harmonisation with the standards and practice of the EU.

Hence, to be included into the structures of the EU it is essential to achieve an adequate level of harmonisation with political conditions,

while speed of subsequent economic integration depends on progress towards the meeting of the economic and legal conditions for membership.

Table 3 Conditional approach of the European Union to the candidates and the states of the Western Balkans

Candidates	Western Balkans
Candidate status	Trade preferences
Start of negotiations	Institutional relation
Progress of negotiations	Candidate status
Invitation to join	Opening of negotiations
	Progress of negotiations
	Joining the EU

Economic integration into the EU is one of the aims of the SAP. Hence, successful harmonisation with EU *acquis* in the area of the single market should enable the gradual inclusion of Croatia into the structures of the EU. A precondition for progress in this process is meeting the political criteria. Respect for the obligations of the peace agreements, return of refugees and other political criteria do not directly affect the fulfilment of the economic conditions for membership. Still, these criteria indicate the credibility of institutions in general. On the other hand, failure to respect obligations assumed puts a brake on the development of relations and thus restricts the potential to make use of the positive effects of integration into the EU.

The Implementation Plan for the SAA identifies the Government, the MFA and the government bodies as responsible for fulfilment of the Copenhagen and Amsterdam criteria and conditions.[iii] Hence, in the process of integration into the EU, the public administration bodies have a crucial role.

ELEMENTS FOR THE ASSESSMENT OF THE CAPACITY OF THE PUBLIC ADMINISTRATION

In line with the Copenhagen criteria, elements for the evaluation of success in fulfilling the political, economic and legal criteria and in accepting the policies of the EU are evaluated.

We identified the elements for an assessment of the success of the public administration on the basis of the Reports on the progress towards accession by each of the candidate countries, Accession Partnerships, Action Plans for strengthening administrative and judicial structures and analysis of projects financed by PHARE. According to these documents, we identified elements common to all candidates in the integration process, and the individual political elements on which progress in the integration process depends (Table 4).

Table 4 Sources for comparison of the state of affairs in Croatia, the candidates and the European Union

EU	Candidates	Croatia
– Reports of the European Commission on implementation of EU policies: – State Aid Scoreboard – 2002 Rewievs of the Internal Market Strategy – Internal Market Scoreboard – Internal Market Infringements	– Progress Reports – Accession partnership – Action plan for administrative and judicial capacity – PHARE projects	– European Commission Report on implementation of the SAP – Implementation plan for the SAA – National programme for the integration of Croatia into the EU – Plan of harmonisation of legislation – Projects financed via CARDS

Political criteria

In line with the conditionality principle in the development of relations with the EU, belatedness in respecting political criteria was the main reason why candidates of the Helsinki group[iv] started negotiations about membership two years later than the Luxembourg group[v] and why Turkey has had candidate status since 1997[vi] but is not negotiating about membership. The political problems that hold up the progress of each state are individual. For this reason we shall put the elements for the assessment of the extent to which political criteria are met into two groups: common and individual elements.

Each country has to meet *common elements* for the sake of progress of relations with the EU. Meeting these elements is a necessary but not sufficient condition for progress in relations. When the common

elements are met, the conditions have been created for the establishment of an efficient public administration. These include:

- the establishment of a legal framework relating to the civil service;
- the separation of political from administrative functions;
- provision of ongoing training for civil servants, senior and junior (for which, however, the establishment of a national education programme is necessary);
- definition of public access to information;
- strengthening of financial control;
- development of the fight against corruption.

The EU identifies the individual elements for each country as a separate entity, according to the problems specific to that country.

Economic criteria

The tasks of the public administration for the sake of fulfilling the first economic criterion, that is the *development of the market economy* (Table 2), are as follows:

- making it possible to register new companies in a simple way;
- compliance with bankruptcy legislation;
- effective property rights, which implies development of real estate registers and cadastres and an effective judiciary;
- consensus on the direction of economic policy.

The tasks of the public administration with respect to meeting the second economic criterion for membership, i.e., *development of the ability to cope with competitive pressures and market forces,* primarily involve efficient implementation of policies that have been adopted (trade policy, competition policy, state aid, support to SMEs). For this the following are required:

- strengthening of the financial sector;
- reform of the public finance management system;
- strengthening of the customs and tax administrations (e.g., for implementation of measures of trade policy, including agreements on free trade, efficient recovery of tax);
- harmonisation and surveillance of the system of state aid;

- harmonisation of the competition policy with EU rules and their enforcement, which also implies the establishment and strengthening of economic regulators; and
- reduction of the level of the grey economy.

Legal adjustments

For fulfilment of the *political criteria* it is essential to respect the fundamental principles of the Community. This further entails the establishment of a legal framework capable of guaranteeing democracy, the respect for human and minority rights and equality between men and women.

For fulfilment of economic criteria, the development of the capacity to participate in the single market is necessary, and the key legal adjustments in this area are connected with adjustments to the single market. Hence, legal adjustments are a precondition for the fulfilment of the political and economic conditions for membership. For Croatia the legal adjustment priorities are laid down in the SAA. They include the areas listed earlier: respect for the fundamental principles of the Community and adjustment to the single market. Adjustment to the single market assumes approximation of legislation in 11 areas,[vii] including:

- competition (including matters related to state monopolies and sectoral regulators, company law, control of mergers and liberalisation of transport) and state aid;
- industrial, intellectual and commercial property;
- public procurement; and
- legislation regarding technology, including standardisation, metrology, accreditation and conformity assessment (Mayhew, 2003).

Harmonisation of a legal system with the EU Commission analyses the extent to which the necessary legislative measures have been taken to enable implementation of the *acquis* and what remains to be done in this regard. The Commission also assesses whether administrative structures required to implement the *acquis* have been established.

Adherence to the aims of economic, political and monetary union

The readiness of candidates to take on the objectives of economic, political and monetary union is assessed in the course of the accession negotiations. The issues concerning public administration are mainly dealt with in negotiating Chapter 30, Institutions, and Chapter 31, other matters. In this paper, these matters are covered in the part dealing with the ability of institutions to accept the new *acquis*.

HARMONISATION OF THE PUBLIC ADMINISTRATION IN CROATIA WITH THE CONDITIONS FOR MEMBERSHIP

Progress of relations with the EU, i.e. economic integration into the EU is conditional upon fulfilment of the political membership criteria. For this reason we shall first of all determine the level to which the political elements are met, for these are, according to the experience of the candidates, crucial for progress in the integration process. However, as can be seen from the elements previously identified for the analysis of the fulfilment of the political, economic and legal conditions for membership, they overlap. For example, the fight against corruption requires that the legal framework for the public administration (e.g., the manner of recruitment) is defined, the information that is accessible to the public is identified, the level of the grey economy is reduced and that the judiciary is effective. Similarly, strengthening financial control includes the strengthening of the financial sector and the implementation of the requisite legal adjustments. For this reason in the sequel the division into legal and economic elements is retained only for the sake of the easier tracking of the elements identified. In substance, however, an evaluation of the political elements necessary takes in the economic elements, and to the extent in which this is necessary for understanding it also includes legal elements as well as the objectives of accepting the policy of the Community. Such an approach is prompted by the fact that the legal system makes possible the implementation of the policies defined, and the level at which the economic conditions for membership can be met depends on the success of its implementation. In the conclusion (Table 8), according to the analysis carried out in accordance

with the elements, we determine the level of success of the public administration vis-à-vis the meeting of the conditions for membership.

Since it is the European Commission that evaluates the readiness of candidates for accession, wherever possible we have used Commission data (Table 3) for the identification of the situation in and the progress of Croatia.

Alongside these, according to an analysis of the specific features of Croatia, and through a comparison of the other states of the western Balkans that are subject to the stabilisation and association process, we have identified other elements that might affect the success of the adjustment process.

Political criteria

Establishment of the legal framework for the public administration. The legal framework for the public administration has been established in all the candidates. In Croatia, these matters are governed by the Government Officials and Employees Law (NN 30/01) and the Obligations and Rights of Government Officials Law (NN 101/97, 135/98, 105/99, 25/00, 73/00, 30/01, 59/01, 114/01 and 153/02).[viii]

Separation of political and administrative functions. Advance in this area is uneven in the candidates. In some, but not in all, candidates a code of conduct has been established, and there are clear distinctions between political and administrative functions. In Croatia, politically appointed officials (government officials) are clearly distinguished from career civil servants (government employees) by the two laws mentioned above. At the EU level clear rules for work in institutions were defined after the report about the frauds, bad management and nepotism in the European Commission in 1999 (Code of Conduct for Commissioners, Code of Conduct for Co-operation of Commissioners and the Departments with which they are Charged, Procedural Regulations, Regulations for International Co-operation, Principles of Establishment of Groups of Commissioners, Rules of Promotion, more in IMO, 2001-2003, No. 45).

Personnel training. In all of the candidates, personnel training programmes have been established. In Croatia the Government has identified raising the level of the knowledge and capacity of personnel as one of the preconditions for success in joining the EU, and has asked all bodies of the administration to analyse their personnel and professional readiness for

the process of integration. The analysis was carried out in March 2001, but the training programme has still not been made (MEI, 2003). Since the official target date for the necessary adjustments for EU membership is the end of 2006, more than two years to work out a training programme is certainly too long. In terms of this element, Croatia lags behind the candidates. In Bulgaria, for example, the training programme was set up and the Commission in its report of 2001 found that progress had been made in training, particularly of personnel for the supervision of public finances, but that judges had to be trained about Community law.

In addition, the training of public servants is an element that can be used for an analysis of the second economic criterion for membership, i.e., the capacity to cope with competitive pressure within the Union. Fulfilment of this criterion is evaluated according to the existence, in a sufficient amount and at appropriate costs, of human capital, including education and future development. Thus 30% of the assistance from PHARE in the pre-accession period has been directed towards institution building. Projects related to the strengthening of administrative structures are carried out within the framework of the CARDS programme. CARDS 2001 co-finances the Reform of the public administration project, which was inaugurated in November 2002. This project includes the analysis of the necessary programmes for training and rewards systems in the public administration. Projects related to the strengthening of the administrative structures are also envisaged under CARDS 2002. These projects are scheduled to start in the second half of 2003, and to be finalised in 2004 and 2005. Priorities and activities of the CARDS 2002 programme are comparable with the priorities of the accession partnerships (Table 5)

Table 5 Priorities in the candidates and the countries of the Western Balkans

	Countries of the Western Balkans	The candidates
Priorities identified	Democratic stabilisation Economic and social development Justice and home affairs Strengthening administrative capacity Protection of environment and natural resources	Economic policy Economic reform Strengthening administrative capacity Single market
Financial and technical assistance	CARDS	PHARE

However, although CARDS, just like PHARE, does make possible the co-financing of necessary reforms, a difficulty is found in the capacity to absorb such assistance. For the implementation of programmes and use of assistance there has to be an adequate level of institutional capacity in drawing up the project proposal, defining terms of reference for its implementation, reporting on implementation and so on. The experience of candidates shows that in the initial years of the implementation of PHARE a problem lay in thinking up, proposing and monitoring projects. In Poland, for example, more than half of the PHARE resources were unused because of the inability of institutions to create and propose projects. The same thing is going on in Croatia, in which the elaboration of an EU cooperation strategy in the area of technical assistance was about one year late (instead of in December 2001, as planned, it was completed in December 2002). Budget rebalancing in 2003 redirected resources of the Ministry of Justice, Public administration and local self-government to other purposes, because the projects for which the resources had been provided were not launched. And here it is very indicative that it is the Ministry that is actually in charge of the public administration reform project implementation.

For the institution building, it is important that, in addition to civil servants, the decision-makers too are acquainted with the features of the integration process. In Croatia, the MEI is charged with preparing the decision makers for the role that they have in the integration process, through a communication strategy. On the other hand, though, because of the desire for quick legal adjustments, the Parliament's Standing Orders (NN 117/01) enable a law that is being adjusted to the *acquis* to be passed in the "urgent procedure". This means that first and second readings are combined: in the same reading, amendments have to be both discussed and decided on. This procedure is not limited to priority SAA areas. According to the Government's Standing Orders (NN 107/00), all laws that the Government proposes have to be adjusted with EU *acquis.* Hence the Government can seek the urgent procedure for every single law that it proposes. Since in this procedure the ability to analyse the proposed amendments and/or their adjustment with EU regulations is limited, these provisions enable, in practice, the very reverse of what is desired to be achieved. At the same time, limiting debate makes the understanding of the integration process and the demands that it makes more difficult at all levels – from the decision makers to the general public that follows their work. The urgent procedure in addition enables a perception that in the framework of the "Eu-

ropean laws" some laws are passed that are not necessary for integration process but for the attainment of "ordinary" political objectives.

Definition of information accessible to the public. The public nature of the work of institutions at the EU level was set up in the beginning of the 1990s, in line with the conclusions of the Edinburgh European Council, since the Official Journal of the European Communities has been publishing results of the voting in the Council and information whose publication is not obligatory. The legal framework has been created in all the candidates to create access to information, while in Croatia the application of the Access to Information Law has still to start. At the same time, the openness of institutions is used as instrument in the fight against corruption and organised crime. Since 1999, i.e., since the resignation of the Santer Commission,[ix] increasing attention at the EU level has been devoted to the openness of EU institutions. Openness, alongside the definition of a code of conduct, the strengthening of financial control and the establishment of the new European Anti-Fraud Office (OLAF) has become an important tool in the suppression of irregularities within the EU.

Strengthening financial control. In common to the candidates is that reform of the financial sector and the public finance system is the greatest of the difficulties in the pre-accession period. The Government Officials and Employees Law and the Obligations and Rights of Government Officials Law have set up a stringent and unified wages regime as part of an endeavour to limit the costs and to enable financial control. Still, the financing of public administration is not transparent. This is the result of a weak system for the allocation of budgetary resources, which right up to 2001 was based on an allocation of budgetary resources in terms of institution, and not according to an economic classification or according programmes of work clearly set out in advance. Because of the lack of any clearly determined programmes of the work of the public administration it was thus impossible to work out indicators or to track the quality and performance of its work. For this reason reform of the budgetary system of 2001, and the orientation to a budget according to programmes, creates a good basis for the quantification and performance measurement of the way the activities of the public administration are carried out.

At the EU level, since 1999, budgetary reform has been under way. In 2004, for the first time, the budget will be based exclusively in terms of activities. The main objective of drawing up a budget in this way is the distribution of resources in line with political objectives that

have been defined in advance. For this reason the determination of priorities, planning, drawing up the budget, monitoring and reporting go on within every activity.

Fight against corruption. At the EU level, since the 1999 reform, a special anti-fraud office was established (OLAF). Its partners in EU countries are customs or tax administration/offices, and in the candidates, the police, finance ministries and/or their offices (e.g. budget office, customs administration). In Croatia corresponding measures are being taken for the fight against corruption and organised crime, and international standards are gradually being accepted. The criminal law convention of the Council of Europe concerning corruption was ratified in 2000 (NN Treaties 11/00), and the civil law convention in 2003 (NN Treaties 6/03). Since 2001 Croatia has been included in the implementation of the Initiative against organised crime in South-East Europe within the context of the Stability Pact. In 2002 the Programme for the Suppression of Corruption and the Law on the Office for the Suppression of Corruption and Organised Crime (known as USKOK) were adopted. These measures enabled a more effective fight against corruption. Harmonisation of Croatian standards with international conventions, and their enforcement, beefing up the capacity for prevention, investigation and prosecution, and the fight against corruption have been identified as priority areas in the Croatian fight against organised crime (www.fco.gov.uk/files/kfile.Croatia.pdf). In spite of this, the perception of corruption (defined as abuse of public power for private benefit), according to the index used by Transparency International, is greater in Croatia than in EU member states, and is comparable with the situation in Bulgaria, Poland, Czech Republic, Latvia and Slovakia.

Individual elements

To illustrate kind of difficulties that can hamper the further development of relations with the EU, less advanced candidates have been chosen as examples.

Romania. Inadequate childcare institutions. The 1999 regular report urged the government to provide sufficient financial provision and reaffirmed the principle that institutionalised children's access to decent living conditions and basic health care is a human rights issue.

Turkey. Inadequate respect for human and minority rights and lack of civil control of the army. Human rights infringements are pro-

nounced in the jails, and there is the problem of the protection of the rights of Kurds. For this reason the EU demanded improved conditions in prisons, and in the reports of the Commission explicit reference was made to the problem of the execution of the death sentence meted out to Kurdish leader Abdullah Ocalan.

Croatia. The basic hurdles to progress are the cooperation with the Hague (the Gotovina case), the return of refugees, and their property. The level to which Croatia meets the political criteria, particularly those related to the ICTY, defined by the Council of the EU in 1997, will be crucial for the acceptance of its candidature (Prodi, 2003).

Economic criteria

Registration procedure. In the candidates, removal of barriers to market entry (establishment of new firms) has reached a satisfactory degree of effectiveness and legal security. To make market entry easier in Croatia, the SAA Implementation Plan looks to a revision of the Court Register Act and the formulation of Rules on the manner of making entries in the court register by the end of 2004.

Table 6 Starting a business; Institutional indicators

	Duration (days)	Number of administrative procedures	Cost (in USD)
Croatia	50	13	843
Austria	29	9	1,534
Belgium	56	7	2,633
Czech Republic	88	10	648
Slovenia	61	10	1,518
Slovakia	98	10	401

Source: World Bank (2003:2)

As the details in Table 6 show, the process of starting up a firm in Croatia includes a large number of administrative procedures. In spite of this, the duration and cost are not greater than in the accession countries.

Bankruptcies. In most of the candidates, there have been advances in the bankruptcy procedure, and the Commission marks them as satisfactory. In Croatia, however, the Commission thinks advance in this area is limited because of the inadequate protection of property rights (more detail below).

Table 7 Closing a business; Bankruptcy variables

	Actual time (in years)	Cost (% of estate)	Efficient outcome achieved *	Court power Index**
Croatia	3.1	18	50	67
Austria	1.3	18	71	33
Belgium	0.9	4	93	67
Czech Republic	9.2	38	22	0
Slovenia	3.7	18	41	67
Slovakia	4.5	18	71	67

** The index is in a range of 1-100, 100 showing perfect efficiency (Finland, Norway and Singapore have 99), 0 means that the insolvency system does not function.*
*** The index is an average of three indicators: whether the court appoints and replaces the insolvency administrator, whether the reports of the administrator are accessible only to court and not creditors, and whether the court decides on the adoption of the rehabilitation plan. Higher values indicate more court involvement in the insolvency process, which is associated with more time and higher cost to go through insolvency, as well as less likelihood of achieving the efficient outcome.*
Source: World Bank (2003:2)

The data in Table 7 show that the bankruptcy procedure is longer in Croatia than in the EU, while in terms of the indicators shown, Croatia does not lag behind the candidates in the success of the bankruptcy procedure.

Regulation of property rights. In the candidates, property laws have been set up. The development of the cadastre is a common problem for the candidates. In Croatia, the main challenge in this area is the establishment of a viable legal system, but the reform of the judiciary and the land registers is behind the deadlines envisaged. For example, the adoption of Rules on transition from manual to electronic processing of land registers, which is quite essential for modernisation, is more than a year late.

The implementation of the project for putting in order the cadastres and the land registers should provide for better protection of property rights and contractual relations, and at the same time make it easier for the courts to be effective, and to manage bankruptcies. At the same time, implementation of the project should help in the reduction of backlogs in the settling of land register items in the municipal courts. With this the real property registration and cadastre project has a direct impact on the effectiveness of the public administration. In addition, augmentation of the security of property rights will create conditions for the development of the private sector and indirectly make entry into the market easier (World Bank, 2002). The scope and importance of

the cadastre and land register reform are illustrated by the fact that the project is envisaged as lasting 15 years. For the first five years of the implementation of the project, the World Bank has earmarked a loan of 26 million euros.

Consensus about the essentials of economic policy. This element holds back the progress of Croatia in the meeting of economic conditions for membership. The Government of the Republic of Croatia has established a special office to coordinate matters of making a strategy (Table 1), and 14 strategies have been accepted by the Parliament in the framework of the *Croatia in the 21st Century* Project. An UNDP study (UNDP, 2002) showed that in Croatia, since independence, more than 100 strategies have been created. Yet these strategies are only multiplied, never applied. The same thing has happened with the reform of the public administration strategy. This strategy had been developed in the framework of the *Croatia in the 21st Century* Project and has been published on the Government's official web site (www.hrvatska21.hr), but not accepted. In the accession countries, acceptance of the objectives of economic and monetary union during the negotiations led to the definition of the direction of economic policy. Thus consensus about integration with the EU lays the assumptions for the consensus on the essentials of economic policy.

Implementation of accepted principles. As previously identified, in Croatia, although strategies are quick to be made, the implementation of them is not efficient. There are no instructions for the implementation of accepted strategies, and they themselves do not define with sufficient clarity who should make them and in what periods of time. A transparent manner for monitoring progress has been set up in the candidates, and this was particularly the case in the pre-accession period.

Level of grey economy. The level of the grey economy has a direct effect on the implementation of market laws. When the underground economy makes up a large proportion of GDP this is an indicator of ineffective market mechanisms and inefficiency of the public administration in the implementation of its (particularly fiscal) functions (Bajec, 2001).[x] The Croatian Bureau of Statistics has published estimates according to which in 1998 the grey economy reached 11.3% of official GDP, and in 1999 10.3% (DZS, 2002). An analysis of differing indicators carried out by Johnson and Kaufmann (2001) shows that in most cases the evaluation of the level of the grey economy is based, among other things, on the estimate of the level of corruption.[xi] According to empirical results (Johnson, Kaufmann and Ziodo-Lobaton,

1998) the level of the unofficial economy is strongly correlated with the corruption perception index (CPI) used by Transparency International (r=0.76). Since the CPI for Croatia has been in constant decline since 1999, we can conclude that the level of the grey economy is dropping too. The results of the project Underground Economy in Croatia 1990-2000 (IJF, 2002) point in the same direction.

Although comparison of the level of the grey economy among countries is very unreliable, according to a frequently quoted estimate (Schneider, 2003), in 2000-2001, the size of the grey economy in Croatia, of 32.4% of GDP is comparable with that of Bulgaria (36.4%) and Romania (33.4%), greater than in the accession countries (e.g., Hungary, 24.4%)[xii] and members of the EU (e.g., Denmark, 17.9%, France 15%, the greatest share being in Greece, 28.5%), but still smaller than in other countries in the West Balkans (e.g., FYR Macedonia 45.1%).

Strengthening customs and tax administrations. The strengthening of customs administrations is essential for the sake of the implementation of the trade policy in which Croatia has made considerable advances. Progress is manifested by inclusion in regional, bilateral and multilateral organisations and through trade liberalisation. All the candidates have concluded a customs cooperation agreement with the EU. Croatia is still at the beginning of this process. The strengthening of customs and tax administrations is essential for the sake of the successful implementation of formal liberalisation, the reduction of the grey economy and so on. The EU helps the development of customs, tax administrations and police in the candidates through twinning projects.[xiii] The first such project in Croatia has already been launched. However, the weakness of the customs administration and police can also be seen in failure to meet the political criteria (the Gotovina case).

Harmonisation of the state aid system with the EU and surveillance of their provision. State aid in Croatia is high (5.25% GDP as against 1.01% in the EU) and sector-oriented (transport, shipbuilding, tourism), while horizontal aid (meant for correction of market failure and meant for all firms, such as research and development, environment protection) is three times as little as in the EU (Kesner-Škreb, Pleše and Mikić, 2003). During the gradual integration into the EU state aid has to be reduced and the principles for its provision will have to be harmonised with principles in the EU. In the SAA implementation plan the establishment of a new and independent State Aid Agency for the surveillance of aid was anticipated by December 2001. In the State Aid Law (NN 47/03) this assignment was allotted to the Agency for the Protec-

tion of Market Competition. Thus, during the implementation, which was more than a year later than the deadlines laid down, the institutional structure previously determined was modified. The change in the basic institutional framework as against that previously planned shows that the proposal was not well prepared, or that political interests prevailed. Both possible reasons show the proposal of regulations without a clear image of how they will be used to achieve the aims, i.e., they show the weakness of the public administration.[xiv] In addition, since the passing of the Law, no department has been set up in the Agency to establish a state aid register. In all the candidates, bodies charged with monitoring state aid are established. They are parts of ministries (Estonia, Bulgaria), agency for the protection of market competition (Lithuania, Poland), or are set up as special bodies (Hungary, Latvia, Slovakia). In the EU, the register of aid has been since 2001 publicly available via the Internet (http://europa.eu.int/comm/competition/state_aid/register), and decisions of whether a given item of state aid is in key with the rules of the single market is made by the European Commission.

Harmonisation of competition policy with EU rules and establishment of economic regulators. In the area of the application of the rules of market competition, a key role is played by the development of market institutions. The institutional precondition for the establishment of a market economy and the achievement of economic growth is the establishment of a market structure and the existence of government intervention only in the case of market failure, i.e., government failure in redistribution (Srinavasan, 1999). The task of market institutions is to supervise the liberalisation of the market and to follow the implementation of regulations; they include bodies for the protection of competition and sectoral regulators (finance, telecommunications, energy). Such institutions in the EU member states and in the candidates are organised as special departments in ministries or as independent bodies. In the EU member states, market institutions started being founded mainly in the 1980s and 1990s; the establishment of independent bodies helped in the strengthening of legal certainty by the limitation of opportunities for political interventionism (OECD, 2003). The independence of market institutions from politics is crucial to attract investors in sectors that were recently liberalised and privatised (transport, energy, and telecommunications) in countries with a developed market economy, and investment in general in the transitional countries. However, independent institutions are not necessarily credible in states with an inefficient legal system. This may be improved by setting out explicit objec-

tives and requirements for reporting to Parliament and government, such as procedural requirements and substantive judicial review (op. cit). In transitional countries, market institutions also facilitate privatisation, which is usually linked with effectiveness. However, "privatising in the absence of a sufficient, market-supporting institutional infrastructure was a serious mistake that could and did lead more to asset stripping than wealth creation." (Stiglitz, 1999).

In Croatia basic market institutions have been set up: the Agency for the Protection of Market Competition, the Telecommunications Council and the Radio and Television Council, the Croatian Energy Regulatory Council. In the area of financial services, some of the regulatory functions are carried out by the Croatian National Bank, and some special bodies have been set up, such as the Directorate for the Supervision of Insurance Companies, the Securities Commission. Pensions reform spurred the foundation of the Central Register of Insured Persons, known as REGOS, and the Agency for Supervision of Pensions Funds and Insurance Companies (HAGENA) (Table 1).

Bodies with comparable authorities were set up in the candidates and in the EU members, and the differences are in the organisation (for example, the Slovene Office for the Protection of Competition is an agency of a ministry, while in most countries these are independent regulators or civil service bodies) and manner of financing (from the Budget or from the fees they can charge). In areas that have been recently liberalised (telecommunications, energy) the harmonisation of the accession states with the *acquis* is in some cases greater than in EU members. It would seem that harmonisation with the recent *acquis* is more effective in the accession countries, primarily because of the conditionality laid down. Thus all the accession countries have energy-regulating bodies, but Germany does not (see OECD, 2003 for more details).

Most of the market institutions in Croatia are formally independent, but the government controls their work by the acceptance of annual reports on their work and through acceptance of their financial plans and financial reports. However, in the procedure for approving financial reports the Government applies principles that are used in the ministries, and thus affects the priorities and activities, as well as the efficiency, of these bodies, not to mention the overall assessment of meeting membership criteria. That is, in an assessment of the capacity of a candidate to cope with competitive pressures and market forces within the EU, an important role is played by the degree to which government

policy and legislation have an impact on competitiveness through trade policy, competition policy and aid (Table 2). Thus the influence of the Government on market institutions might considerably limit the ability of Croatia to meet the conditions for membership.

POINTS OF VULNERABILITY IN THE CROATIAN PUBLIC ADMINISTRATION

In the process of integration into the EU a key role is played by the respect for the obligations from the conditional approach and the SAA. In the first Stabilisation and Association Report the European Commission said that "adequate law enforcement remains one of the major problems. There is a worrying tendency to fail to implement not only politically sensitive court decisions but also more generally. The challenge is to develop an efficient mechanism to ensure implementation of decisions." (European Commission, 2002a)

The second report underlines the progress, but the Commission says that "Croatia needs to pay special attention to strengthening its public administration with a view to ensuring that the relevant ministries and other public authorities are in position properly to implement the numerous legislative reforms to which Croatia has committed itself." (European Commission 2003b).

In terms of size, the Croatian civil service should be big enough for the implementation of the planned measures. An illustrative fact is that Austria has 11 ministries, Czech Republic 13, Slovenia 14, Poland 15 and Croatia 19 (Table 1). At the EU level there are 24 directorates general, which functionally correspond to ministries. That means that in Croatia we have a large number of ministries, and in addition, between 1991 and 2002 the number of units of local and regional government rose from 104 to 560. In Croatia the general government bill comes to 11.1% of GDP. Expenditure for general public services came to 2.9% of GDP in 2002. Thus the fact that a public administration, on whose pay over 11% of GDP is spent, is not capable of putting through the necessary reforms, shows that in Croatia the administration is massive and expensive.

By the SAA Croatia obliged itself to carry out the adjustment necessary for associate membership during the transition period of six years. The deadlines set forth in the SAA are mainly at the end of the transition period. This should ensure that at the initial phase the appro-

priate preparations are taken, among which one of the key ones is the modernisation of the public administration with the objective of making it more effective.

However, the Implementation Plan for the SAA concentrates the main part of the measures foreseen in the first years of the implementation. Authorities responsible to carry out these measures are the same bodies of the public administration that themselves need reforming. At the same time, the National Plan for the Integration of the Republic of Croatia into the European Union supplements Implementation Plan for the SAA with measures necessary for adjustment to the whole EU system during the six-year period. This kind of approach reflects the intention of filling all the criteria for EU membership by the end of 2006. However, the delays identified in the second regular semi-annual report in the key areas of reform – of the judiciary, of state aid and the public administration reform (Vlada RH, 2002a) all threaten the process of integration into the EU. That is, the fulfilment of all Amsterdam and Copenhagen criteria is coordinated by the Government, while it is the bodies of the public administration that are charged with the implementation of them. Since for a successful integration process an efficient public administration is required, the delay in the implementation of its reform (modernisation and increase of effectiveness) threatens the integration.

The National Plan identifies the need to qualify the existing and the founding of new, independent and competent bodies, and to make sure that they can work (through provision of premises, financing and equipment). It says that for this purpose it is necessary to have "a considerable increase of the number of employees as against the existing situation, and to give them basic and specialist training". And yet no mention is made of any reduction of workers in the existing public administration. Reform of the budget, so that it is directed towards programmes and results in the mid-term period, should be a good foundation for stabilisation, and even reduction, of the growth of employment in the administration.

Effectiveness and its connection with the financing of given institutions is an important element in the modernisation of the public administration. The documents of the Government published to date do not provide for the introduction of performance criteria in the public administration, do not systematically identify which bodies should be reorganised and how, and who should monitor the implementation of new regulations. MEI is charged with the coordination of the making of

regulations and tracks them up to the moment they are sent to Parliament. After that, the procedure is not monitored, and it can happen that the ministries charged with the implementation do not make the necessary detailed regulations and instructions, and such failures are never penalised. In the formally independent institutions, through an application of the control mechanism of approving the financial plan, the Government directly affects the effectiveness and action priorities of these bodies. In a Conclusion of April 2003, the Government obligated the regulatory bodies (Agency for Protection of Market Competition, Securities Commission, Insurance Companies Control Directorate, Telecommunications Council, and the Croatian Energy Regulatory Council) to draw up their financial plans based on the same principles that are valid in the ministries (according to the costs method, without any built-in methods for monitoring effectiveness). Further, the government limited the amount of funds for each individual item of the financial plan per employee at the level of the ministries, so that it should not be greater than those in the ministry that has the greatest expenditure per employee for the same item. Linking this amount with the greatest amount per employee creates an incentive for the hiring of a large number of poorly trained and badly paid administrative and auxiliary personnel and/or an irrational raising of costs up to the items that exist in the ministries.

In the same Conclusion the Government obliged the regulatory bodies to pay the difference between revenue and expenditure into the national Budget. Thus the government redefined the regulatory bodies that are not financed from the budget, making them not non-profit but profit-making bodies, the profits of which go to the owner (the state). Although the approach that assumes supervision of the Government over the financial plans and reports is justified because of the inefficient legal system and the accountability for possible abuse, on the other hand the lack of effectiveness of the Government restricts the work in these bodies too. Finally, according to the Government Law (Article 30 Paragraph 3), the Government should not give individual instruction to independent bodies. By breaking this rule (as in example for drawing up a budget) legal certainty, already shaken by frequent changes of laws, is additionally reduced.

For example, the Telecommunications Council was set up in 2001 by the Telecommunications Act Amendments Law (NN 68/01). During the procedure of the selection of commissioners, the term of office was reduced from five to two years (NN 109/01), and the first pe-

riod will be over at the end of 2003. In the meantime, a new law has been passed, and the Council will actually cease to exist, these affairs being taken over by the Croatian Telecommunications Agency. The new Telecommunications Law was adopted during the process of the privatisation of Croatian Television Channel 3, and the best tender was chosen by the members of the Radio and Television Council. This Council will also soon become defunct and its authorities too will be taken over by the Croatian Telecommunications Agency.

Next, reviews of regulations about regulatory bodies and market institutions do away with the ability of independent experts to take part in their work, because all the functions are "professionalised", that is, all experts have to be engaged full-time (the Protection of Market Competition Law regulates the function of the members for the Council for the Protection of Market Competition, and the Telecommunications Law regulates the functions in the Croatian Telecommunications Agency). Full time work is not in itself bad and in theory allows individuals to commit themselves to the full. Still, according to OECD research, in small countries with limited resources, it is harder to ensure the effective work of independent and professional regulators (OECD, 2003). In addition, bearing in mind the condition in the public administration, the intentions of the Government to equalise the wages with the wages of civil servants and to make the budgets in these bodies as in the ministries, not to encourage professional development and training, such provisions might lead to a reduction of the professional level of these bodies.

Finally, through change in the institutional framework, changes in the practice of implementation become feasible, and a space is opened for speculation about whether changes in the law are linked with personnel changes, whether they are a form of political pressure and/or if the new legal framework that provides for the professionalisation of the performance of these duties is a way of increasing the subservience of these *independent* regulators to political pressures.

CONCLUSION AND RECOMMENDATIONS

Since the country became independent, the only serious reform of the public administration in Croatia has been its expansion. The large number of ministries has led to the fragmentation of action and makes coordination more difficult. The result is weak effectiveness and lack of

trust in the public administration. At the same time, frequent changes in the laws that govern the work of bodies with public authorities increase the instability of institutions charged with the enforcement of the laws.

The Government has recognised that an effective public administration is crucial for the implementation of regulations after they have been adopted. However, in the implementation of reform, difficulties have shown up. First, the strategy for the development of the public administration has not been defined. From this derives the on-going need for adjustments, which leads to legal uncertainty. This in turn reduces the credibility of the institutions and strengthens the need to supervise them, which exceeds the Government's capacity. Secondly, effectiveness is not monitored, financial control is poor, and the budget is based on costs. Difficulties in these areas are experienced by the accession countries, individual EU members and institutions at the level of the EU. The differences are in the level of these problems, i.e., to what measure they limit the success of performing the tasks of the public administration. In accordance with the overall assessment of the European Commission, in line with the conditional approach, Croatia is comparable with the Helsinki Group as they were just before the beginning of negotiations in 1999. The main obstacle to further integration into the EU is the weakness of the institutions charged with the effective collaboration with the ICTY and with the implementation of other obligations from the peace agreements, i.e., the individual elements for the judgement of harmonisation with political criteria (Table 8).

According to the elements for the assessment of the public administration during the fulfilment of the economic conditions for membership, Croatia lags behind the candidates and the member states primarily in the implementation of measures necessary for adjustment to the single market (e.g., institutions charged with the monitoring of the giving of state aid). A comparison of the priorities of PHARE and CARDS shows that the problems Croatia is facing are comparable with those of the candidates during the adjustment period. The later start of harmonisation explains the lower level achieved to date.

Reform of the public administration should enable to create the conditions for effective implementation of reforms in other areas, too. This would increase the effectiveness of the public administration, allow deadlines to be met and increase credibility of the government.[xv] Experience of the accession states and of technical and financial assistance might speed up this process. Meanwhile, a key role in the process of strengthening the public administration will be played by the

*Table 8 Assessment of the success of the public administration in Croatia related to meeting conditions for membership**

I Political criteria	☹
a) Common elements	☺
establishment of a legal framework for public administration	☺
separation of political from administrative functions	☺
provision of on-going training for civil servants	☹
definition of material to which the public has access	☺!
strengthening financial control	😐✔
development of the fight against corruption	😐✔
b) Individual elements	
respecting peace agreements	☺
cooperation with ICTY	☹
return of refugees	😐✔
II Economic criteria	☹
a) Development of market economy	☹
simple registration of firms	😐✔
effective bankruptcies	😐✔
effective regulation of property rights	☹
consensus about the direction of economic policy	☹
b) Capacity to cope with competitive pressure and market forces within EU	☹
strengthening the financial sector	😐✔
reform of the system of public finances	☹
strengthening tax and customs administrations	☺!
establishing state aid rules and monitoring their implementation	☹
harmonising competition policy with the rules of the EU	☹
diminishing the size of the grey economy	😐✔

**The public administration in Croatia is evaluated as being successful in cases when according to the indicators considered it is comparable with the candidates invited to become members of the EU.*

Key:

☺ *meets the conditions for membership*

☺! *formally does meet the conditions, implementation needs monitoring*

😐✔ *a level adequate for membership has not been achieved, nevertheless some progress can be seen*

☹ *does not meet conditions for membership*

planning and preparation of reform. To increase the effectiveness of the public administration and its contribution to joining the EU, the following recommendations can be made:

- Define the objectives of public administration reform, order and deadlines for single measures;

- Define and separate the authorities of the various public administration bodies and those of institutions with public authorities (clarify the institutional framework);
- According to the objectives and assignments of the public administration and the institutions with public authorities, lay down their organisation;
- Reduce the number of ministries to make coordination easier;
- Determine performance criteria and relate institutional budgets to them;
- Gradually introduce budgeting in terms of activities;
- Monitoring reforms in all phases in implementation (as opposed to no further than the legislative phase);
- For each measure, appoint just one body, and not several, to be charged with the coordination;
- Reduce the engagement of the Government in managing reforms that are not priorities for the sake of improving its effectiveness; and
- Strengthen the independence of the independent bodies and the transparency of their work.

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[i] *The courts and other institutions that have the authority to hand out sanctions are certainly important for an effective implementation of the regulations. Still, this paper is concentrated on the ability to carry through the regulations, not on the effectiveness with which failures are penalised.*

[ii] *The founding treaty means the Treaty of Nice, or the Treaty Establishing the European Community, consolidated version, with amendments agreed on at the meeting of the European Council in Nice (European Council, 2000:1).*

[iii] *The term conditions here and elsewhere in the text, mentioned in conjunction with membership criteria, imply the conditions from the EU's regional approach, i.e., the obligations to respect peace agreements, work with the ICTY, and create the conditions for the return of refugees.*

[iv] *This concerns Slovakia, Latvia, Lithuania, Bulgaria, Romania and Malta, who started membership negotiations after the European Council meeting in Helsinki in December 1999. For all the countries except for Malta the reason for the later beginning of the negotiations was the failure to meet political criteria. In 1996 Malta put its application, originally submitted in 1990, on hold, but reactivated it in 1998.*

[v] *These are Czech Republic, Estonia, Hungary, Poland, Slovenia and Cyprus, which started membership negotiations in 1998, in line with the decision of the European Council in Luxembourg, December 1997.*

[vi] *Turkey signed an association agreement in 1963. It handed in an application for membership in 1987, but the European Commission in its first opinion concerning Turkey's candidacy was against starting negotiations. The Luxemburg European Council confirmed that Turkey was a candidate, and since 1998 Turkey has been gradually brought into programmes meant for candidates. The first accession partnership was accepted in March 2001.*

vii *These are: market competition and state aid, intellectual, industrial and commercial property, public procurement, standardisation, metrology, accreditation and conformity assessment, consumer protection, company law, accounting law, financial services, land transport, health and safety at work, data security.*

viii *The assessment of whether the public administration in Croatia enables the fulfilment of these political and economic criteria is shown in Table 8.*

ix *All 20 members of the Commission and its president Jacques Santer resigned in 1999 immediately after the publication of an independent report concerning claims about fraud, bad management and nepotism in the work of the Commission (see Euroscope no. 42).*

x *As stated in the introduction, some of the indicators overlap. For a comparison of the level of the grey economy, proxies are corruption and effectiveness of the customs and tax administrations indicators.*

xi *The research covered 9 indicators that were developed by different institutions. Six of them were based on the level of corruption.*

xii *Latvia is an exception; the level of grey economy is estimated at 39.6%.*

xiii *Twinning programmes enable the exchange of know-how between experts in the specific area in the recipient country and the EU member country. This assistance instrument was developed in PHARE for the development of the institutional capacity of candidates in the pre-accession period, and is also applied in the framework of the CARDS programme.*

xiv *This example also indicates the overlapping of indicators of public administration performance – for example, of the implementation of accepted principles as general requirement for individual demand for adjustment to the given areas of the acquis.*

xv *For example, the Energy Law provided for the Ministry adopting the necessary sub-laws in a period of 6 months, and that the operators in the energy field should obtain their licenses for carrying out their activity. However, the Economics Ministry did not adopt any detailed regulations, and reform was not carried out. The only effect of the passing of this law was to increase legal uncertainty, because the laws that were passed were never put into effect.*

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Chapter 8

CONSUMER PROTECTION IN THE PROCESS OF EUROPEAN UNION ENLARGEMENT: CHALLENGES FOR CROATIA

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ABSTRACT

This paper gives an overview of three important aspects of consumer protection in the process of adjustment to the standards and norms of the European Union (EU): aspects concerning legislation and implementation, and, last but not least, the aspect of consumer representation. On the basis of experiences of accession countries (Hungary, Slovakia and Bulgaria) in their alignment with European Community (EC) consumer protection, this paper recalls the initial lack of any reliable tradition, also pointing out, however, the significant results made in this sector in the future Member States of the European Union. The main rationale is that, like in most of the accession and candidate countries, the law on consumer protection in Croatia represents only the starting point in the achievement of high standards of protection of consumer health and safety.

Key words:
consumer protection, consumer policy, Croatia, accession countries, Stabilisation and Association Agreement, European Union, the *acquis*

INTRODUCTION

Harmonisation with consumer protection rules constitutes one of the conditions for the elimination of market barriers and for market

integration that includes the circulation of goods and services with the same standards of safety and quality. In addition, the right of consumers to protection today represents one of the fundamental civic rights. Against this background, it is clear that the issue of consumer protection and its benefits, *inter alia*, for market transparency and fair competition, as well as in connection with the obligations arising from the Stabilisation and Association Agreement (SAA), have not been sufficiently discussed in Croatia. Not less important, no discussion on the basis of the experience gained by the accession countries in their adjustment to the legal heritage of the European Community (the *acquis*) in the field of consumer policy has been initiated.

Hence, one of the purposes of this paper is to examine the tasks placed before different institutions and organisations in Croatia in the light of obligations assumed consequent upon the signing of the SAA in the area of consumer protection. This requires examination of both the latest developments in EC consumer policy and the plethora of principles that characterise this field and its latest trends (Chapter 1).

After a general overview, in Chapter 2 the paper further presents the experiences of the development of consumer policy in the accession countries, especially the difficulties and challenges that follow upon the enforcement of consumer protection law. In this sense, a parallel will be drawn between three countries soon to become EU Member States (Hungary, Slovakia and Bulgaria), and the general characteristics of the process of adoption of consumer protection standards in the given environment of a society in transition will be indicated. Finally, Chapter 3 gives an overview of the first legal basis for the protection of consumers in Croatia - the Law on Consumer Protection (NN 96/2003) - through the three aspects mentioned at the beginning and the tasks to be realised in the initial phase of its enforcement.

Because of the constraints of space, this paper inevitably falls into the trap of offering a simplistic and reduced overview of the exhausting field of consumer protection. Nevertheless it will reflect its final rationale - the long awaited Law on Consumer Protection is not the end but the beginning of a long-term process of formation of consumer-friendly society in Croatia.

CONSUMER PROTECTION IN THE EUROPEAN UNION

Consumer protection covers economic, legal and health and food safety issues related to consumer, consumer information and edu-

cation and the contribution of consumer associations to the development of consumer policy and the market economy in general.[i] Right at the beginnings, the 1957 Treaty of Rome constituted an unfavourable legislative background to the field of consumer protection, containing only four explicit references to the consumer, related to the common agricultural policy, its organisation and abusive conduct by dominant firms. None of them reflect an attempt to develop a sophisticated structure of consumer interests or rights, rather the assumption that the consumer will benefit from the process of integration through the enjoyment of a more efficient market, which will yield greater competition, allowing wider choice, lower prices and higher quality products and services (Weatherill, 1997). Consumer protection has therefore for a long time been characterised as a policy subordinated to the completion of the European internal market, since measures for consumer protection have been taken through harmonisation directives narrowly linked with the internal market (Stuyck, 2000).[ii] The first recognition of the protection of consumers was introduced by the Council Resolution of 14 April 1975 on a preliminary programme of the European Economic Community for a consumer protection and information policy (Official Journal C92/1, 1975), endorsing five categories of fundamental rights of consumers:[iii]

- Right to protection of health and safety – the use of goods and services should not present any danger if used in normal conditions. If a product or service is found to be dangerous, a proper procedure should provide for its withdrawal from the market.
- Right to protection of economic interests – the buyer must be protected against certain selling practices, especially in the field of loans and such.
- Right of redress and right to legal remedy.
- Right to information and education – the consumer must be informed on the characteristics and the use of products and services.
- Right of representation (the right to be heard) – consumers must be represented in other EU policies.

The 1975 Resolution constituted the formal inauguration of the consumer protection and information policy of the Community, and although it was directed at economic integration, it still represents the basis of today's Community legislation in the area of consumer protection. From the perspective of consumer interests, the project of economic integration got its "human face" in the 1991 Treaty of Maastricht, which introduced the separate Title XI (Article 129a) devoted to con-

sumer protection, and for the first time gave full legitimacy to an autonomous consumer policy empowering Community action in the consumer protection field. However, it was only the 1996 Treaty of Amsterdam that liberated consumer policy from its linkage with internal market legislation. Why was this so?

The new Article 129a (Article 153 after renumbering) gave the Community the task of contributing to the protection of the health, safety and economic interests of consumers, as well as the promotion of their rights to information, education and organisation in order to safeguard their interests. The attainment of those objectives should be pursued through measures adopted in the context of the completion of the internal market, and measures that support, supplement and monitor the policy pursued by the Member State. The Treaty further clearly recognises the *right* of consumers to information, education and organisation. Since consumer rights were never previously recognised as a (subjective) *right*, but merely as an *interest* to be taken care of, this can be regarded as one of the main contributions of the Amsterdam Treaty.

That consumer policy has recently been ascribed increased importance was demonstrated in the 2003 draft version of the new Treaty establishing a Constitution for Europe. The draft Treaty addresses consumer protection in Article 13, and places it in the Union's area of shared competence, that is, in the same group with policies such as the internal market, the area of freedom, security and justice, environment and transport. In the light of social, scientific and technological changes, the Charter of Fundamental Rights of the Union, incorporated in the draft Treaty, included the obligation of Union policies to ensure a high level of consumer protection into one of the Union's fundamental rights, freedoms and principles (Draft Treaty, 2003).

Nevertheless, one of the main ideas of this paper is to explore the characteristics of consumer protection in the context of EU enlargement. Therefore it is necessary to outline some of the principles which shape this policy and, according to it, the process of the approximation to its norms and standards. The obligation of harmonisation with the *acquis* simply means the adoption of all the standards that are in force at the EC level. EC consumer protection aims at guaranteeing consumer rights, *inter alia,* by its principles of horizontal implementation, subsidiarity and the principle of minimum harmonisation. Horizontal implementation implies that consumer protection requirements should be taken into account when defining and implementing other policies that have an impact on consumers. The principle of subsidiarity implies

that EC action in the field of consumer protection is to complement, rather than replace, national regulation on consumer protection. The last principle of minimum harmonisation is common to many consumer protection directives. Rather than setting a single Community rule as both floor and ceiling, the Community measure acts as a floor, but the ceiling is set only by primary Community law (Weatherill, 1997). In other words, Member States are given the possibility to maintain or introduce stricter rules of consumer protection in their territory that are compatible with Community law. The attraction of the "minimum formula" and of subsidiarity lies in their capacity to reflect the cultural heterogeneity of the Member States, avoiding the risk that Community measures may suppress well-developed national initiatives in the field of consumer protection (Weatherill, 1997). Since directives represent instruments of minimum harmonisation, usually it is the result of compromises of the Member States to harmonise their consumer protection systems, which as an outcome has some unfavourable effects (Stuyck, 2000), such as the inconsistent consumer protection legislation and the different level of development of consumer protection in the EU Member States. Although the trend reflected in the three principles might cause the fragmentation of the Community market (which is actually happening), it may also be seen as an attempt to accommodate the diverse national traditions of the EU Member States.

Beyond its legal aspects, the policy aspects of consumer protection will serve indirectly to illuminate the aspects of institutions and consumer representation. In an attempt to adjust consumer policy to the current challenges, the European Commission regularly presents its plans for the development of consumer priorities in the form of *Action Plans*. These documents lay down general principles and objectives and determine the direction of the EC consumer policy, and, could therefore be understood as some sort of general national plans for consumer protection for the given period. One such example, in light of the limited success achieved in the area of informing and educating consumers (especially in the area of public and financial services and food safety), is the Commission's three-year Action Plan for the period 1996-1998 aimed at anticipating the effects of technological changes and the opening-up of national markets (COM/95/519 final). The Plan was focused on ten priority areas: improvement of the education and information of consumers; strengthening of their representation; ensuring that consumers' interests are fully taken into account in the internal market; preparation of consumers for the challenges of the information society;

protection of consumer interests in the supply of essential public utility services; facilitation of consumer access to financial services; improvement of consumer confidence in foodstuffs; encouragement of a practical approach to environment-friendly consumption, and completion, revision and maintenance of the legislative framework. According to the Action Plan, the Commission has put a lot of effort into updating policy objectives to tackle the issues of the information society and especially to regulate sectors like telecommunications, postal services and others.

The next three-year action plan was influenced by the change of nature of markets and consumer expectations. By that time it was clear that more attention should be devoted to the persisting overlaps and interlinks between consumer policy and other policies (see the principle of horizontal implementation). Therefore the Commission's Consumer Policy Action Plan for the period 1999-2001 formulated three main objectives aimed at enhancing consumer policy: a more powerful voice for the consumer through consumer associations; a high level of health and safety for EU consumers, and full respect for the economic interest of consumers throughout the EU (COM/696/98). In the following period, priorities were not shifted, but only formulated to take a broader perspective (Moussis, 1998) and to take into account the forthcoming EU enlargement. The last Consumer Policy Strategy for the five-year period 2002-2006 sets out mid-term objectives designed to help the achievement of the integration of consumer concerns into all other EU policies, to maximise the benefits of the single market for consumers and to prepare for enlargement. These are: a high common level of consumer protection, effective enforcement of consumer protection rules, and involvement of consumer organisations in EU policies (COM/208/2002). Hence, a thorough analysis of the objectives of the EC consumer policy will reflect the problems of implementation and consumer representation suffused through almost a decade of EC consumer protection.

CONSUMER PROTECTION IN THE EUROPEAN UNION ACCESSION PROCESS

It is widely understood that full respect for consumer rights is one of the signs of successful democratic transition. From the economic point of view, the approximation of rules in the field of consumer

protection reflects the level of market transparency and contributes to the overall image of the candidate's successful transition to the market economy. The experience gained in the accession countries proves that the obligation to take on board the EU *acquis* (or body of legislation) has been the main reason for the introduction of new laws on consumer protection and of other regulations, and the foundation of institutions and bodies dealing with consumer policies. This is to say, it has been mostly the result of political will to ensure in a timely manner that consumer protection policy in the accession countries is adjusted to EU legislation (Guidelines, 2000). The same phenomenon is noticeable in Croatia.

For a better understanding of what consumer protection in the process of adjustment implies, it is necessary to mention one of the pillars of the accession process. The European Commission's *White Paper on Preparation of the Associated Countries of Central and Eastern Europe for Integration into the Internal Market* presents the essential purpose of Community legislation in each sector, explains the organisational and administrative context in which legislation must operate and recommends a clear order in which the approximation could be made (COM/95/519). In the area of consumer protection policy, this document sets out a list of consumer issues to be dealt with by the candidate countries as they prepare for accession, while the decisions about priorities and speed are explicitly left to the countries to make. In other words, each of the countries has chosen its priority areas, which reflect their economic and political realities.[iv] In order to anticipate the possible dynamics of the adjustment to the given norms and standards in Croatia it is necessary to emphasise that the *White Paper* gave special attention to the participation of the countries of Central and Eastern Europe in the programmes of legal and technical assistance that would provide for the further development of consumer policies. As early as 1995, there were special projects initiated within the PHARE programme in the candidate countries which aimed at the formation, development and implementation of effective consumer policy.

The second equally important pillar of the accession process are European Agreements, according to which the countries commit themselves to approximating their legislation to that of the EU, particularly in the areas relevant to the internal market, the conceptual reasons for which will be elaborated in the next chapter.

Consumer protection in the process of legal approximation is somewhat different than in other areas, covering the area of protection of economic and legal interests and protection of health and safety,

including the area of consumer representation, information and education. The horizontal nature of consumer policy makes it almost impossible to count all the directives to be transposed into legislation and that concern the consumer in the market. However, it is useful to mention some of the Directives, some of which belong to Stage I priority measures for the approximation of candidate countries' rules to EC legislation.[v] Some of the directives comprising the legislative *acquis* of the Chapter 23 on consumer and health protection are the Directive on misleading advertising (84/450/EEC and amendments 97/55/EC, Stage I), the Directive on consumer credit (87/102/EC and amendments 98/7/EC, Stage I), Product liability (85/374/EC), the Directive on unfair terms in consumer contracts (93/13/EEC, Stage I), the Directive on doorstep sales (85/577/EEC), the Directive on indication of prices (79/581/EEC and amendments 98/6/EC, Stage I), the Directive on timeshare property (94/47/EC), distance contracts (97/7/EC), the Directive on guarantees for sale of consumer goods and injunctions against unlawful practices (96/107/EC), and others. Specific aspects of consumer protection are also to be found outside Chapter 23 in the areas of food safety and the free movement of goods and services, which once more recalls its horizontal nature.

Case studies: Hungary, Slovakia and Bulgaria

The success of approximation in the three aspects of consumer protection in the accession countries (legislation, implementation and consumer representation) is primarily the reflection of the progress achieved in the field, as well as the differences in tradition and initial socio-economic environment. In order to compare certain aspects of the adjustment process in this domain against those visible in Croatia, it is necessary to present the adjustment process in the accession countries. Parallels will be drawn with Hungary, the so-called first wave country, representing an example of a successful transition to consumer-friendly society, Slovakia, belonging to the same group of accession countries with somewhat different results in the area, and Bulgaria, which represents a so-called second wave (candidate) country still having considerable amount of legal and institutional adjustments to make.

Europe Agreements are the legislative pillar binding the candidate countries to harmonise their laws with EC consumer protection *acquis*. The three countries signed Europe Agreements between 1991

(Hungary) and 1993 (Slovakia and Bulgaria), in the period that implies the limited (although already progressive) understanding of consumer protection in the EC in which health, safety and economic interests of consumers still had a status of *interest*, rather than *right*. This was clearly reflected in the substance of Title VI of the Europe Agreements that the EC signed with the three countries[vi] which envisages full compatibility of the Hungarian, Slovak and Bulgarian consumer protection systems with that of the Community, and co-operation comprising the exchange of information and experts, access to Community data bases and training operations and technical assistance.

Nevertheless, in its *White Paper* the European Commission stated that the main challenge for the adjustment process lies not in its legislative aspect, but in the adaptation of the public administration and the society so as to make the legislation work (White Paper, 1995). In the same vein, this aspect is confirmed by the European Commission's Action plans. Overall responsibility for the aspect of implementation lies within institutions and their co-ordination, which results in a more or less effective protection of consumers. For the purpose of this work, there are two benchmarks chosen for the evaluation of a successful transition to an efficient system of the protection of consumer's interests and right - the system of market surveillance and the out-of-court dispute settlement system.

The third aspect involves consumers and consumer associations and the information and education of consumers. Experience shows that enforcement and surveillance done by public institutions become highly difficult if the consumers themselves are not alert to the possible failures of the market. Consumer information and information input are, so to speak, the keys to successful consumer protection. Having this in mind, it is important to ensure that consumer associations initiate long-term projects directed at the provision of the necessary information as well as to develop targeted consumer education. On the other hand, ways of stimulating independent research through universities and other centres of excellence need to ensure that expert knowledge is developed on a variety of consumption issues. Consumer organisations should have the legal right to work with public authorities in both creating and monitoring consumer policy and improving its effectiveness. Nevertheless, as the experience of the consumer associations in Hungary, Slovakia and Bulgaria witnesses, the availability of financial sources conditions their empowerment and their final impact on consumer culture.

Table 1 represents a simple systematisation of the three aspects of consumer protection in the three accession countries. It points out the key weaknesses as well as the time required for some segments to start functioning properly.

Table 1 Overview of the aspects of the adjustment to the consumer protection acquis in Hungary, Slovakia and Bulgaria

	Hungary	Slovakia	Bulgaria
Legislative Aspect Law on Consumer Protection	Enacted: 1997 Entered into force: 1998	Enacted: 1992 Entered into force: 1993	Enacted: 1994 Entered into force: 1999
Implementation Aspect Market surveillance body[vii]	General Inspectorate of Consumer Protection Advantages: contribution to education and information activities Disadvantages: insufficient co-ordination between the bodies (for example local units) responsible for market surveillance	Trade Inspectorate Advantages: work efficiency Disadvantages: lack of co-ordination between the bodies responsible for market surveillance	Commission on Trade and Consumer Protection Advantages: recently strengthened administrative capacities Disadvantages: The law is conducted at an *ad hoc* basis; inefficient co-ordination and co-operation between the market surveillance bodies; lack of strategic approach to market surveillance
Implementation Aspect Out-of-court dispute settlement formed/started working in a full capacity	Arbitration Board, 1998/2001	Not existing	Conciliation Commission 1999/still not properly functioning
Consumer representation Aspect	High level of consumer awareness of their rights. Consumer associations are highly efficient and have three potential sources of government funding.[viii]	Consumer awareness of their rights develops progressively. The functioning of consumer organisations progressed and strengthened through major legislative changes in 1998 and 1999.	Low consumer awareness on their rights. Consumer associations still lack capacities and the financial commitment from the part of state authorities, which results in an insufficient impact on development of consumer culture.

Source: European Commission Annual Country Reports (1999-2002); Consumer Policy and Consumer Organisations in Central and Eastern Europe, 2000; Compiled by the author

All three countries identified consumer protection as a medium-term priority. By enforcing the law on consumer protection they have set up a general consumer protection system, which initially required stronger efforts in legislative harmonisation. Indeed, as early as 1997 most of the candidate countries had achieved or begun to prepare some fundamental reforms. Nevertheless, the general picture still reflected a too-dispersed consumer protection legislation, administrative barriers, lack of co-ordination and still, very often, dependence upon measures pursuing other policy objectives (International Consumer Research Institute, 2000).

The experience gained by the accession countries testifies to the complexity of the enforcement aspect of consumer policy in the "post-Law" period. Namely, in most of the accession countries it took two to three years for the different segments of implementation of consumer protection to start functioning. The Table also shows that in Slovakia and Bulgaria, and partially in Hungary (like in most of the accession countries), the segment of market surveillance and the co-ordination and co-operation between the responsible bodies has been a bottleneck in the enforcement of consumer protection. The existing theory and the modest literature in the field of consumer protection stresses that the process of development of institutional co-ordination is itself a part of the wider process of development of law and policies directed to consumers (Weatherill, 1997), which leads to the conclusion that an inefficient market surveillance system reflects an inefficient consumer protection system. The second criterion is the out-of-court dispute settlement. It is not possible to give a complete picture of this segment because of the lack of available data in Hungary, Slovakia and Bulgaria. However, the general picture shows persistent problems in the implementation of this segment, too. Therefore all three countries continue with further legislative alignment, which should (in the long run) improve institutional co-ordination and efficiency. The consumer representation aspect shows that the given environment, as for example, continuous financial assistance, conditions the final results of the work of consumer associations.

A system that contributes to the improvement of co-ordination and co-operation is RAPEX, a system for the rapid exchange of information on dangers arising from the use of consumer products that the Community put in place in 1984. RAPEX provides for the transmission of information about urgent measures taken at a national level because of "the serious and immediate risk that product presents for the health or safety of consumers when used in normal and foreseeable condi-

tions" (Weatherill, 1997).[ix] This system envisages the sharing of information in order to reduce inefficiencies where the same problem is tackled by different authorities in different states taking different approaches. In the accession process, all the countries take part in TRAPEX (*Transitional Rapid Exchange of Information System*), a system set up on the basis of RAPEX with the aim of connecting market surveillance authorities in Central and Eastern European applicant countries.[x] In practice, in order to achieve these goals, institutions should have the necessary financial resources, must be transparent and able to apply effective sanctions.

The actual level of consumer protection in the three case countries gives at the same time the picture of the situation in the sector in almost all of the accession countries. Hungary is today considered an optimum case scenario, partly influenced by the socio-economic and cultural background.[xi] Initial weaknesses in the implementation of consumer policy reflected the lack of competent personnel, lack of technical equipment and lack of consumer awareness of rights, which with time improved through financial assistance projects within the PHARE programme. Consumer protection in Hungary is actually characterised by a smooth functioning of the implementation of consumer policy and by continuous education and information programmes, fully meeting the commitments made in accession negotiations in the domain (COM/2002/700). Slovakia has considerably advanced in the process of legislative alignment and administrative capacity building, which ensures Slovakia's inclusion into the group of a functioning consumer protection system (COM/2002/700). On the other hand, it took four years for the consumer legislation in Bulgaria to be enforced. The initial weaknesses in its implementation consisted of the uncompleted legislative framework and the low awareness of consumers and public and private institutions of their rights or obligations. The lack of any clear concept and strategy of consumer protection, demonstrated by the low-level activity on the part of the Ministry of Economy and the National Council on Consumer Protection, the consultative body (COM/2002/700), significantly impairs the overall picture of consumer protection in Bulgaria.

CONSUMER PROTECTION IN CROATIA

On the basis of the experience gained in the accession countries it is, *ceteris paribus*, possible to preview the dynamics of the adjust-

ment process in Croatia, for most of the issues common to the transition countries as well as for consumer protection. This is not discussed enough, if at all, in Croatian society.

As far as consumer protection is concerned, the experience from the EU accession process ought to be taken as a sort of "guide" to the institutions to be responsible for the development and enhancement of this field in Croatia. The Stabilisation and Association Agreement between Croatia and the European Communities and their states, just like the European Agreements, stipulates, among other things, the obligation of harmonising with the EC legal system and, by virtue of Article 74, the obligation to adjust its consumer protection to that currently in force in the European Communities (NN 14/2001). In the area of consumer protection, the Agreement provides for the harmonisation and adjustment of Croatian consumer protection law with similar laws applied in the Community; promotion of active consumer protection policies, including more information and development of independent consumer organisations, and effective legal protection of consumers in order to improve the quality of consumer goods and maintain appropriate safety standards. It furthermore recognises the necessity of effective consumer protection for the proper functioning of the market economy and that the protection will depend on development of the administrative infrastructure in order to ensure market surveillance and law enforcement in this field.

Before presenting the tasks and challenges of the development of consumer protection in Croatia, it is necessary to give an overview of the situation on the eve of the initial enforcement of the first Law on Consumer Protection. The aim of protection of consumers was for the first time presented in the Programme of Croatian Government in the year 2000. Since then, the situation in the media has been marked by a progressive introduction of the issue of protection of consumers, especially thanks to the co-operation between consumer associations and the representatives of local and national media (Upitnik, 2003).

The first step forward was the ratification of the SAA in 2001. At the same time within the legislative framework, the importance of consumer protection as a value of democratic societies and for market transparency was not affirmed. Not by chance, similar to the initial legislative environment in the accession countries, legislative environment in Croatia has been fragmented, with numerous laws giving a certain protection, but qualitatively and quantitatively not at the same level of protection guaranteed to consumers in the EC (Baretić, 2002).[xii]

The adoption of the Law on Consumer Protection (NN 96/2003) in June 2003 was a major step forward towards the systemised development of consumer protection (entering into force in September 2003). Although seriously lagging behind all the trends in the transition countries, this wide-ranging law is significantly harmonised with EC consumer legislation, incorporating the main requirements in the fields of contracts negotiated away from business premises, distance contracts, consumer credit, unfair terms in consumer contracts, timeshare, misleading advertising and indication of prices following the relevant directives that, according to the Commission's *White Paper*, constitute priority measures in the process of adjustment to EC consumer policy. In general, the Law does give the public authorities and consumer organisations a clear legislative basis for dealing with consumer protection, and on the other hand, it forces business and entrepreneurs to understand that protection issues have to be taken into account.

The Law indicates those principally in charge of or responsible for consumer protection in Croatia. It is certainly necessary to mention the National Consumer Protection Programme, which primarily determines the priority areas in the field of consumer protection to be financed from the budget for the period of two years. The Programme, furthermore, stipulates the main principles, goals and priorities of implementation of consumer policy and the scope of use of financial resources needed for the implementation of its task, as well as of financial resources for the development of non-governmental organisations. Since the Programme is to be prepared during the second half of 2003,[xiii] it is not possible to analyse its priorities and its strengths or weaknesses thoroughly. Nevertheless, results of the research show that no analysis whatsoever of the main problems of consumers and consumer associations in Croatia exists, nor does any "knowledge-base" data previously carried out by the responsible bodies. Therefore it remains unclear on what basis and according to which strategies the national priorities for consumer protection will be chosen.

The Council for Consumer Protection is a consultative body to be established pursuant to the new Law. It will represent a formal body whose task will be to develop a systematic dialogue between the representatives of public institutions, consumer organisations and other institutions relevant for the enhancement of consumer protection in Croatia (Croatian Chamber of Commerce, Croatian Employee Association, research institutions, consumer associations, etc.).[xiv] Its tasks also include regular evaluation of the implementation of the Consumer Protection Programme.

The institutional aspect implies efficient institutional structures to be set up at the national as well as the local level in order to ensure the effective implementation of the new legislation. On the basis of the Slovak, Bulgarian and Hungarian experience, it is expected that this task will be complex to attain in a timely manner. In view of this, there is a need for further legislative alignment at the level of secondary legislation (directives, regulations) to regulate and give support to implementation of the law, as well as to regulate the relations among and co-ordination of the ministries, the State Inspectorate responsible for market control and finally to the consumer associations. Finally, anticipation and better co-ordination seems the only way in which the bodies responsible for the realisation of consumer protection could strategically approach the field of consumer protection. With this in view, it is important for the responsible institutions in Croatia to join the TRAPEX system.

This leads us to the last but not the least important aspect of consumer protection – consumer associations, led by two major players, the Consumer and the Croatian Association for Consumer's Protection. Past work in this field has been marked by a lack of serious dialogue between consumer associations and the public administration or the business sector in Croatia (Upitnik, 2003). Since 1998 the Ministry of Economy, responsible for this area, has worked closely with the two consumer associations, in order to revise and prepare a legislative framework for the protection of consumers. However, the turning point in the work of consumer associations represented the progress in the relations of Croatia with the EU. This intensified the processes resulting in the increase of the level and substantiality of co-operation with the institutions responsible for consumer protection, which is today characterised as 'active partnership' (Upitnik, 2003). The importance of the development of an active partnership is also reflected in the projects foreseen in the framework of the CARDS programme for the year 2002.[xv]

This brings us to the question of the financial capabilities of consumer associations, which condition their empowerment and influence. Consumer associations in Croatia have for a long time been excluded from more significant financial assistance projects coming from the national budgetary resources, as well as from international programmes of financial assistance. However, the National Programme does presume financial support, although at the time of the writing of this paper, it is not known to what extent. It has to be admitted that for the foreseeable future all consumer organisations will continue to depend heavily

on external funding, which, to ensure continuity of the services, will need to come from national sources.

In comparison to the PHARE programme, which has offered technical assistance to the candidate countries since 1995, delays in closer co-operation of Croatia with the EU produced a domino effect in delays in all aspects, including the field of consumer protection. Besides the lack of financial assistance offered to consumer organisations from international programmes, technical assistance to be agreed by the public administration has been lagging behind the time dynamics seen in the candidate countries. To give an example, in 2001 and 2002 the opportunity of application for the inclusion in a consumer association support programme financed by the German foundation *Deutsche Gesellschaft fuer technische Zusammenarbeit* (GtZ) ended unsuccessfully because of inadequate time planning on the part of the Ministry of Economy (Brčić Stipčević, 2002), reflecting once more the lack of co-ordination of the institutions responsible for this field.

It is not possible to evaluate the level of consumer awareness of their rights and opportunities stemming from the Law on Consumer Protection in Croatia. Consumer associations will nevertheless have to place special attention on the activities of educating, informing and campaigning in order to develop the concept of an *active* consumer and *active* consumer protection. It is within their responsibility to establish out-of-court dispute settlement bodies (arbitration *ad hoc*), although the Law does not present any further details on it. From the Slovak and Bulgarian experience it is expected that there will be a need for the introduction of additional legislative acts to enable this kind of arbitration to function properly, in addition to that based in the Croatian Chamber of Commerce.

REMARKS AND RECOMMENDATIONS

The mere fact that the Law is coming into force in 2003 leads to the conclusion that Croatia seriously lags behind the process of development of a fundamental civic right, which is confirmed by the preliminary text of the Constitutional Treaty. The obligations stemming from the SAA, as well as the characteristics of consumer policy legislation such as horizontality and heterogeneity, indicate the difficulties that Croatian institutions and organisations dealing with consumer protection might soon face. It is possible to elaborate on the following chal-

lenges of the development of consumer protection and give the following recommendations:

The legislative and institutional sphere of consumer protection:

- Initially, implementation of the Law on Consumer Protection must be the basis for the development of consumer culture in Croatia. Successful implementation implies further legislative changes and the implementation of the consumer dimension into Croatian legislation (positive discrimination in favour of consumers).
- If the experience of candidate countries is reconsidered, success in the development of the protection of consumer rights and interests is determined by success in implementation and by effective market surveillance. Therefore, the institutions responsible for this aspect should consider better co-coordination and co-operation. It is equally important that the process of establishing and making operational all the necessary administrative structures does not lag behind the process of legislative adjustment.
- In order to have a functioning market surveillance system, it is necessary for Croatian institutions to join the TRAPEX system.
- In the light of consumers' legitimate expectations, it is necessary to enhance the work of out-of-court dispute settlement bodies. The reconciliation bodies – actually operating under the Croatian Chamber of Commerce – should be established in a more "neutral" place.
- The consumer associations should play a crucial role in the process of development of consumer culture in Croatia. They should contribute to the proper enforcement of consumer protection measures through their general market surveillance role of a kind of "reality check" (COM/208/2002), especially in the field of services of general interest such as telecommunications, transport and others.
- A system of financial support aimed at strengthening the capacities of consumer associations and possessing the necessary technical expertise should be enhanced on a continuous basis.

The sphere of consumer information, education and research:

- Continuous financial support from national sources to activities related to educating and informing consumers (for example, general publications and specialised material and textbooks for consumer protection training) should enable effective provision of information and

education. Conditions for continued viability of independent professional publications for consumer protection should also be ensured.
- It is necessary to introduce consumer education into school curricula in primary and secondary schools and universities, and to develop teaching materials, teacher training and other supporting activities.
- Research and a knowledge base on consumer protection should be stimulated through different academic programmes.

It is obvious that the consequences of effective consumer protection go beyond the EU accession process itself. The aspiration of Croatia to become an EU candidate country and the successful implementation of the Law on Consumer Protection should influence the awareness of consumer protection and make all the actors more mature and aware of their rights. Nevertheless, the irreversibility of this process and the long-term impact on society as a whole seems to represent even more of a challenge.

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i *Food safety issues will not be raised in this paper.*

ii *Consumer protection legislation has been developed mostly in the form of directives, representing a solution to the barriers identified in the circulation of goods and services in the European internal market.*

iii *Paragraph 4 of the Programme states that the rights of consumers should be given greater substance not only by information and protection policy but also by action under specific Community policies, such as economy, common agricultural policy, environment, transport, as well as by the approximation of laws, all of which affect the consumer's position (NN C92/1, 1975).*

iv *Initially, many candidate countries had a problem of overburdened parliamentary timetables or unfamiliarity with the issues, resulting in very slow progress (White Paper, 1995).*

v *In its 1995 White Paper the Commission presented the legislation in each area in a way that divides Stage I and II measures representing indicative priorities and guides for the effective approximation. Since then, a significant number of the mentioned measures were amended or even disappeared from the list of priorities.*

vi *European Agreements signed in 1995 were to a certain degree enriched by the information and co-operation aspects.*

vii *Representing bodies only in the non-food area.*

viii *Consumer organisations in Hungary currently have three potential financial sources of government funding: the general programme of financial support for all non-government organisations, annual subsidies for consumer organisations stipulated by the Act on Consumer Protection and the General Inspectorate fund. The 1998 Government Decree on the powers of the General Inspectorate specifies that 30% of all penalties extracted from traders should be put into a fund for research, training and other projects by consumer organisations (Consumer Policy and Consumer Organisations in Central and Eastern Europe, p.46).*

ix *It is, however, important to stress that the objectives of institutional co-ordination of consumer policies cannot be achieved simply by "top-down" Community initiatives.*

The "bottom-up" initiatives, the informal cooperation between different agencies and bodies driven by local knowledge can produce a better informed system than can be devised at the more abstract level of legislative planning, remote from practical enforcement (Weatherill, 1997).

[x] *The TRAPEX system was set up in May 1999. The Co-ordination Secretariat is situated in Budapest, while the responsibility for organisation lies with the Hungarian General Inspectorate of Consumer Protection.*

[xi] *Hungary is one of the first countries in CEE to a develop consumer movement, in 1982, and consumer culture in general.*

[xii] *With the exception of the Law on Trade, laws do not guarantee protection to consumers as a special category. This leads us to the conclusion that there is no systematic consumer protection policy in Croatia.*

[xiii] *According to the revised version of the Implementation Plan of the SAA, the Ministry of Economy should establish a Consumer Protection Agency by October 2003 and the National Consumer Protection Plan six months from the entry into force of Law of Consumer Protection.*

[xiv] *Energy Activities Regulation Council is one more body to promote, inter alia, effective dialogue between consumers and regulators.*

[xv] *The project Institutional capacity building in the field of consumer protection financed by the CARDS 2002 resources.*

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Chapter 9

ENVIRONMENTAL PROTECTION: PUBLIC PARTICIPATION AND ACCESS TO INFORMATION

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ABSTRACT

Awareness of the need for environmental protection must in Croatia be translated into a clear, overall and long-term concept, particularly because of the process of rapprochement with the European Union (EU), in which it is one of the key topics. This paper gives a brief review of the existing system of environmental protection in Croatia with emphasis on the institutional framework, the information system, the education system, and public participation. In the context of access to information and public participation, separate treatment is given to the Aarhus Convention, as well as to attitudes to this convention in Denmark, Estonia and Croatia. It is upon the basis of attitudes to Aarhus, one of the possible models for the democratisation of the process of environmental protection, that the final part of the paper draws certain conclusions and recommendations for political decision-makers and agencies in charge of implementing such decisions on Croatia's path to convergence with the EU.

Key words:
environmental protection, convergence with European Union standards, information system, environmental awareness, public participation, Aarhus Convention

INTRODUCTION

The process of convergence with the EU has led to new challenges in the protection of the environment. The EU requires detailed regulation of all matters in this area, with numerous statutory, administrative and financial modifications. At the same time, important changes are required in the organisation of human resources, in harmony with the environmental *acquis*.[i] It is necessary the while to pay attention to the numerous Croatian national special features and needs. This matter needs approaching with extreme seriousness; it has to be carefully planned, organised, financed; and finally, everything that is in the long-term national interest must be accomplished irrespective of the outcome for EU candidacy. That is, adoption of the environmental protection standards of the EU, never mind what our final status inside the EU, will provide us with a higher level of environmental protection, and the opening of the Croatian market to Europe with respect to trade in goods and services.

As well as an objective, the paper has a component relating to subjective experience. During work over the last few years for a number of projects for the Ministry of Environmental Protection and Physical Planning (abbreviated below to Ministry of the Environment), an absence of any high-quality strategic approach to the overall environmental protection policy was noted. The projects had been on the whole initiated, financed and put through by the relevant European bodies and consultancy firms. The purpose of the projects was to enable Croatia to become acquainted with the imminent procedure for converging on EU standards, as well as its own advantages and shortcomings in the framework of the process. The experience of other countries showed that right in the basic organisational segment there were a number of changes waiting for us so that we should be able to transfer and apply EU standards. Strengthening social capital, that is, educating the public, allowing more access to information and enabling public participation in matters of environmental protection are all just the next step on the way. This step is of course conditioned by changes of an organisational form. Accordingly, environmental protection requires an integrated and multidisciplinary approach.

The paper analyses the existing system of environmental protection in Croatia as well as its strengths and weaknesses. The emphasis is placed on the social capital that the existing system of environmental protection does have, with an emphasis on the information, education

and public participation systems. A particular account is given of the Aarhus Convention and the attitudes of Denmark, Estonia and Croatia towards the ratification and implementation of this Convention. The conclusions drawn and recommendations made at the end are primarily concerned with the procedure for drawing up a future strategy for the procedure of harmonising environmental protection regulations, which Croatia has registered with CARDS 2002-2004.[ii]

THE CURRENT SITUATION IN CROATIA

The EU convergence procedure is in itself highly predictable and in essence comes down to the adoption of standards and procedures that the EU has set up for itself, and that it has mostly already fulfilled, and then additionally imposed as conditions on all the candidates. The EU has explained the procedures through the mass of cookbooks and guides (Guide to the Approximation of EU Environmental Legislation, SEC (97) 1608) and documents (White Papers, Green Papers) and shown the way it is most advisable to take.[iii] Experience shows that harmonisation with the policies and standards of environmental protection will be exceptionally complex and demanding for the candidates because of the marked differences in the standards to date, the differences in the legislative and administrative situation, and because of the actual state of affairs in the environment. And, of course, convergence will be expensive. It has been calculated that the overall price of the basic steps for convergence in matters of environmental protection will come to about 120 billion euros for the ten East European candidates. Slovenia has estimated its costs for converging on EU standards and for accession at 1,300 euros p.c. in the area of environmental protection.[iv]

By signing the SAA in October 2001, and then submitting its official candidature for membership in the EU in March 2003, Croatia confirmed its wish and hence the obligation to adopt the existing law of the EU. There are also specific obligations of Croatia in this domain that derive from the SAA. The SAA Implementation Plan has already defined detailed measures and certain deadlines by which statutes have to be harmonised; this is the first operational document in the area. For all the sectors, including environmental protection, key areas were determined on which work has to be done in the 2001-2006 period. Since the amendments to the environmental protection legislation set are less

far-reaching than those in other sectors, the relevant bodies will manage them in the given periods with a relative degree of success.[v]

Environmental protection will be included into the National EU Integration Programme for the first time for the year 2004,[vi] a plan being drawn up by the MEI. This is a document that will address the procedure of harmonising environmental protection regulations in more detail than the Implementation Plan.

However, the Ministry of the Environment has already undertaken a number of steps independently of the measures laid down by the Implementation Plan. Through various international projects, in cooperation with numbers of consultants from the EU, preliminary studies and analyses comparing Croatian legislation with EU regulations in most sectors have already been worked out.[vii] The projects were meant to allow the Ministry a better insight into the upcoming requirements to do with modifications of regulations and adoption of EU standards, as well as a view of the current situation in Croatia itself. Capacity building[viii] is a frequent common denominator of these projects, which at once suggests that Croatia will have additionally to strengthen and build on existing capacities.

The first results in from the analyses and studies carried out suggest that there is a fairly good legal basis in all sectors (waste management, air and nature protection), but which of course has to be harmonised with EU standards (vertical legislation, as it is called). In matters of horizontal legislation the situation was considerably worse. These are provisions that go horizontally across all areas of environmental protection. In regulatory terms they are more general and more procedural, in substance they establish the various different methods and mechanisms, through which principle the procedure of decision making is accelerated, such as for example the directive on environmental impact evaluations, on public access to environmental data, on requirements for proper reporting, on fostering the role of the non-governmental sector in environmental protection concerns. The problem here is that all the structures of the government administration are involved horizontally in the solution of these matters, and the involvement of citizens in a series of procedures that were previously in the exclusive jurisdiction of governmental bodies is now essential, as well.

This is an especially challenging area since the relationship of public and bodies of the government administration is essentially altered, as is the interaction between them. Experience in an attempt to ratify one such international instrument, the Aarhus Convention, is detai-

led below. Meanwhile, we would like to emphasise the essential role to be played by social capital in the development of society and the improvement of any policy whatever, particularly environmental protection policy, the basis of which is in the concept of sustainable development. This is a concept that is in turn founded on new understandings about and awareness of the need for development that meets the requirements of today, as well as enabling future generations to satisfy their requirements.[ix] Naturally, the problem today lies in our not being able to tell with exact certainty what the needs of future generations will be, but the principle of sustainable development assumes that they will not be lower or fewer than those of us today. It is this principle that is the basis for the entire environmental protection policy, and members of the public have to be aware of its importance and existence, they have to apply it and live with it. It is the existence of this kind of social capital that is a crucial premise for any successful environmental protection policy.

Most projects carried out so far have shown that there is still a good deal of lack of harmonisation in the work of the competent bodies, not only at the organisational but also at the conceptual level, which is often a stumbling block in the implementation of any project, programme or piece of legislation. Often there is no record of which project has been carried out, and how it has been carried out, even within a single ministry, and certainly not among a number of them.

In addition, during the actual implementation of projects, perhaps excessive importance is too often attached to the relevant experience of neighbouring countries, their statutory approaches and strategies. At the same time, too little is done to work out the necessary background studies concerning the specific features of Croatian problems in a given area. Most often extensive analyses of the pertinent documents of other countries that have trodden the same path are performed without any questioning of just how their experience is really able to assist us. When we look over documents from Slovenia, the Czech Republic or Slovakia, one should ask how much this experience can, apart from methodologically, really assist us, in, for example, the matter of protecting the Adriatic coast, the sea and the islands, the protection of the karst area, the problems of mine-fields in forests or abandoned farmland, one of the many consequences of the recent war. There is an exceptionally important lack of any appropriate information system to give us an insight into the realistic state of affairs in the field. And this in turn is a major constraint on our ability to think more with our own

heads, preferring, instead, to waste time looking over and even copying out examples of strategies and documents from other countries.

It seems, nevertheless, to be becoming clear that Croatia will have to understand its own procedure of adjustment to EU standards and its own procedure of vertical and horizontal harmonisation. For this reason Croatia has entered the elaboration of a strategy for the procedure of adjusting regulations in the area of environmental protection for the CARDS 2002-2004 programme. This highlighted the urgent need for a strategic approach, because the National Strategy for Environmental Protection (drawn up by the Strategic Development Office) together with the National Action Plan for the Environment (drawn up by the Ministry of the Environment with assistance from the WB) are defective. These documents actually constantly refer to the priority of adjusting Croatian regulations to the relevant EU laws and the necessity of adopting a strategic document for the whole procedure of harmonising regulations, as was the case in the other candidates. Such a document is necessary so that it will no longer be necessary to waste time and energy through precipitate, patchy and uncoordinated attempts to adjust Croatian regulations via numbers of different projects in different bodies of the government administration.

ENVIRONMENTAL PROTECTION IN CROATIA

The institutional framework

Since environmental protection is very complex, for it impinges on almost all sectors (water, forest, farming, tourism, energy, health), the Ministry of the Environment alone cannot cover all the problems, rather has to assign competence for their solution among the various governmental departments. The coordination of all the bodies and a clear delimitation of their activities within given competences will be one of the greatest challenges in the achievement of an effective institutional organisation for environmental protection, at national, regional and local levels.

The legislative arm is in Parliament, which has four committees - for physical planning and environmental protection; farming; marine affairs, transport and communications; and tourism.

In the executive arm, the following are the competent authorities: the Ministry of the Environment, as well as other relevant mini-

stries; national administrative organisations (the Water Administration, the Weather Bureau and the Hydrographic Institute); and the county offices dealing with physical planning and environmental protection, communal and housing affairs and construction,[x] as well as with control by the government inspectorate. There are also the separate city offices of the country offices.

The Ministry of the Environment is competent for the implementation of all laws, the adoption of regulations and byelaws, all matters of expertise and administration and so on in general environmental protection policy, that is, the protection of the air, waste management and nature conservation. The Ministry shares inspection matters to do with environmental protection with the construction and physical planning administrations. This kind of institutional approach is not always very adroit from an administrative point of view. The management of water, for example, is beyond the jurisdiction of the Environment Ministry, which is often a difficulty when problems are being solved or future projects being planned that touch on the protection of water. A similar problem appeared in the CARDS project for the elaboration of the National Municipal Waste Management Strategy[xi] where the demarcation line between the Ministry of Public Works and the Ministry of the Environment was in dispute.[xii]

Here one should certainly mention two newly formed bodies. The first is the Environmental Protection Agency, founded by a government ordinance (NN 75/02), which was one of the obligations laid down in the SAA. The basic task of this agency is to organise collection of all information about the condition of the environment at the national level, creating a single and unified Environmental Protection Information System (known as ISZO). For the sake of effective implementation of environmental protection policy, the Agency is bound to analyse and interpret these data for state administration bodies, for the Government and Parliament. Its activity includes proactive participation in the planning and development of new forms of environmental protection, and monitoring the implementation of active programmes and environmental protection projects. The organisational structure of this agency is planned in such a way as to correspond to the structure and criteria of the European Environmental Protection Agency, with which it has managed to work well, and it is part of the European Information and Observation Network.

One of the obligations defined by the SAA is the creation of an Environmental Protection Fund, which was founded by statute (NN

107/03), coming into force at the beginning of 2004. The Fund will carry out matters related to the financing of preparations, the implementation and development of programmes, projects and similar activities in the field of conservation, sustainable use, protection and improvement of the environment, as well as for energy efficiency and use of renewal sources of energy projects. Like the Agency, it is founded on the model of kindred bodies in the EU with which in the future it will be in closer cooperation. Both bodies are legal bodies with public authorities, and are totally independent of the Ministry of the Environment.

Croatia is very active internationally in the environmental protection scene, at several levels – multilateral, regional,[xiii] subregional[xiv] and bilateral.[xv] This activity springs primarily from the international legal instruments to which Croatia is already party or to which it will now become a signatory. All the major international instruments have already received ratification in Croatia, but there are some others that are still waiting to be ratified. The reason for this is the many changes necessary for making a given regulation. Apart from the actual change in legislation, a common problem is to earmark the substantial financial resources required and then to initiate and carry through the major administrative and institutional changes, since the implementation of a given international legal instrument is very often in the hands of various government departments.

In spite of this, Croatia has signed some of the thirty or so most important documents, such as the Ozone Layer Protection Convention (Vienna, 1985), the Montreal Protocol on substances that damage the ozone layer (Montreal, 1987), the UN Climate Change Outline Convention (Kyoto, 1998), the Biodiversity Convention (Rio, 1992), the Geneva Convention on Mediterranean protected areas and biological diversity, the Nuclear Safety Convention (Vienna, 1994), and the Cross-border Environmental Impact Assessment Convention (Espoo, 1991).

Information system

A precondition for effective functioning of environmental protection is a high-quality information system. This should be based on proper monitoring and numbers of social and economic data; however, in Croatia there is unfortunately a very clear shortage of basic data about the situation in the environment. From this follows the lack of quality processed statistical data.

A poor or non-existent information system is a weakness of all the transitional countries that have only recently, assuming the obligations enshrined in various international conventions, taken on the obligation to convey various data and reports to given international institutions. Croatia halfway manages to meet these obligations by collecting the relevant data that are dispersed in various public and scientific institutions (Ruđer Bošković Institute, Geological Research Institute, National Hydrometeorological Institute, Public Health Institute), or even in some corporations (INA-Naftaplin) and in some thematic centres, like the Croatian Water geo-information system.

Although provided for in various regulations, in the real sense of the word the ISZO does not yet really exist. The Environmental Protection Law (NN 82/94), for example, stipulates the obligation of all environmental protection bodies and nature conservation bodies to work on the establishment of the system in coordination with the ministries and other departments. In more detail, the ISZO Ordinance (NN 74/99) prescribes the contents, methodology, obligations of the participants and the manner of forwarding data about the environment, as well, finally, as the way in which these data are managed. According to this ordinance, ISZO covers data about air, soil, sea, water, biological and landscape activities, climate, cultural history, spatial features, waste and other data important for environmental protection. The connection of all these data with other social and economic data that have to be dealt with via special indicators[xvi] has still not been settled, with each of these thematic areas likely to be a complex information system in itself. After this comes the special system for linking ISZO with all the other systems, such as the information systems of the Parliament, Government, Presidential Office, economic establishments, economic organisations, with members of the public and everyday users. The EPA will have great responsibility because it will be the chief link in the process of adjustment with the EEA information system located in Copenhagen, as well as with EIONET, the European Information and Observation Network, so that the necessary data concerning the environment can be used for the making of correct reports about the situation in Croatia. Currently there is work on important amendments to the Environmental Emissions Cadastre, which will be one of the mainstays of the total environmental information system, the previous implementation of which foundered in practice because of its shortcomings.

So far no information system has been organised primarily because of inadequate institutional strengths in the competent government

departments, and an incompletely settled legal and technical framework. A serious obstacle is constituted by the complexity of the system, as well as by the great costs involved in its establishment, and the already existing problems of horizontal and vertical coordination among the participants. Additional problems came into being because of the dilatoriness of the administrative and the unusableness of the existing databases. The human factor too was not negligible, because there is still no awareness of the essential need for quality data for the decision-making process. Apart from that, there is no proper training or interest for getting involved in international programmes and projects for data exchange.

As for the EU requirements in this area, they are practically without number. Almost every directive has a number of provisions about the monitoring required, and then about the system of reporting to the relevant bodies. All these reports together are subsequently sent on to special bodies that then again work out special reports for special occasions. It is almost impossible systematically, in short, to explain the exigencies of the EU information system. Still, for the sake of coordination, what is common for all members, and practically obligatory, is bodies such as the EPA, which are, alongside the environment ministries, the central points of each country for the collection of all necessary data and for sending on these reports in line with obligations according to various documents or projects (see above: obligations of the Agency).

Training and education

On the whole, the EU leaves the training and education systems in the matter of environmental protection to the members themselves, expecting that they will do all in their power to achieve a high quality implementation of the standards.

Unfortunately, Croatia has not yet adequately developed the practice of linking scientific research work with strategic considerations and decision making. An integrated approach would facilitate the total and transparent exchange of data among all stakeholders imagined through the establishment of ISZO. Similarly, it would be advisable to set up a proper training system at all levels of society so as to make possible an acquaintanceship with the bases of environmental protection philosophy, its models, and in particular the everyday implementation of it.

In Croatian elementary and secondary schools there is no special subject to take care of this, rather in the curricula of the Ministry of Education this is found fragmentarily in several subjects. Even this kind of education is sporadic and unsystematic, up to individual schools and teachers. According to the National EAP for 2002 (MZOUP, 2002), it would seem that there is no analysis to give an empirical image of the extent to which ecological material is found in higher education and science.[xvii] On the contrary, apart from a few courses (for the chemical engineering and technology course, the environmental protection engineering course, and in the science faculty in Zagreb, biology department, ecological engineering course), it can be taken that there is no systematic education on ecological affairs at the tertiary level. Only in most recent times at given faculties have the relevant subjects been brought in, but they tend to be of an optional nature (e.g. an option at the Law Faculty is called Environmental Law), while as for required subjects, some ecological topics at natural science and technical faculties, though within the contexts of various chairs. Data about the conditions of post-graduate courses are also opaque and hard to obtain, and the document already mentioned proposes the foundation of interdisciplinary and inter-faculty courses at post-grad levels in the area of environmental protection and sustainable development.

We might here pick out the extra-institutional system that through various programmes does deal with the training and further training of government employees in various administrative departments. These programmes are financed by the actual departments according to their need. Here we cannot talk of any systematically organised extra-institutional system of training and education in this area. There are, for example, sanitation inspectors and environmental protection inspectors (country, city and municipal offices on the whole employ but a single such person).

In the last decade the number of NGOs promoting environmental protection has grown, and many of these do draw attention to questions of environmental education. Their occasional courses, panel discussions and actions can hardly be expected to be sufficient, of course. Also, inadequate is the educational role of the mass media, although we have to admit that in recent times environmental programmes have appeared on radio and TV channels. The daily press has a mainly sensational approach, and the other printed media mainly come down to the publishing activities of given expert bodies (e.g., the magazine *Oko-*

lis of the Ministry of the Environment and the magazine *Croatian Water*). The interest of publishers and users or popular and other books is fairly low, and the most attractive medium in Croatia, the Internet, does not offer very much. Pertinent pages, such as the official site of the Ministry of the Environment, are not kept up to date frequently enough and so the employment of its figures is of dubious value.[xviii] This absence of systematic education concerning the environment and its protection is one of the major reasons for the public taking such little interest in environmental questions.

Public participation

Active participation by the public in the creation and implementation of environmental protection policy is a precondition for the creation of the already mentioned principle of sustainable development. And yet in Croatia the general public is poorly aware of matters of environmental protection and still less able to take an active part in the passing and implementation of legislation, even if there are any legal grounds for this.

Having identified the importance and power of the public in such matters, the EU at first started moving via the institutionalisation of the collection and flow of information. Starting with Directive 90/3123/EEC concerning the right to require environmental information, it gave individuals the right to seek any kind of data from the administrative departments in connection with the environment without having to show what the nature of his or her interest in this kind of information was. A further step was public participation in strategic planning of certain interventions into the environment. Directive 85/337/EEC (amended by Directive 97/11/European Commission) on environmental impact assessments for some public and private projects makes it possible for information to be given and the public to take part in the drawing up of strategies, plans and programmes in matters of environmental protection. In continuation from these, the Aarhus Convention on public access, participation in decision making and access to the courts was drawn up.[xix]

THE AARHUS CONVENTION: PUBLIC ACCESS TO INFORMATION AND PARTICIPATION

The Aarhus Convention

The currently most important international instrument in the domain of public information and participation is the UN/ECE Convention that consists of a first pillar concerning access to information, a second pillar concerning public participation in decision making, and a third pillar on access to the courts in environmental matters. The Convention was signed in 1998 in Denmark's Aarhus by the EU and all 15 members. Subsequently the question of its ratification and application in domestic legal systems arose. Croatia too is a signatory and for two years its ratification has been planned as part of the project entitled "Application of the Aarhus Convention in Croatia".

How Denmark mastered the Convention?

Denmark was the first country to ratify the Convention, even going beyond its demands as far as public access to information and public participation are concerned. For several decades Danish society has been a leader in many areas of nature protection. Thanks to a convention that enabled great rights to the non-governmental sector, the connection between the environment and democracy has been even strengthened.

Of course, it is one thing to sign a convention and another to incorporate it into national legislation and then breathe life into it. In Denmark, preparations for the ratification started in 1999. In order to meet the demands of the convention, the Danish environmental protection and energy ministry attempted from the very beginning to open the procedure as much as possible. It organised a conference at which government officials, NGOs and journalists discussed the Convention, and at the same time launched a powerful media campaign. At the end of 1999, a draft law was opened for public discussion so as to elicit as many comments and proposals about the ratification. Finally, all the comments from all debates were collected, and the proposal was sent to Parliament for reading. The law was proclaimed in May and officially

came into force in September 2000. From that moment on many things changed for Denmark.

First of all, 13 environmental protection laws had to be changed. Of special difficulty were objections according to the third pillar of the Convention (access to justice in questions of environmental protection), because the NGOs that deal with environmental protection matters had, in the ratification of the Convention, won the right to appeal to the courts. The same right was given to other NGOs that do not perhaps deal only with environmental problems. Denmark had thus gone a step further than the Conference.

In brief, Denmark undertook five major steps.

- It settled the matter of access to special documents – the question of access to documents, reports and various materials in the possession of government departments or the corporate sector was changed and handled by a Public Law, Law on the Administration and Law on the right of access to data (the Aarhus Law).
- Access to information was enhanced – in line with the Convention, bodies of the administration are bound to store all relevant and properly processed environmental information in electronic form. This obligation refers not only to central government but to all lower levels, which is of exceptional importance for the information network and system.
- Public participation in the decision making process has been stepped up – public debates and public participation during the decision making process were common practice in Denmark even before, in line with the laws concerning physical planning, nature protection and during environmental impact assessments. Additional rules concerning public debate and public participation before and during the making of given decisions came with the ratification of the Convention.
- Encouragement of group participation – in certain cases, NGOs have greater rights than individuals and are encouraged to combine forces in order to work better for the final outcome. Here it is primarily the right to be listened to that is thought of, with the right of objection and the right to be informed about decisions (like, for example, the new right of the exceptionally strong and well-known Danish NGO *Nature*, to have all official decisions in connection with environmental protection sent to it).
- Access to the courts has been made easier – special rules of appeal are governed by special regulations. What is essential for all competent

bodies is that their written decisions must all contain instructions about how to appeal, which include information about the appeal procedure, and to whom and where to appeal in line with the procedure.

After making very great efforts to apply the Convention at home, Denmark decided to put in extra work as well. In its "Environmental protection matters assistance strategy for countries of Eastern Europe during 2001-2006" (Ministry of Environment and Energy, Danish Environmental Protection Agency, 2001). Denmark earmarked assistance in preparations for the ratification and implementation of the Convention as one of the priority areas for assistance.

How Denmark assisted Estonia to ratify the Aarhus convention?

Estonia immediately applied to Denmark for the assistance programmes on offer. With powerful support from its environmental protection agency (DEPA), Denmark set enthusiastically out on this project with Estonia. The situation before the ratification seemed fairly hopeful. Before ratifying the Convention Estonia had already known some of the elements, and all the necessary amendments of the relevant laws were effected in the shortest possible time.

In spite of the rapid changes of the laws and regulations, the process Estonia has had to go through has been anything but painless. Although the Estonian government always said the Convention would be ratified as soon as possible, the first major logjam came when the Convention was being ratified. The Cabinet needed almost half a year to think carefully through the effects of ratification and to find out whether the demands of the third pillar – access to the courts – were in line with the judicial system in Estonia. And then, after all the principles of the Convention had nevertheless been adopted and incorporated into Estonian legislation, a number of challenges in connection with practical implementation showed up.

The first difficult matter was to train the civil service for its new obligations. A special guide was made for officials explaining the fulfilment of the demands of the Convention in everyday work, and in particular in complex procedures of environmental impact assessment and the issue of permits related to the environment and physical planning. The guide also explains which kinds of information the public must ha-

ve access to, depending on the phase of the procedure in the making of some decision; or to which the general public should have no access.

However, the main barrier in the way of good application of the Convention was the fact that the Estonians were not really very aware of political openness and the liberal and democratic spirit that it brought with it. The government departments were not only faced with the implementation of the new requirements defined in the convention, but the demanding convention went even further. A new obligation was imposed on the civil service departments to keep the public constantly informed about new rights and also about where, when and how the public could best avail itself of these rights. For this reason what was facing them was in essence two mutually dependent tasks: (1) the right of immediate participation during the making of decisions was a novelty to many individuals, primarily because of the convictions and inherited beliefs that it was impossible to trust government departments and it was pointless to take part in any way at all; and (2) the bodies of the administration thus had to be very open and vocal about the new rights of members of the public and actively encourage them to take part.

At the first moment it seemed that these tasks were so difficult of achievement that the ratification of the Convention had perhaps been hurried since a fair lot more time would be required before it could come to life in the minds of the Estonian public. But in the end it was not like this. One indirect confirmation of good practice in Estonia is what would seem at first sight to be an unimportant but actually extremely indicative datum. This is the Government's project for opening the Internet portal "Today I Decide" which gives the public the opportunity to comment on all new regulations, or possibilities to send to the competent bodies their own proposals for regulations. In less than a year, various ministries obtained 300 commentaries on the proposals and almost as many proposed regulations from citizens (from demands for the introduction of summer working time to requests for the implementation of capital punishment). However, statistics from the portal show that there were fewest of all proposals and comments about environmental protection matters (a mere handful). This suggests that all interest groups, from individuals to the most aggressive NGOs, had clearly successfully and contentedly used the new rights (access to data, participation during decision making or access to the judiciary) acquired in the Convention, and that they paid almost no attention to this new and then fairly popular channel of communication between the government and the public.

It is clear from everything shown, that the Convention, if it is ratified and starts being implemented, will radically change the relations between government departments and the public, giving rise to much more vigorous dialogues and interactions. And this is why it is difficult to accept it at first in countries that have been through authoritarian forms of government with a practice of cutting out their citizens, first of all by not giving them information, and then by closing off any participation from them in the decision making process.

What is the problem in Croatia?

Croatia is also involved in this Danish programme, in the project "Assistance to Croatia during application of the Aarhus Convention" (MZOUP, 2002). This project was officially launched in January 2002, and is still going on. It set off ambitiously with an analysis of all Croatian regulations that cover the areas from the first two pillars of the convention, the third pillar being left for some subsequent project. Within the framework of the project, a number of inter-ministerial working groups were held, at which the representatives of all the ministries were able to comment on the requirements of the Convention and to make their own proposals and give the best solutions for the adoption of these requirements. A number of visits were made to the local administrative offices (county, town, municipality) that can expect to have a lot of new obligations and great changes. The whole time there was essential work with the non-governmental sector that deals with environmental protection matters and that would particularly benefit from the ratification of the Convention. But with all the effort, the results of this work are still almost impossible to discern. The cause for this might be a fair absence of any political will (unlike the situation in Estonia) to have the Convention ratified as soon as possible, since the results of the analyses carried out do not suggest there are any insuperable obstacles to the ratification in Croatia, which signed the Convention among the very first.

We can say that in Croatia there are certain reluctances in connection with the requirements of the first pillar of the Convention, public data access:

- Application of the Convention assures everyone the right to have access to specific information, which might necessitate time for identi-

fication and processing. Information is in most cases stored in bodies with environmental jurisdiction at the local or regional level (country, city, municipality – the offices for environmental protection). For these officials, the Convention involves the introduction of new working routines and new manners of meeting applications. Current practice, as measured in a project considering a random sample of four counties, involves the reception of 30 to 200 applications for information a year, while the cities receive more than 300 requests (Osijek); Dubrovnik even from 800 to 1200 applications a year (MZOUP, 2002). An application can be anything from a phone call to an application in written form, which means that a file about it has to be opened.

- Croatian regulations do not contain detailed provisions about all aspects of procedures concerning requests for information. Although the Constitution (NN 41/00, 55/01, Article 38, Paragraph 3) guarantees journalists the right to have access to information, it does not mean that any person at all has the right of access to data. The Environmental protection Law (NN 82/94), Article 49, entitled "The public nature of environmental data" contains one key provision. It insists that environmental data are public in nature, including the obligation that the public must be informed about matters of environmental import, and that all requests for information about the environment must be answered. However, how to proceed if the public department does not have the information required is not specified in the law. In this case, the General Administrative Procedure Law has to be applied (NN 53/91), which binds all departments and defines their working procedures. Article 66, Paragraph 3 states that if a government department is not competent to receive an application, an official of this department has to inform the seeker and send the application to the actually competent body. If the application, in spite of this information, insists that the body that is not competent has to respond, then this body is bound to accept the application, and then has to issue a conclusion rejecting the application. The same law says (Article 218, Paragraph 1) that the competent body has to reply to an applicant's request as soon as possible and at the latest within a month. It is another matter if this is the reasonable period of time that the Convention refers to.
- Various procedures related to the following questions have also been discovered: the various time limitations and levels of ambition related to responses to applications, and various perceptions about whether all information seekers need to be treated in the same way. There is one requirement that is at odds with administrative procedure in Croa-

tia. The General Administrative Procedure Law recognises only parties in a procedure or those who are not but have nevertheless managed to prove their interest in a procedure. In line with the Convention, persons asking information do not have to show that they have any interest, do not have to prove their identity or show in any way that they are competent or interpreting the information they receive correctly. The results of research in this project showed clear indications of bias against those applications that civil servants considered "provocative" or submitted "only for political reasons".

- One of the key issues is how to identify the correct sources of information. According to the experience of some NGOs, it is not very difficult to obtain information, but it is difficult to know where it might be. The problem is coordination among various departments competent for environmental protection and the absence of a consistent data exchange system at all levels. The existing system seems to rest on the principle of good will, even among bodies that carry out the environmental protection policy together, and especially when there are relations between these bodies and the public.
- It would seem that there is a shortage of resources as a result of increased demand for specific information, and in particular a shortage of experts. An aptness to assign low priority to the provision of environmental information if it is in conflict with the performance of other duties has been observed.

According to these shortcomings, we can conclude that the success of the Convention will depend above all on the economy and ambition of the implementation process. Otherwise, there is a risk that the Convention will not be implemented at all.

Finally, the following advantages connected with the first pillar have been observed. In theory at least, all the bodies responsible for environmental protection do support the Convention. Another great advantage is the fact that many agencies today have already set up the procedures for the provision of information, and do not have to set up new mechanisms, only implement those that exist already more effectively. It is an advantage of Croatia that there is a relatively well-developed tradition of participating in the making of environmental impact assessments.

The second pillar relates to public participation in the decision making process when this is related to specific activities, plans, programmes and policies, and executive regulations and/or generally ap-

plicable binding instruments. In the project of the Environment Ministry already mentioned, the analysis was concentrated on EIAs and physical planning. Croatia has a long practice in the area of carrying out EIAs and involving the public in the process, since this is an area that has been regulated since 1984 (today by the Regulations on Environmental Impact Assessment, last version, NN 59/00). For this reason there is a general impression that the obligations of the second pillar are not radical innovations in administrative practice. Public debates are obligatory for any plans of using land at the country, municipal and city level. Going on from the first pillar, one should say that the most comment requests for information are for data about land use. At the local level there are about 10 requests p.a. At the national level, there are between 80 and 100 requests a year. The vigour with which the public takes part depends on the given matter. In most cases there is not a lot of interest – there are no written comments and there are few participants at public debates. The cause of this is held to be in the previous authoritarian culture that, in spite of a relatively high degree of interest in politics, inculcated the idea that members of the public had no very great influence in the creation of policy. These convictions get in the way of any motivation for participation and have to be opposed with an enhanced system of information by an appropriate education system.

CONCLUSIONS AND RECOMMENDATIONS

According to an analysis of the general state of affairs in Croatia, an overview of the importance of the Aarhus Convention for the development of public access to information and public participation, and a review of the relations to the Convention in Denmark, Estonia and Croatia, in this part we shall draw certain conclusions and make recommendations that relate above all to the democratisation of the process of environmental protection.

In general, it can be pointed out that there is already a tried and tested system that can reduce many dangerous long-term mistakes. Before the making of any decision it is necessary to have a serious and open approach to the multi-disciplinary problems of environmental protection, multilateral and bilateral and regional collaboration with the member countries and/or candidates through all the projects and programmes available, as well as exhaustive studies and analyses of both EU requirements and of domestic conditions and specific features. A

consistent and strategic approach is essential during any decision-making, a good legislative process during the translation of these decisions into binding regulations and finally, encouragement of public participation in the whole process, so that these decisions should take off during the everyday life of the society, and become an integral part of it.

The Ministry of Environmental Protection should draw up a strategy representing a reasonable framework and a single methodology for the adjustment of regulations in the area of environmental protection that will precisely lay down the objectives, the per-sector existing situation, the priorities, timetable, participants of the procedure, questions of jurisdiction and so on. A strategic approach to the whole situation would reduce all further haphazard attempts to apply any given instrument without a prior consistent approach, such as was the case in the long-term project for the implementation of the Aarhus Convention, which was not preceded by any necessary analysis of all the existing structures in Croatia that do carry out environmental protection policy, and which will inevitably be affected by the application of such a convention. What is more, it would seem that the citizens themselves were the least acquainted with this project. Hence it is necessary to set out in another way, a strategic way, so that for a beginning we can find out precisely what we have got and what has to be done for the purpose of an effective application of any given instrument, in line with EU requirements. A comprehensive strategy harmonising all Croatian regulations with all the relevant EU requirements is certainly a necessary beginning. A strategy of this kind should include an implementation plan with realistic timetabling, deadlines, and a cost estimate. A strategy should lay out in advance the bodies responsible for the planning, implementation and control of all procedures. The recommended timetable of possible activities during the making of the strategy for the harmonisation of environmental protection regulations would be as follows:

- Lay down or confirm priorities in the harmonisation of regulations. In line with the understanding of the situation in the environment to date, it can be assumed that the order might be as follows: waste management, air protection, climate change, water protection, nature protection, industrial pollution, chemicals, genetically modified organisms and the whole of the horizontal legislation.
- It is necessary to lay down, according to the priorities established, or per sector, all the relevant participants for each sector, at all levels, and clearly to demarcate their separate jurisdictions.

- Take into account the results of analyses already performed of harmonisation of regulations with EU requirements. The Environmental Protection Ministry has already carried them out in various projects, and they need simply to be brought up to date, and those that are missing to be made.
- Set up an inter-ministerial and inter-institutional working group for an analysis of regulations from areas not in the exclusive jurisdiction of the Environmental Protection Ministry (for example, water protection in collaboration with the National Water Agency).
- Pursuant to all these data collected, make a kind of basic study for each sector separately, with the participants identified, with data about common practices, the institutional framework and in general the current situation in the sector.
- Determine, inter-institutionally, all similar projects and analyses already carried out or in planning phase so that there should be no nugatory overlaps and repetitions.
- Organise numbers of inter-institutional forums at which all the contentious matters in the sector can be discussed, with respect to both the EU requirements to which adjustment is needed and to some specific situations in Croatia.
- Always whenever possible include all the stakeholders, the NGOs that deal with environmental protection and all the relevant people from the profession.
- Collect the results of all legal analyses carried out, reports, studies and commentaries, and endeavour to bring them all together into a single united strategic approach to each sector. In this factor it is important to know the key directives, and to distinguish those that will be easy to incorporate into Croatian regulations, and put to work quickly and cheaply, from those that will represent problems.
- Provide expertise and technical assistance to the legal departments of the bodies of the public administration that draw up drafts, amendments and completely new adjusted and harmonised regulations.
- Investigate in parallel and make studies concerning all the necessary operations and changes in the administrative and institutional framework, with particular attention addressed to the overall costs of future, necessary and proposed operations.
- And finally, according to exhaustive legal and other analyses of the impacts of the application of the solutions proposed and obtained, draw up approximation plans in which all the statutory and institutional changes will be stated, their costs, with a list of practical imple-

mentation steps for each sector, including assessments of appropriate projects to implement and for the necessary human resources.

Only after the end of all this could we say that we have in outline an idea about how far off we are from the EU requirements, and then what we have to do to fulfil them and acquire the conditions for membership. The job in front of us is immense, and quite unpredictable with respect to scope and results. But if we neglect this way of drawing up a strategy for the process of coordinating Croatian regulations with EU regulations, we shall still have to start off from somewhere. Therefore, we can always simply "start off from what is necessary, go on to what is possible, and at the end we shall surely find that we are doing the impossible…"[xx]

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i *The environmental acquis – all the forms of policies, laws and objectives respecting the environment the EU has agreed on; including all the directives and decisions relating to the environment, accepted according to the various treaties that together make up the primary laws of the EU.*

ii *According to EU Council Order no. 2666/00 of December 5, 2000 for the countries of the former Yugoslavia (not inc. Slovenia but inc. Albania) for the 2000-2006 period.*

iii *Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee, the Committee of the Regions and the Candidate Countries in Central and Eastern Europe on Accession Strategies for Environment: Meeting the Challenge of Enlargement with the Candidate Countries in Central and Eastern Europe, COM (98) 294.*

iv *Development of a Costing Assessment for the Slovenian Environmental Approximation Strategy, PHARE SLO-101 (1998).*

v *For 2001, it was agreed to draw up a Draft of a Law on an environmental protection fund and adopt an environmental protection strategy. There were more obligations for 2002, mainly related to changes in regulations in coordination with other bodies. Among the important measures, we pick out the obligation to found the Fund and the Environmental protection Agency, and to draw up a draft Law amending the environmental protection law. For 2003, the amendment of a few bylaws is anticipated, an analysis of the degree of coordination of the legislation with the acquis and the elaboration of an implementation programme to be put through via the CARDS programme.*

vi *Still being drawn up; other relevant documents available at [www.mei.hr].*

vii *First analysis of this type was carried out in 2001, in connection with regulations governing waste management, for the purpose of drawing up a draft set of amendments to the Waste Law.*

viii *For example: Capacity Building for EU Accession in Air Protection Sector in Croatia, Capacity Strengthening Measures for the Environmental Agency, Capacity Building for EIA/SEA and Environmental Audit and Environmental Management Systems.*

ix *Definition of the Brundtland Commission, as it is called; World Commission on Environment and Development printed in the document «Our Common Future» (1987).*

x *County offices carry out environmental protection matters in the country or city, in line with the provisions of the environmental protection law and the physical planning law, the last amendments to which devolved a number of environmental matters to the regional and local level (NN 30/94, 68/98, 61/00).*

xi *Proposal of document available at: www.mzopu.hr.*

xii *Law on Communal Activities puts communal /municipal/ waste management in the lap of the Ministry of Public Works, but at the same time all matters of waste management are in principle in the jurisdiction of the Environmental protection Ministry.*

xiii *At the regional level, in 1998 Croatia confirmed the amendments to the "Convention on the protection of the marine environment and the coastal area of the Mediterranean" and is an active participant. Croatia is included in all regional initiatives as part of the Danube Basin Environmental protection Programme.*

xiv *Croatia is an active member of the Croatian-Italian-Slovene commission on the protection of the Adriatic that is part of the Stability Pact.*

xv *Particularly marked was the bilateral collaboration with neighbouring countries in the area of water protection, regulated by a number of bilateral treaties (with Hungary, for example, 1994, and Bosnia and Herzegovina, 1996).*

xvi *The indicators are synthetic data that link the state of the environment, i.e. the consumption of natural assets, with social and economic development, such as the use of public as against private transport. There are different proposals for setting up the indicators. One of them is Indicators of Sustainable Development Framework and Methodologies, UN, 1996.*

xvii *See NEAP, MZOPU 2002; C. 6.5; Environmental Education.*

xviii *See www.mzopu.hr, Projekti, where there is the Analysis of the Legal Gaps Project. On this page only the first project of this kind is quoted (it was carried out in 2001). Since then three more relevant analyses of legal gaps have been carried out that are not mentioned here at all. The web site of this project does not contain a single relevant document.*

xix *All documents available on: www.europa.eu.int/eur-lex/en/index.html.*

xx *St Francis of Assisi, 1181-1226.*

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Chapter 10

THE LEGAL ASPECTS OF THE PROTECTION OF MINORITIES IN THE PROCESS OF STABILISATION AND ASSOCIATION

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ABSTRACT

Among the main conditions for joining the European Union (EU) is the protection of human rights, particularly the protection of minority rights. This paper will consider the protection of minority rights in Croatia since independence in 1991. In four chapters the paper analyses some of the essential segments of the protection of minorities in the international context as well as the obligations of Croatia in this context. The analysis centres on the Constitutional Law on the Rights of National Minorities adopted in December 2002. The position of minorities before and after this law came into force is compared.

Key words:
human rights, ethnic minorities, ethnic origin, discrimination, equal opportunities, Constitutional Law on the Rights of National Minorities, international community, European Union

INTRODUCTION

This article discusses the position and rights of the national minorities in Croatia. In the light of the introductory remarks, it is nec-

essary to limit the objective of the paper. Four chapters will give a review and analysis from the legal aspect of the statutory approaches to minority affairs in Croatia since 1991. As well as a review of the protection of minorities in international law, the undertakings Croatia has given to the EU in the handling of minority matters and an analysis of current and previous statutory approaches, the article will also put forward a number of measures and recommendations for improvement of the legal position of minorities in Croatia. What is an ethnic (or national) minority, how it is defined and understood, has been the subject of many discussions in recent literature in the EU (Closa, 1995; Recital, 1997; Beenen, 2001; Bell, 2002). This dilemma requires a special place and a detailed analysis that this work cannot deal with. Since the Croatian constitution discusses ethnic equality and the prohibition of discrimination based on ethnic origin, minorities in this text are taken to mean ethnic minorities. In Croatia the term national minority is commonly used, but the English version of this text will adhere to EU and international usage in referring to ethnic minorities.

Croatia has undertaken to protect human rights by the very fact that it is a member of the UN, the most important institution in the pyramid of human rights protection. The high standards of protection of human rights and the standards of treaties and the legislation of the EU impose the obligation to respect the rights of individuals, and within the framework of this, the rights of members of minority groups.[i] Through the prism of minority rights in Croatia, in four chapters, the problem of minorities as a whole will be discussed, over the time since the proclamation of independence. The Constitutional Law on the Rights of National Minorities will be at the centre of the comparison of the state before and after it came into force. The new Constitutional Law was appended to the application for membership in the EU, in February 2003, and hence this Law is a foundation for an analysis of the before-and-after condition.

THE INTERNATIONAL PERSPECTIVE

Protection of minorities in international law

International protection of minorities started as far back as the 17th century with sporadic introduction of provisions about the protection of religious and ethnic minorities in treaties settling some of the

basic European political and territorial matters. The Treaty of Westphalia (1648) is commonly held to be the first important treaty dealing with mutual tolerance of religious communities in Germany (Vukas, 2003). In terms of substance and space only the Treaty of Berlin, concluded in 1878, was more important. Turkey and the Balkan states that had been liberated from its five centuries of aggression and occupation had to enter into international undertakings concerning religious liberty and the equality of citizens.[ii] The systematic protection of minorities, however, was established only at the time of the League of Nations.

Unlike the protection of human rights, the protection of minority rights is not mentioned in the UN Charter of 1945. In the composition of the Charter and the Universal Declaration of Human Rights (1948), there was a prevailing interest in the protection of the individual, and not of particularly threatened groups, as at the time of the League of Nations (refugees, stateless persons, minorities). Still, in 1947 a Sub-Commission for the prevention of discrimination and the protection of minorities was set up. In this Sub-Commission an attempt was made to define minorities, but no official definition has yet been adopted.[iii] In the UN the emphasis is upon the international protection of every individual, and thus in Article 27 of the International Covenant of Civil and Political Rights it is written that: "In states where there are ethnic, religious or language minorities, persons who belong to such minorities must not be deprived of the right, together with the other members of their group, to have their own cultural life, to confess their own religion or to use their own language" (Hrženjak, 1992). The protection of minorities in international law culminated in 1992 with the adoption of the Declaration on the Rights of Persons Belonging to National and Ethnic, Religious and Language Minorities. The adoption of this Declaration attempted to address the matter that had been raised since the International Covenant had come into force (1978), like whether for the enjoyment of the rights defined in Article 17 of the Covenant it was necessary to acknowledge the existence of a given minority in its region; whether these rights belonged only to members of minorities, to individuals, or to minorities as communities; and whether the member states of the Covenant, pursuant to Article 27, were bound only to tolerate the independent activities of minorities connected with the enjoyment of those rights, or whether the states were bound actively to help the minorities to put these rights into effect. In the declaration, member states of the UNO undertook to take the

lawful interests of members of minorities into account in framing their national policies and programmes, as well as in international programmes of collaboration and assistance. They also undertook to collaborate in furthering the rights of members of minorities set out in the Declaration. Members of minorities could exercise all their rights individually, but also with other members of their group, without any kind of discrimination.

Since the protection of minority rights in the frame of international law was started in Europe, and at the time of the League of Nations a relatively effective system for the protection of minorities was created, a very great deal was expected from European regional organisations in connection with the development of international standards about minority protection in European states. Although above all the Council of Europe was looked to, the European Convention on the Protection of Human Rights and Fundamental Freedoms (1950) has no special provisions about minority protection. The only provision in which minorities are mentioned is Article 14, where, as one of the impermissible grounds on which people can be discriminated against in the enjoyment of their rights and liberties stated in the Convention, "affiliation to an ethnic minority" is mentioned. It is important to state that the previously mentioned documents are treaties that Croatia is a party to. The Constitution of Croatia in Article 140 states that treaties that have been ratified and published are enforced directly and have a force above statute (NN 41/01).

By founding the Venice Commission in 1990, the Council of Europe attempted to work out a document to guarantee the protection of minorities. Still, the Council never finally worked out a document conceived in this way. The CSCE, which developed in 1994 to the OSCE, carried out this job. As early as in the Helsinki Final Act, on August 1, 1975, within the framework of principles about human rights, specific guarantee is given of the rights and legal interests of persons who belong to ethnic minorities. Finally, in the Final Document of the CSCE meeting concerning the human dimension held in Copenhagen in 1990, a comprehensive chapter on minority rights was adopted (for more details see Vukas (2003)). CSCE documents use the phrase *national minorities* as a generic name for all the minorities whose rights these documents refer to, that is, to minorities that are marked by special ethnic, cultural, linguistic or religious characteristics.

By 1994, an instrument for the protection of minority rights within the Central European Initiative (CEI) had been composed; this contains one of the most exhaustive lists of minority rights to be found

in international documents. In this document the states of this group took over the essential already-existent rules of universal and European international law concerning the rights of minorities, and additional rules were put in corresponding to the particular features of Central Europe. Although this is not a treaty, it is important in that in it there is a definition of national minorities, which so far had not been found in documents adopted at the international level, only within the international legislation of some of the states. A "national minority" is defined as a "group that is numerically smaller than the rest of the population of some state, the members of which, as citizens of this state, have ethnic, religious or linguistic characteristics that are different from the rest of the population and who wish to preserve their culture, tradition, religion and language." (Vukas, 2003:305). Within the CE, after many initiatives, a treaty concerning the protection of minority rights has at last been adopted, with the adoption of the Framework Convention on the Protection of Minority Rights, February 1, 1995.[iv] The main criticism of this document is that the scope of minority rights, according to the wording of the Convention, is fairly narrow. However, it did help Croatia, as state member of the Council of Europe, to create its Constitutional Law on the Rights of National Minorities.

European Union and candidates

Discrimination of minority groups has become one of the main problems that members of the EU and the candidates have to face. Matters of racial, ethnic and sexual discrimination have become one of the chief headaches of the heads of the Union, and hence it was decided to devote special care to the suppression of these forms of discrimination and protection of the rights of the victims. What is more, the matter and the degree of the protection of these rights became one of the main preconditions for states that aimed at becoming members of the Union in the future (Recital, 1997). The present text and the form of the anti-discriminatory legislation in the EU, through experience to date, show that alongside the legislative framework there also has to be an effective strategy for the suppression of racial and ethnic discrimination (Directorate-General for Research, 2003). Hence the EP has consistently highlighted the need for a multidisciplinary approach to the solution of these forms of discrimination. Alongside multidisciplinary action, there is also the need for a better harmonisation among the various areas of EU politics to do with the promotion of equal minority

opportunities. The EU promotes this kind of policy not only inside but also beyond its frontiers. For this reason, current and future candidates for membership must meet the demands for protection against all forms of discrimination, particularly racial, ethnic, religious and gender. Only by meeting these criteria will states be allowed to submit their candidature. Thus, the Croatian Constitutional Law is actually appended to the Croatian candidature for membership. Today's candidate states, such as the Czech Republic and Romania, also have to face the problem of racial and ethnic intolerance. The most at-risk minority group in these states is that of the Romany (ELDR, 1997:13).

In order to obviate racial and ethnic discrimination, at the level of member states of the EU, one idea was to establish the criterion of ratification of the UN Convention for the Abolition of Racial Discrimination (1969) as a condition for membership of the EU. This condition was rejected as being unrealistic since not all the actual member states are at the moment members of this Convention.[v] The second EU ambition was to encourage potential member states to create their own anti-discrimination legislation. This was also an unrealistic expectation. But, with the objective of getting things away from the stalemate position, primary EU legislation took on more substance when the Amsterdam Treaty came into force, with the inclusion of anti-discrimination provisions into Article 13 of the Treaty.[vi] According to this Article 13, a primary source of law for the European Community, the Union undertakes to take all measures necessary to prevent discrimination on the grounds of sex, race or ethnic origin, religious or other beliefs, disability, age or sexual orientation. In addition, the Treaty of Amsterdam introduces the concept of European citizenship, which does not replace nationality or citizenship of a member state but is rather an attempt to create a European nation (Closa, 1995). The range of rights of European citizens guaranteed by the treaty is limited, and it is a matter of only political rights. However, what is interesting is that the introduction of the concept set off a great many discussions on the definition and understanding of concepts such as nationality and citizenship (Beenen, 2001). With the development of the concept of citizenship one might change the understanding and definition of the concept of minority, particularly after the accession of the countries of CEE to the EU. For the purposes of this paper, it is necessary to explain that the overall law of the European Community, whether contained in the Founding Treaty, in some instrument of an institution of the Community or in any other source, has a superior status vis-à-vis the whole of national law, including constitutional provisions (Ćapeta, 2002). The superiority of

Community law is a condition to forestall the abolition or modification of the law of the Community against the will of all the member states, who are alone all together authorised to do this. Apart from that, the role of legislative bodies of the member states is, on accession to the EU, essentially reduced, because of the transfer of regulatory authority to the European bodies, the role of the national courts is increased because it is precisely on them that the real application of European law depends. The national parliaments may not regulate matters that have been placed within the purview of the Union, and yet the courts are obliged not only to apply European laws but also by the method of excluding things that are unlawful, to prevent the application of national laws, even of a constitutional nature, if they are against European legal standards (Rodin, 1997). The Racial Equality Directive of 2000[vii] is a secondary source of Community law, in which the Union has undertaken, via measures of "deliberate policy," to promote equal opportunities for ethnic minorities, and also to suppress racial discrimination. The purpose of the directive is to establish a framework for the prevention of discrimination according to racial or ethnic origin, making the principle of equal treatment law in all the member states. In addition, the directive defines for the first time direct and indirect discrimination, the definitions of which were later incorporated into the Equal Treatment Directive.[viii] Harassment on the basis of racial or ethnic origin is also discrimination, that is, every undesirable form of behaviour directed against persons of different racial and ethnic affiliation the aim or effect of which is a violation of personal dignity, especially by the creation of a frightening, inimical, degrading, humiliating or threatening environment. Every incitement to discrimination is also considered discrimination in the sense of the Directive. The scope of application of the Directive will be expanded to cover private and public sectors, as well as area of employment, self-employment and further education, including the criteria employed during hiring, further education and promotion. Here one can notice a shortcoming in the Directive, because its scope is at once broad and indefinite and also limited because of its emphasis on its application to a very narrow area. The Directive should be applied in other areas, such as social services, health and education. The most important new departures brought in by the Directive is the legislation of special measures the application of which is allowed in certain cases in which members of racial or ethnic groups are under-represented as compared with members of the majority groups. Still, special measures are not specially worked out by the Directive; rather it is left to member states to work out the contents of

the separate individual measures in their national legislation. Member states are at the same time obliged to promote the social dialogue and a dialogue with NGOs. The deadline for the application of the Directive was July 19, 2003. Alas, not all member states managed to apply the Directive in this period. As many as eleven member states have not yet put the Directive into effect in their national legislation.[ix] So far, only France has informed the European Commission of "partial" adoption of the Directive. They were followed by Denmark. Belgium, Italy, Sweden and the UK adopted the provisions in their national legislations. Unfortunately, the same cannot be said of Austria, Finland, Germany, Greece, Luxembourg and Spain, which have not even started the procedure for adopting the Directive. As for the progress of the candidate countries, in Romania an anti-discrimination law has been passed, and a special body for control and complaints has been set up. The application is at the moment only at the level of the letter of the law. Hungary is currently putting in enormous efforts to do the same by the end of 2003. The quality of the newly created laws will be visible when they are put into effect in practice. It remains to be seen what the consequences of non-implementation will be. One possible effect is states' liability for damages because of the non-application of the Directive in the time given. The most important reason for the existence of state's liabilities for damages is the demand to achieve as high as possible a degree of effectiveness of Community law. Countries have to undertake all necessary measures to ensure the fulfilment of their obligations founded on Community law. One of such measures is the "obligation to annul the illegal consequences of infringements of Community law" (Ćapeta, 2002).

EU legislation still does not have any effective legal protection for human rights. The only legally binding document for the protection of human rights in Europe is the European Convention for the Protection of Fundamental Human Rights and Freedoms (the Convention, for short). According to Article 14 of the Convention, a general clause, the exercise of the rights and liberties acknowledged in the Convention, must be ensured without discrimination on any basis whatsoever – either on the grounds of sex, race, colour, language, faith, political or other opinion, ethnic or social origin, affiliation to an ethnic minority, wealth, family or any other basis. This article cannot be applied without invoking the infringement of some other right.[x] Although the EU is not a party to the Convention, since it is not a legal entity, the European Court in Luxembourg has started to apply its rules. This means that parties to the convention (members of the Council of

Europe) must ensure that its rules are really applied. At the moment a debate is being waged in the Union about the future appearance of an enlarged Europe. The Convention on the Future of Europe, the work of which should result in a new European Constitution, will bring about some important changes in the mechanisms for the protection of human rights in the Union. The EU should thus acquire legal personality and thus automatically become a party to the European Convention. The European Court for Human Rights in Strasbourg would thus expand its jurisdiction to one more legal entity, the EU itself.

Croatia: national minorities and undertakings for membership in the European Union

The obligation to pass a new Constitutional Law on the Rights of National Minorities derived from 1996, from the acceptance of Croatia into the Council of Europe. Croatia acknowledges the members of the peoples of all the former Yugoslavian republics who are Croatian citizens the status of member of minorities. However, in line with international law, minorities have to exercise their minority rights, irrespective of the recognition of their minority status by the state in which they live.

As far as the Council of Europe is concerned, on March 15, 1996 Croatia agreed to apply the recommendations of the Venice Commission on a Constitutional Law on National Minorities in order to meet the conditions for entry into the said organisation. In May 1997 the Government agreed with the Venice Commission on the founding of a Council of National Minorities the objective of which was to create a forum in which the representatives of the minorities could meet regularly with representatives of the Government to talk about matters that touch on minority protection policy.[xi] The Council was founded in January 1998. In 1997, the Venice Commission[xii] had recommended that every revision of the Constitutional Law should contain the relevant provisions of the Letter of Intent (HRT, 2003). In April 1999, the Parliament of the Council of Europe passed a resolution calling upon the Government to "adopt a constitutional law to revise the suspended provisions of the constitutional law of 1991 in line with the recommendations of the Venice Commission and taking into account he new reality" by the end of October 1999 at the latest.[xiii] Only in 2000 did the Government supply to the Venice Commission a draft law that was worked out by a committee of experts and representatives. The

Commission considered this draft positive, in the sense that it was an advance in the protection of the rights of ethnic minorities in Croatia. In February 2000, the new Government presented its legislative programme, undertaking to support minority rights and to make legislative and administrative changes enabling the return of Serbian refugees. In April of the same year, the new Parliament passed laws concerning minorities' languages and education; in June, amendments to the Reconstruction Law and the Areas of Special National Concern Law.

Obligations to protect human rights, particularly minority rights, were also assumed by Croatia when it signed the SAA with the EU and its member states on October 29, 2001. This contract gave Croatia special status as a *potential candidate.* The SAA has still not come into force, but since January 28, 2002, an Interim Agreement has been in force giving effect to the economic provisions of the Agreement (more on this see Rodin (2003)). The obligation of Croatia also derives from the resolution of the Council of Ministers of the Council of Europe of February 2002 concerning the implementation of the Outline Convention,[xiv] the Report of the European Commission concerning Stabilisation and Association, and the Mission Status Report of June 2002.[xv] In the report of the European Commission on Croatia's progress it was possible to see the importance of meeting the political criteria, on the fulfilment of which the evaluation of the implementation of the entire process depended. The three main political conditions relate to the strengthening of democracy and the rule of law, the respect for human rights and protection of minorities, and regional collaboration (Rodin, 2003). By adopting the new Constitutional Law, Croatia made an advance in meeting one of the conditions for membership, the criterion of the protection of human rights. Thus the legal position of minorities in Croatia today is founded on the provisions of the Constitution, which guarantees the equality of all members of all national minorities[xvi] and on the Constitutional Law on the Rights of National Minorities.

THE STATE OF AFFAIRS IN CROATIA BEFORE THE NEW CONSTITUTIONAL LAW WAS PASSED

In December 1991 the Croatian Parliament passed the Constitutional Law on Human Rights and Freedoms and the rights of

National and Ethnic Communities or Minorities in the Republic of Croatia (NN 65/91). Passing this law was a precondition for the international recognition of Croatia as independent state in January 1992. At that time, Croatia, like the other states that were created in the area of the former Yugoslavia had been left a relatively high degree of protection of collective rights of minorities (right to education in own script and language at all levels of education, right to the official use of the language, various opportunities for the preservation of ethnic, language and religious identity and the institution of the political representation of minority interests). Croatia took over and recognised all these inherited rights. It signed two bilateral treaties relating to the protection of minority rights: an agreement between Croatia and Hungary concerning the protection of the Hungarian minority in Croatia and the Croatian minority in Hungary of 1995, and the agreement between Croatia and Italy concerning minority rights. The problem, however, came into being with the new minorities, that is with the members of the peoples that had been constituent nations in the former Yugoslavia, particularly with the Serbs of Croatia, who in the socialist Croatia had the status of sovereign people (Daskalović, 2003). Nevertheless, in 1992 Croatia had to amend the existing Constitutional Law; the main reason was that the text of the Law as it then stood did not include to an adequate extent the right of the minorities to political autonomy in areas where they are a majority (more in Matulić, 2003).

In Title III of the Constitutional Law it was said that the right of the minorities to cultural autonomy and other collective rights, including freedom from discrimination, the right to survive, the right to an identity, the right to a culture, the right to religion, the public and private use of a script, the right to education, the right to take an equal part in public affairs, such as for example the exercise of political and economic liberties in the social sphere, the access to media and in the field of education and generally of cultural affairs, the right to decide to which ethnic community or minority the individual citizen wished to belong. Title IV determined the right to proportional participation in representative and other bodies. A minority that was more than 8% of the entire population had the right to be represented in parliament in proportion to its share in the total population. A minority that was less than 8% had the right to 5 representatives in Parliament. The Constitutional Law provided for a special law regulating the representation of minorities in other bodies of national government. It also determined the right to political autonomy. The right to political autonomy belonged to minorities in districts (special status districts) in which they

made up an absolute majority according to the census of 1981. Apart from this, the Constitutional Law also provided for two kinds of control of its own implementation: international control and collaboration on the implementation of its provisions in the special districts. A special provision of the Constitutional Law enabled the districts to file a constitutional suit with the Constitutional Court if by some instrument of national government their liberties and rights guaranteed by this law were violated.

At the end of September 1995, after the combined police and army operations through which the government once again took control of the whole region previously controlled by the Serbs, except for Eastern Slavonia, which was placed under temporary UN administration, the Parliament "temporarily" halted the implementation of most of the laws, especially those that related to the Serbian minority. This caused many problems in Croatia and led to pressures from the international community.[xvii] The general provisions, those provisions about representation that related to the smaller minority communities (Italians and Hungarians) remained in force.[xviii] Although Croatia undertook according to the standards of international documents to protect all other ethnic minority rights, right up to the Constitutional Law of 2002, there was no proper law to guarantee this kind of level of protection, a level in line with European standards.

THE STATE OF AFFAIRS AFTER THE NEW CONSTITUTIONAL LAW WAS PASSED

The new Constitutional Law on the Rights of National Minorities

According to the new Constitutional Law, Croatia undertakes to respect and protect the rights of national minorities and other fundamental human and civil rights, the rule of law and all other highest values of its own constitutional and the international legal order, for all its citizens. This is not just about human rights and liberties guaranteed by the Constitution, but all the other rights provided for in the treaties that Croatia is party to. Thus, Croatia has bound itself to guarantee equal rights to all, irrespective of sex, race, skin colour, language, religion, political or other belief, ethnic or social origin, connections with an ethnic minority, property, status from birth or from any other basis. Rights so guaranteed are an indivisible part of the democratic system and

enjoy the necessary support and protection, including affirmative measures benefiting the ethnic minorities.

National minorities, according to the new Constitutional Law, are "a group of Croatian citizens the members of which have been traditionally living in the territory of the Republic of Croatia, and the members of which have ethnic, language, cultural and/or religious characteristics different from other citizens, and who are guided by the desire to preserve these characteristics" (Article 5). For the first time, then, in Croatian law, the concept of a national minority is defined.

With the objective of promoting development in Croatia, the respect for multicultural and linguistic diversity, and the rights and liberties of individuals, in the new Constitutional Law, there has been an endeavour to incorporate high standards of the protection of the rights of ethnic minorities as established in treaties. In addition, Article 4 Paragraph 4 of the Constitutional Law on the Rights of National Minorities forbids any form of discrimination based on minority status. Members of minorities are guaranteed equality before the law and equal protection under the law.

Although during the debate on the draft there was no markedly positive political climate for it to be passed, with the adoption of this law, a constitutional and legal framework was nevertheless created for the exercise of minority rights. The political background to the adoption of it is not discussed here, only primarily the legal framework. Within the legal framework, as the Constitutional Law itself states, the provisions of this Constitutional Law and the provisions of separate laws governing the rights and freedoms of members of national minorities have to be interpreted and put into effect with the purpose of respecting members of national minorities and Croatian citizens, the development of understanding, solidarity, tolerance and dialogue among them (Article 8). Since the Law was adopted and came into force in December 2002, it will be possible to make a true assessment of the state of affairs only after some fairly long period of time, since the provisions of the law do not necessarily entail the certainty of improvements in the social, economic, cultural and other conditions in which minority interests can be exercised, for they are dependent to a very great extent on the overall development of Croatia.

Political rights of minorities

The new Constitutional Law states that minorities will be represented by members of parliament elected in special constituencies.

According to the existing wording of the law, special measures are allowed, but in the context of political rights of minorities the right to a double franchise is not specifically stipulated. In addition, there is no proportional representation stipulated in local executive and national administrative and judicial bodies, nor is there any opportunity for minority representatives to be elected from the party lists. Instead of proportional representation, the Law enables "representation … taking into account the proportion of the members of national minorities in the total population at the level at which the body of the government administration or judicial body is founded." The Serb minority, which has 1.5% of the total population, will have from one to three representatives. The ten numerically inferior minorities will have, as heretofore, four representatives all told. The Italians and Hungarians will continue to have one each, and the Czechs and Slovaks will have a representative in common. Members of Austrian, Bulgarian, German, Polish, Romany, Romanian, Ruthenian, Russian, Turkish, Ukrainian and Jewish minorities will together choose one representative in the Parliament. Members of the Albanian, Bosnian, Montenegrin, Macedonian and Slovene minorities will also jointly elect a single member of parliament. In the most recent amendments to the Law concerning Elections of Members of the Croatian Parliament, April 2003, in line with the Constitutional Law, another three seats were added for minority representatives (Article 16) (NN 69/03). Thus after the elections of November 2003, there are a total of eight members of parliament for the national minorities, of which three are reserved for Serbs. Croatia is one of the three European states that have guaranteed seats for minorities, along with Slovenia, which has two, and Romania, 15. The Constitutional Law governs the founding of a council of national minorities and representatives of minorities in units of self-government, also known as minority self-government.

The Constitution (Article 15 Paragraph 3: "As well as the universal franchise, the law can ensure members of national minorities the special right to elect their representatives to the Croatian Parliament") and the Constitutional Law (Article 3 Paragraph 1: "The rights and freedoms of persons who belong to national minorities, which are fundamental human rights and freedoms, are an inseparable part of the democratic system of the Republic of Croatia and enjoy the necessary support and protection, including affirmative measures for the benefit of national minorities") suggest the interpretation that the minorities have the right to vote twice. Nevertheless, this right was not used at the last elections to the Parliament. The provisions concerning the right to a double vote were not put into the last amendments to the Law on

Elections of Members to the Croatian Parliament; hence the question arises as to its harmonisation with the provisions of the Constitution, international and European law that, as has already been explained, have a legal force greater than that of statute.[xix] The exercise of special rights is guaranteed in Article 7 of the Constitutional Law, when members of minorities exercise them individually or in concert with other persons who belong to the same minority.[xx] The realisation of special rights, according to the Constitutional Law, is bound to be ensured by the Republic of Croatia.

The demand for special rights, although very often disputed, can be justified by reference to the theory of liberalism. It is necessary to point out that the demand for special rights must have justification in the context in which it is applied. Thus Kymlicka (1989) for example asks "if the demand for special minority rights is founded on different choices/elections or on unequal circumstances?" This is an important question, because special rights for a minority involve special costs for others, limiting their rights. If the cultural rights of a minority are justified on the basis of the promotion of its selected values, then it would be unjust and incommensurable with the principle of the neutrality of the state, which does not allow the use of political power for the purpose of the isolation of the choice of the minority from the working of the market. It is completely legitimate to demand from the minority community that it shapes its life plan taking into account the costs that others have to pay, which are defined by the market. However, Kymlicka thinks that minority rights can and should be justified not on the basis of common choice, but on the basis of unequal circumstances. In contrast to the dominant culture of the majority community, the very existence of the cultural community of a minority depends on the decisions of the majority. It can be voted down by the provision of all the resources necessary for its existence, and this is a possibility which members of the majority culture do not have to face. As a result of this, members of a minority culture have to spend their own resources in order to ensure their affiliation to their own cultural community, which constitutes the point of their living, while the majority people gets this for free. In this way Kymlicka (1989) shows that the special measures that the minority demands serve to correct the advantage that the majority has even before anyone exercises his or her choice. This is a kind of inequality that has no connection at all with the choices of the minority group. According to Kymlicka (1989), the correction of this inequality is the basis for the liberal justification of minority rights as collective rights.

The Constitutional Law in Article 23 (NN 154/02) goes on to prescribe the rights of minorities to elect their representatives for the sake of taking part in public life and managing local affairs via councils and representatives of minorities in the self-governing units. Members of a national minority in the units of self-government in the area of which members of a given minority make up at least 1.5% of the total population, in units of local self-government in the area of which there live more than 200 members of a minority and in units of regional self-government in the area of which more than 500 members of a minority live can elect a council of minorities. According to the Law, ten members are elected for a municipal minority council, for that of a city 15 members, and for the council of a county 25 members of a national minority. Although from the actual wording of the law it is not clear whether this is a maximum number or a fixed number of members, the assumption is that it is a fixed number. Members of councils of minorities and representatives of minorities are chosen directly by secret ballot for a period of four years.

The Law also provides for the foundation of a national level Council for Minorities, a body that would deal with the proposal and solution of matters related to the protection of the rights and liberties of the minorities. This Council would be founded primarily to let the minorities play a part in public life, particularly for the sake of considering and proposing the government and settling of matters related to the exercise and protection of the rights and freedoms of minorities. The Council is bound to work with the competent bodies of the national government and bodies of self-government, with the councils of the minorities, or with minority representatives, associations of minorities and legal persons that carry out activities enabling the attainment of minority rights and liberties (Article 35 Paragraph 1). The Council has a very wide purview, while the Government appoints members for a period of four years. According to the current provisions, the actual substance of the collaboration enjoined is not clear. It is crucial to work this out in detail. Also unclear is the sphere of competence of the Council, since it is never stated in detail what the expression "the Council has a wide sphere of competence" entails. In addition, it is clear from whose ranks and according to which criteria the members are to be appointed. The Council primarily has the right:

- to suggest to government authorities that they discuss given matters that are important for the minorities, particularly the implementation

of the Constitutional Law and special laws governing minority rights and freedoms;
- propose to bodies of national government measures for improvement of the position of a minority in the state or in some area of it;
- give opinions and make proposals about programmes of public radio and television meant for the minorities, the treatment of minority matters in programmes of public radio and television and other media;
- propose the undertaking of economic, social and other measures in areas traditionally or considerably inhabited by members of minorities so as to make sure of their survival in these areas;
- seek and obtain from bodies of national government and bodies of local and regional self-government data and reports necessary for the consideration of any matter from its purview;
- to summon and demand the presence of representatives of bodies of national government and local and regional self government in whose jurisdiction are matters from the purview of the Council as laid down by the Constitutional Law and the Council's charter.

From all this it seems that the Council has a consultative or advisory role only in the implementation of the provisions of the Constitutional Law. The function of control of the implementation of the Constitutional Law and the ability to exercise the rights and liberties of minorities is assigned to bodies of the civil service in matters from their own jurisdiction. The Government is bound at least once a year to submit to the Parliament a report about the implementation of the Constitutional Law. The guaranteed independence in the work and activities of the Council and the smaller councils is certainly positive. The councils for national minorities, or the representatives of national minorities and the Council for minorities have the right, in line with the provisions of the Constitutional Court Law, to file a constitutional suit with that Court, if in its own opinion or as a result of some initiative of a member of a minority they consider that the rights and liberties of members of minorities as prescribed by the Constitutional Law and separate laws (Article 38 Paragraph 3) have been violated (Article 38 Paragraph 3). But still, from the provisions of the Constitutional Law, apart from a constitutional suit, no clear mechanism for protecting minorities from various forms of discrimination can be seen. In other words, it is up to the legislative arm to put the principle of the promotion of equal opportunities for minority groups of the population, one of the leading principles of the protection of minorities in the EU, into

some other laws and in this way to reinforce the mechanisms for the protection of minority rights. This has only been partially done in the Parliamentary Elections Law. Almost a year after the passing of the Constitutional Law, not much, then, has been achieved. The biggest job is still to come, since the national legislation has to be harmonised with the standards of constitutional law, and also with those of international and European law. Perhaps a simpler solution would be to adopt an overall anti-discrimination law.

MEASURES AND RECOMMENDATIONS

One of the main questions in the theory of human rights is that of the justification of human rights: why do human beings have human rights and which human rights do they have (Matulović, 1996)? For human rights to exist, there must be valid ethical criteria or principles that justify them. From this point of view it is necessary to find and understand the justification of the protection of minority rights, since they are also human rights. In other words, Croatia is not bound to protect minority rights only because this is required by the international community and is one of the conditions for membership in the EU. The only justification is that Croatia be built up as a democratic, multicultural and multiethnic society. Also, a justification is the constitutionally guaranteed right to ethnic equal rights, as well as the equality of each individual before the law, independent of race, skin colour, sex, language, faith, political or other conviction, national or social origin, wealth, education, social position or other features.

It is the duty of Croatia as a state to ensure the coexistence of all individuals irrespective of their national affiliation. Considering the number and proportions of national minorities in the territory of Croatia, it is essential to accept the specificities of individual minority communities vis-à-vis their cultural and historical diversity. In its activity programme for the period between 2000 and 2004 the last Government said: “The Government will remove all the obstacles that prevent the full civil integration of members of national minorities into Croatian society. With this objective, it will propose, among other things, appropriate solutions with which to ensure positive action in the election law so as to provide them, beside universal civil rights, special rights as well, such as the proposal and election of their own representatives”. In the light of the holding of the fifth elections in Croatia since

it became independent, the members of minorities did have the right to vote for candidates on the minority list, but they did not have the right to vote at the same time for the other candidates, that is the parties and coalitions on the regular lists. Although the Constitution and the Constitutional Law on the Rights of National Minorities both provide for double voting, the Parliament rejected this in the last amendments to the electoral law. Minority members thus have an alternative: vote either for the regular, or for the minority list. In the next few years one will have to see how much the new Constitutional Law will contribute to the improvement of the position of minorities in society. It will be essential to make certain amendments to the current provisions so that they are as clear and unambiguous as possible. In any case, the Constitutional Law is an important advance in the protection of minority rights, both for Croatia and for other lands in the region. In this part Croatia should play a key role as factor of stability in the region, one of the essential conditions for EU integration. In the stability and association process, it is the regional stability factor that represents a very important political precondition for integration. In order to achieve positive moves, it will be necessary to draw up measures and recommendations to make this process faster and more qualitative. Of course, on the way there are bound to be certain barriers. Primarily we are thinking here of the political situation, of economic stability, but also of the awareness of each individual for the need to foster diversity and toleration in society. The Constitutional Law says that ethnic and multicultural diversity and the spirit of understanding, respect and tolerance help in the promotion of development. At the end, some recommendations for improving the position and rights of minorities in Croatia:

- harmonise national legislation in the area of minority protection with the Constitution, international and European law;
- pass a single anti-discrimination law to prevent discrimination against individuals on any grounds whatsoever;
- enable proportional representation of minorities in local executive bodies and bodies of national administration and judiciary;
- through amendments to the parliamentary elections law enable the existence of special lists for minorities during elections for representative bodies, with guarantee of double franchise;
- by statute enable application of special measures in cases when members of minorities are underrepresented (in employment for example);
- ensure the restitution of property confiscated in the war, or make sure of appropriate damage (courts to use summary procedures for restitu-

tion cases, independently of whether they have been filed by the state attorney or the owner of the assets);
- enable the renovation of ruined houses and facilities if the returnees want to go back to them (and all of those who submit an application for renovation should be treated in the same way, irrespective of their ethnic origin) or ensure them appropriate damages in lieu;
- ensure that government help is provided without discrimination on the basis of ethnic origin;
- legally to enable owners of property to seek from the government or state damages in cases when the damage was the result of violence that the government was duty-bound to prevent;
- enable the construction of educational and healthcare establishments as well as the employment of professional personnel in reconstructed and inhabited areas;
- educated individuals, citizens, politicians, judges, attorneys, civil servants and media on the importance of promoting tolerance with respect to minority groups;
- enable the functioning of a state of law and order – to process war crimes and other crimes (with respect to the constitutional principle of equality of all before the law during trials).

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i *The International Covenant on Civil and Political Rights, the Declaration on the Rights of Persons belonging to National or Ethnic, Religious or Language Minorities, the European Convention for the Protection of Rights and Fundamental Freedoms, The European Charter on Regional and Minority Languages, the Framework Convention on the Protection of National Minorities, the Final Document from Copenhagen on the protection of minorities, the Document of the CEI for the Protection of Minority Rights. The Treaty of Amsterdam, 1997, which is a primary source of EU law, in Article 13, forbids every form of discrimination, hence also discrimination based on racial or ethnic origin and religious or other belief. Of the secondary sources of EU law the most important is the Directive concerning the application of the principle of equal treatment for all individuals irrespective of their racial or ethnic origin.*

ii *For more details see Andrassy, Bakotić, and Vukas (1995).*

iii *Minorities would be non-dominant groups of the population who want to have and to preserve their own ethnic, religious or language traditions or characteristics, different from those that are proper to the rest of the population of the same state. To this definition is added the condition of numerical strength, according to which such groups should be numerous enough to be able to preserve their own characteristics. This in fact ignores those minorities that should most be protected. But the biggest problem here is that minority matters are posed in different manners in different countries, so that it is difficult to find common principles and rules that meet all the conditions (Andrassy, Bakotić and Vukas, 1995).*

iv *Framework Convention for the Protection of National Minorities, European Treaty Series/157. Croatia has been a party to the convention since February 1, 1998. NN*

- Treaties 14/97. As of May 12 the Convention bound 35 states (not including Belgium, France, Greece, Holland, Turkey and the Ukraine).

[v] *For more detail on this see: http://www.europaparl.eu.int/workingpapers/libe/102/#top.*

[vi] *Consolidated versions of the Treaty on European Union and of the Treaty Establishing the European Community (2002) (2002/c, 325/01), OJ C 325/2, 12/24/2002).*

[vii] *Directive 2000/43/European Commission concerning the application of the principle of equal treatment for all persons irrespective of racial or ethnic origin. Official Journal L, 180. 19/07/2000.*

[viii] *Directive 2000/73/European Commission of the EP and the Council of the EU of September 23 on amendments to Directive 76/207/EEC of the Council on the application of the principle of equal treatment for men and women in employment, professional practice, promotion and conditions of work.*

[ix] *European Network Against Racism (ENAR), speech by Bashy Quaraishy, chairperson of ENAR, Brussels, June 8, 2003.*

[x] *Croatia signed the European Convention on November 6, 1996, and ratified it on October 17, 1998. It deposited ratification papers on November 5 and after that it was published in NN 18/97, annex: Treaties.*

[xi] *In 1997 the Slovenes and Bosnians were expunged from the special list of minorities that appears in the preamble to the Constitution, which states that the "Republic of Croatia is founded as the nation state of Croatian citizens and the state of members of indigenous national minorities: Serbs, Czechs, Slovaks, Italians, Hungarians, Jews, Germans, Ukrainians and Ruthenians and others who are citizens of it." In spite of the amendments to the Constitution, the last of which come from 2001, these two minorities, like the Romany, are still excluded from the constitutional inventory of minorities (see Constitution of Republic of Croatia, NN 41/01). The Government's Office of Minorities was founded by an ordinance of December 1990, before the international recognition of Croatia as an independent state.*

[xii] *In its report for March 1998, the Venice Commission repeated the importance of adopting the revised Constitutional Law and noted the negative effect that the suspension of large parts of the law had had on displaced persons and refugees that belonged to the minorities.*

[xiii] *Amendments to the Law concerning Elections of Members of the Croatian Parliament, October 1999, say that 5 representatives (for minorities below 8%) will be distributed in the following way: Italians, Hungarians and Serbs have the right to one each; the Czechs and Slovaks one; and Ukrainians, Ruthenians, Jews, Germans and Austrians one. This reduced the representation of Serbs from 3 to 1 representative, and the Slovene and Bosnian minorities had not right to representation. This model of minority representation was applied in the elections of 2000, which resulted, according to the formula, in five minority representatives in the Parliament.*

[xiv] *Croatia ratified the Framework Convention in October 1997 and submitted its first report in March 1999. In April 2001 the Consultative Committee published a view that was the basis for the resolution for the Council of Ministers of 2002.*

[xv] *Adoption of the altered Constitutional Law is also a condition for Croatia to join NATO.*

[xvi] *The Constitution guarantees members of all ethnic minorities freedom to express their ethnic affiliation, freedom to use their own language and script and cultural autonomy (Constitution Republic of Croatia, NN 41/01).*

[xvii] *Between 300,000 and 350,000 Serbs left Croatia during the war of 1991-1995. There are no precise statistics about how many of them returned. Human Rights*

Watch, 2003. Croatia Fails Serb Refugees: Ethnic Discrimination Slows Refugee Return. p. 10.

[xviii] *Among the provisions suspended in September 1995 was article 18 paragraph 1, which provided minorities that made up more than 8% of the total population in the census of 1981 proportional representation in the Parliament, Government and supreme judicial bodies. Only the Serbian minority was hit by this. The right to be represented at the national level for minorities that constituted less than 8% (had the right to elect a total of 5 MPs) remained in force as did provisions that provided for proportional representation in bodies of local self-government. Suspended too were provisions related to the foundation, functioning and international control of special autonomous districts in which the Serbs constituted a majority according to the census of 1981, and those for which the Human Rights Court was established.*

[xix] *UN Charter (1945), General Declaration on Human Rights (1948), Convention of the Council of Europe for the Protection of Human Rights and Fundamental Freedoms (1950) and protocols accompanying this convention, the International Convention on the suspension of all forms of racial discrimination (1969), the UN Declaration on the Rights of Persons Belong to National or Ethnic, Religious or Language Minorities (1992), the Framework Convention on the Protection of National Minorities of the Council of Europe (1997), European Charter on Regional and Minority Languages (1992), CEI Instruments for the protection of Minority Rights (1994) and others.*

[xx] *Article 7 of the Constitutional Law runs: "The Republic of Croatia ensures the realisation of special rights and freedoms of members of national minorities that they exercise severally or together with other persons that belong to the same national minority, and when this is determined by this Constitutional Law or a separate law together with the members of other ethnic minorities, particularly:*

- *using their own language and script, privately and in public use and in official use;*
- *education in the language and script they use;*
- *use of all emblems and symbols;*
- *cultural autonomy by the maintenance, development and display of their own culture, and preservation and protection of all cultural assets and tradition;*
- *right to manifest their own religion and the foundation of religious communities with other members of that religion;*
- *access to public information media and carrying out the activity of public information (reception and dissemination of information) in the language and script they use;*
- *self-organisation and association for the sake of attaining common interests;*
- *representation in representative bodies at a national and local level and in administrative and judicial bodies;*
- *participation of members of ethnic minorities in public life and in the management of local affairs via councils and representatives of ethnic minorities;*
- *protection from all forms of activities that threaten or might threaten their survival, the attainment of their rights and liberties".*

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Chapter 11

HIGHER EDUCATION IN CROATIA AND REQUIREMENTS OF THE EUROPEAN UNION

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ABSTRACT

The objective of this paper is to draw attention to the conditions that Croatia needs to meet in the area of higher education on the route towards European Union (EU) accession. Although higher education is not one of the priority sectors Croatia should work upon in order to meet the provisions of the Stabilization and Association Agreement (SAA), it is very clear that the harmonisation of Croatian legislation with European standards in the area of higher education will be one of the mainstays of social development and then of genuine accession to the EU.

The main means for the unification and reform of tertiary education in Europe is the Bologna Process. Just recently, through the nominal accession to the Bologna Process, Croatia has started to become aware of the imperatives that the EU has set all accession countries and potential accession countries. However, Croatia also has additional problems, inherited from the tradition, which should be settled before it begins to address those related to joining the European higher education area.

We shall first give a brief account of the situation in Europe and outline the requirements of the Bologna Declaration. Then we shall compare the situation in Croatia and the accession countries with respect to the parameters that are tracked in the integration process, and hig-

hlight just a few problems that derive from the tradition and that take on increasing salience in the process of harmonisation with the Bologna Declaration. Lastly, we shall put forward some recommendations.

Key words:
European Union accession requirements, Croatian higher education, Bologna declaration, Trends I, Trends II, Trends III

INTRODUCTION

Today, Europe has over 530 universities with about one million students in forty-one countries, and is accordingly the world's greatest knowledge centre (EURIDICE/EUROSTAT, 2002). Only recently has it begun to be realised that this is a vast social capital of which Europe has not hitherto made common use. Language barriers and the enclosure of the educational systems within national borders have been the main reason that Europe has not exploited all its competitive potentials on the world market of knowledge. This is the reason why many of the documents of the *acquis* in the area of tertiary education stress the idea of mobility of students and faculty and the idea of international collaboration at all levels. At the Ministerial Conference on the creation of a European Higher Education Area in Prague in 2001 and at the Rectors Conference on trends in higher education in Salamanca in 2001 the Declaration on the shaping of the European Research Area was adopted, encouraging efforts related to the unification of social resources in the area of science and further education.[i] The main documents that preceded this Declaration were the Sorbonne Declaration on Harmonisation of 1998 and the Bologna Declaration of 1999. Behind these declarations was the realisation that only by the unification of its resources would Europe be able to compete with the very strong positions of the USA, Australia and Asia in the area of science and education. But the way from declaration to realisation can be very long. Looking at the past four years, in spite of the initiatives of the signatory countries of the Bologna Declaration (BD), it is clear that the idea of the necessity of international collaboration and mobility did not come from either the universities or the national governments, rather from the top, from the EU. This fact indicates that there may be problems: the resistance of the member countries, or of individual institutions, to the changes required by integration.

In parallel with this trend towards unification and mobility, other, opposed trends have been noticed. One such trend is the increasing enrolment quotas, that is, the increasing number of students enrolled in tertiary education in almost all countries. During the 1990s, the average number of students enrolled in Europe rose by more than 20% (OECD, 2000).

But there is an opposite tendency: that of the decline in state investment in the area of higher education, that is, an increasing pragmatism on the part of the state with respect to the institutions of higher education. This trend is not always manifested in lower budgetary resources, but in the new imperatives the state puts before the academies. Instead of the traditional idea of the Humboldt type of university, which stressed the education of the individual and the autonomy of personal knowledge, the need surfaces for increasingly greater accountability on the part of the actors in the educational process to the sources of financing, i.e., towards public needs and the taxpayer. In order to encourage such financial accountability, some governments have decided on the liberalisation of the domestic universities, and created a framework for the foundation of new institutions, branches of international universities or local private universities. In order to be able to cut budgets, sometimes there is an endeavour to introduce tuition fees that will transfer an increasing amount of the financing to the actual users of these public services.

At the end of 2003, the position of EU countries, or their representatives in the area of public education, is still vague with respect to the negotiations that are being held within the framework of the WTO, i.e., GATS, the General Agreement on Trade in Services.[ii]

Increasing requirements for accountability to sources of financing, i.e. to the public, knowledge that on the world market competition is increasingly knowledge-based, and finding solutions for the problems of unemployment create the need to make knowledge serve the public and the economy. This trend is manifested in a number of ways: through attempts to abbreviate courses, by the ever-increasing stress on the technical skills of students, and the creation of life-long education programmes, and by the need for the retraining of personnel that have already qualified. The inertia and rigidity of traditional institutions of higher education lead them to resist such governmental attempts. For these institutions, such new imperatives entail numerous technical difficulties: How can one recognise the value of other qualifications? In which way can the values of individual courses or subjects be compared?

How can a curriculum that is theory-based be quickly made pragmatic? How can curricula be shortened and pragmatised without consequences for the employment structure?

All these trends indicate that there is a very dynamic reform process in higher education in Europe, and that in spite of all declarations, because of the opposed interests of local stakeholders, the outcome of these reforms is far from clear. In some countries there is resistance to the shortening of graduate studies. In others, there is fear that the introduction of some uniform quality assessment will threaten the national culture and language. For this reason, declarations of the EU give governments the means to start off reforms at the domestic level. The name for such a reform process for all the structures of higher education in Europe, according to the declaration by which the EHEA imperatives were set up, is called the Bologna Process. The reform process should be completed by 2010.

THE BOLOGNA DECLARATION AND THE BOLOGNA PROCESS

The BD, documents connected with the Bologna Process, with the so-called Lisbon Convention on the mutual recognition of degrees, are almost the only and certainly the main instruments with which the EU countries and the accession countries and potential accession countries are attempting to realise common aims in the area of higher education. The BD was signed by 29 European countries on June 19, 1999.[iii]

The BD states that the area of higher education is a social area that can create a "more perfect and influential Europe", particularly through the building up and reinforcement of common democratic, cultural, social, scientific and technological dimensions. The aims of it are:

- Acceptance of a system of easily identifiable and comparable academic and professional qualifications, and the introduction of diploma supplements, for the sake of more rapid and easier employment, and the international competitiveness of the EHEA.
- Acceptance of a uniform system of two study cycles for undergraduate and graduate degrees. A three-year course is a necessary qualification on the European labour market, and the second cycle leads to a master's or doctor's degree.

- Introduction of a credits system (ECTS); credits may be accumulated even outside the formal system, through the lifelong learning programmes (LLL).
- Promotion of mobility and surmounting barriers to free movement for students and faculty.
- Promotion of European cooperation in quality assurance.
- Promotion of the European dimension in the area of higher education.[iv]

However, the Bologna Process has not yet set up either the key principles to make the EHEA more attractive or the principles of mobility. For example, will courses for foreign students be free, will mobility still rest on special tenders and programmes for the mobility of students and faculty, or will the market criterion be introduced – willingness to pay fees. Considering the resistance to reforms of some important countries, like Germany, which does not have a uniform, countrywide educational policy, but has a two tier system and a very firmly established four-year course; or France, where there are fears concerning the establishment of common criteria for the evaluation of the quality of the HE institutions, the question arises as to whether the proposal for a uniform timetable of 3+2+3 will be upheld. There is also an idea about the codification of doctoral studies, which have in many countries been structured exclusively through the relationship of student and tutor.

From all these concerns it should be concluded that the Bologna Process is indeed just a process of democratic negotiations concerning the generally desirable means and objectives of integration. It has sketched out the space, in which many ideas however are not completely articulated. Still, the objectives mentioned above are strong points of reference. Progress in their realisation is tracked by the European Commission in bi-yearly reports.

EUROPEAN HIGHER EDUCATION AREA OBJECTIVES REALISATION

Coordination of measures and the foreseen objectives of the Declaration is done by the European Commission, that is, by the General Directorate for Education and Culture. While reports are being written, contacts are made with the European University Association

(EUA), European Associations in Higher Education (ERUASHE), the National Unions of Students in Europe and the Council of Europe. To date, three reports have been published.[v] The European Commission and its members finance special seminars on topics dealing with the BD. The reports include analyses of the structures of higher education, analyses of legislation and ongoing reforms, and analyses of other aspects of higher education, particularly those related to the objectives of the Bologna Process.

Reports of the European Commission, Trends I, II and III, follow the abovementioned main parameters in the unification of the European HE system as set out in the BD.

Trends I concluded that HE systems showed a great deal of complexity and diversity, and that there was no significant convergence on the 3-5-8 (or 3-2-3) degree timetable. Similarly, separation into the so-called binary system (university – higher education professional teaching) is not universal; a comparison of countries that have it shows a great variety. Trends I claims that the need for unification of systems is ever greater considering international competition, and also that in the area of labour and the market there is an increasing need for study courses to be shortened. For this reason this report recommended adoption of the abovementioned objectives, which were then adopted by the signing of the BD.

The objective of Trends II was to compare the parameters that should, according to the BD, lead to a common system. As for unification, in the 1999-2001 period, when Trends II was written, there were several institutional and real reform advances, and the aims of the BD were built into the strategic plans of most signatory countries.

The first institutional and legislative advance was the foundation of the European Network of Quality Assessment Agencies (ENQA) in April 2000. The point of the network was the establishment of a single unified system for assessing the quality of teaching. Although the BD is a constant source of debates, the ENQA has not had any very great success in building up a uniform system for quality assessment. The reason for this is the double concern that a uniform quality system will benefit the best, along with the fear that it will set standards that weaker countries will not be able to meet. Many countries, in particular France, also show concerns that derive from the knowledge that the greatest importers in the knowledge market (i.e., of students), and potentially the main winners in the race for students, are Britain and Ireland, i.e., countries in which the curriculum is delivered in English.

The situation with the ENIC/NARIC network is very different.[vi] In order to fulfil the first objective, the European Commission, pursuant to the Lisbon Convention, together with UNESCO and CEPES created a separate network, the co-called ENIC/NARIC, which tracks the creation of information networks about higher education systems and institutions to make the recognition of degrees easier. In consequence of the founding of the ENIC/NARIC network, citizens of states that do not have a developed system of information about qualifications, degrees and programmes will be faced with greater difficulties in getting their qualifications recognised in other countries. Although nominally Croatia has created a national (ENIC/NARIC) group for the recognition of degrees, as far back as 2000, it was until quite recently very inactive, on the international as well as the domestic level.[vii]

According to claims from Trends II, the objective of student and faculty mobility has the greatest support among European countries. The EU has set up a number of programmes with considerable financial resources earmarked for the realisation of this objective (Socrates, Erasmus, PHARE), and also the effectuation of international collaboration – the S. C. Framework programmes. Croatia joined the programme only in 2001, and hence is severely lagging behind in faculty and student mobility.

According to Trends II, *employment* is a very controversial objective of the BD, because many EU members think that it menaces national plans for resolving unemployment problems. However, Trends II concludes that the BD "pays attention to the pan-European dimension of topics related to employment" and that it is an increasingly evident trend to the foundation of new, international and ad hoc programmes for the employment of citizens of other countries.

The topic of *competition* is particularly to the fore in Britain, Ireland, Norway, Flanders and Switzerland, and least visible in the countries of SE Europe. France has expressed concern for the ever decreasing attractiveness of European tertiary education, manifested in the declining number of European students from non-member countries (Trends II:22). Some less developed states express the need to increase competitiveness at the national level to diminish the brain drain. Some countries, like Sweden, Germany and Britain, have created programmes for the active promotion of their own higher education in the world, and the topic of advertising is of increasing importance. Some countries are motivated by non-financial, and some, like Britain, almost exclusively by financial motives. The chaotic, rigorous and discrimina-

tory policy of visa allocation, however, runs to some extent counter to this trend.

The BD motivated signatory countries to discuss linkages within the binary system. In an increasing number of countries the Diploma Supplements according to the BD are being introduced, as well as a credits system more or less compatible with the ECTS.

While Trends II concentrated on the beginning of *legislative* trends, particularly in SE Europe, and on processes strengthening the common features of the integration processes, Trends III, because of the time span since the signing of BD, was able to make a more thorough analysis of the points of agreement and of resistance. In spite of the fact that the process was initiated from on top, the process through which European HE institutions under the aegis of the EU were only just attempting to create a framework for common legislation, Trends III covered analyses of views of heads of institutions of higher education, ministers and officials in the area of tertiary studies, and from these statistically processed views, some conclusions could be drawn. At the moment it is impossible to give any official interpretation of these views and analyses; they will be put forward by the end of September 2003 at a conference in Berlin.

Trends III, like the previous reports, follows European indicators related to the objectives of the Bologna Process, that is, mobility, structure of qualifications, introduction of ECTS and programmes for LLL, as well as internal and external systems of quality control. According to this report, the mobility of students and faculty has essentially increased, but the trend of imports is on the side of those countries that have programmes in English (apart from Britain and Ireland, Holland, Denmark and Sweden are mentioned, while France is an importer from non-European areas). Only 30% of respondents from European HE institutions claim that in their countries and their institutions there is any targeted marketing for student recruitment. Countries that do systematically carry out such marketing aimed at the student population are at once the greatest importers and greatest beneficiaries.

Trends III also mentions an increasing number of countries that have or are introducing two tier studies – undergraduate degrees and master's degrees – as well as a binary system (university and polytechnic courses), which is important for attainment of unanimity about the value of a given degree.

By tracking the number of programmes with joint qualifications of universities from different countries, it has been shown that the num-

ber is very small. In most countries there is no legal basis for awarding joint (international) university degrees.

The status of the Lisbon Convention is an essential indicator of the degree to which the European higher education area is united. Unification is still in a relatively rudimentary state. In spite of the fact that many countries have signed this convention, in reality it does not mean that institutions to monitor the qualifications structure actually function, or that national institutions such as the ENIC/NARIC groups are consulted at all. According to Trends III, only 20% of higher education institutions work with the national ENIC/NARIC commission, 25% do not collaborate, and 28% do not know what it is or that there is an ENIC/NARIC commission. The recognition of diplomas is very unstructured, and this often depends on a given university or department at which the student wishes to study, or even an institution that considers itself qualified to evaluate a certificate for the purpose of employment on the domestic market. This is expressly against the tendency of the BD.

Two thirds of HE institutions in Europe, according to the report, use ECTS as a system of credit points, and the others use some other system. However, the authors added that this number of users of the credits system is very high, and needs further investigation, since it does not seem to correspond to the real state of affairs.

Irrespective of the conditions prevailing in Croatia, it should be said that ECTS is just the first step towards the establishment of a uniform system. The ECTS assumes that the workload of a course per term is the main criterion for the possibility of evaluating a qualification, and hence most courses or subjects have the same number of points, and in some countries, in which studies last longer, a student can theoretically collect more ECTS points, which does not mean that his qualification is better. The recognition of certificates can follow only after an analysis of the Diploma Supplement, which according to the BD has become obligatory.

In the conclusion to this short review of the situation in Europe, we have to point out that in the Bologna Process there are still a number of uncertainties. For example, will there really be universal recognition of certificates? Will a uniform curriculum be established? Will the shortening of studies create the quality necessary for a knowledge-based society? Will the rejection of diversity and national traditions come about? Can all the envisaged reforms by effectuated by 2010? At the national or regional level, it is still an unsettled question whether the shortening of studies will lead to unemployment in the higher education

sector, especially in those countries where the need for social capital is most pressing. Will the ECTS be the only source of evaluation of quality of courses?

Since most EU countries have to coordinate their own national and European imperatives, and since no single country represents a pattern or canon according to which we can evaluate the degree to which we lag behind the EU (which is why we talk of the Bologna *Process*), a comparison of statistical criteria will not give us a real image of the domestic state of affairs or the extent of the gap. What is more, in this context it is interesting to mention that countries like Croatia and others in the area of SE Europe, which are de facto considered second rank countries, that is, countries that show a resolute intention to join the EU and in which there is almost complete agreement with the aims of European reforms, are used as instruments to exert pressure on larger countries where because of the tradition it is even harder to carry out the intended reforms (Trends II:5). Awareness that this is so gives the opportunity for an active promotion of these objectives and a more active international role for Croatia.

Unlike other areas of harmonisation with the EU, the area of higher education in Europe is still relatively unstructured, which for Croatia as a country that aims at EU accession is attended with certain advantages: it can take an active part in the preparation of the legal frameworks with which it will later have to comply, hence the claim concerning "lagging behind Europe" is less appropriate in the higher education field than elsewhere.

CROATIA, ACCESSION COUNTRIES AND COUNTRIES IN THE REGION

For us the most important part of Trends II relates to the special report about the accession countries and the countries of SE Europe. From the last part of the report a comparison of Croatia and other countries in the region as well as the candidate countries can be seen. An abridged part of this large comparative table is later given in Annex 2.

The report has two parts: the first relates to the legislation of the candidates and the countries of SE Europe. It was created by a special working group, LRP, of the European Commission. This group actually started working in Croatia only in 2000, when the LRP programme was already at an end. The axiom of this working group was that

without an integrated university there was no progress. The LRP insisted that the Czech Republic and Hungary give up on reforms leading to fragmentation of the universities (on the model of the system of the former Yugoslavia). In this context, Croatia, along with the countries of SE Europe, was referred to as a country in which it was impossible to expect development in tertiary education without university integration.

In the second part of the special report of Trends II comparative data are given according to several parameters. Table 1 presents a comparison of the systems and the structure of degrees in countries similar to Croatia. According to this table, there is great unanimity in the two-tier degree system (first degree/master's), and in the one tier doctoral studies in the universities (with the exception of Hungary), but a great variety with respect to the division and duration of the actual universities and colleges. The second table, which puts forward a comparison of the kinds of qualifications that are offered in the educational systems of these countries, shows the vast diversity that reigns in the accreditation of university degrees.

In outline, we can interpret the data in the following way. First, Croatia has a binary system (universities and colleges) and a two-tier system (first degree-master's) of the kind that is foreseen by the Bologna Process. A unitary system (only the universities), as possessed in 2001 by Albania, Bosnia and Herzegovina, Czech Republic, FYR Macedonia, Romania, Slovakia, Srbia and Montenegro, Kosovo and Hungary, has a one-tier system (direct master's degree). A doctoral course can also be two-tier (doctorate/*habilitation*); only Lithuania has this system, although some faculties and some professions here also imitate the system in Germany. The system of dual enrolment (state-sponsored students, fee-paying students), according to Table 6, exists in many other countries of Eastern Europe. In comparison with the countries of Western Europe, a large number of East European countries have a system in which fees have to be paid. It is interesting to mention that in some countries, like Malta, the *numerus clausus* has been completely abandoned, while in others it is sometimes determined by the state, or the region, or the university alone. Croatia thus is not unique in having an unequal enrolment system and hence of the financing of university courses. Since the BP does not say anything about the system of *numerus clausus*, and does not express the importance of the baccalaureate, the data on enrolment will be essential only perhaps in some later stage of the integration.

While in most countries the master's degree can be acquired after five years, in Croatia, Bosnia and Herzegovina, Albania, Lithuania, Serbia and Montenegro and FYR Macedonia, a master's can be attained only after 6 or more years of studies. Table 2 therefore explains why studies are longer in Croatia than elsewhere. Interesting is the similarity of all the national systems seen in Table 3 where it can be seen that almost all the systems have the *numerus clausus*, at least when state sponsored students are concerned. For others, with additional fees, university autonomy holds good.

Most of the candidate countries and the countries in the region have a relatively similar way of student financing. This consists of a quota of state-sponsored students, along with free enrolment of students who meet their own tuition costs according to the criteria of the higher education institutions. Some countries are considering a universal fee system, according to which all students would pay for their studies. Such systems are at odds with the standards of the countries of Western Europe, particularly of the Scandinavian countries, where there are no private higher education institutions, nor is there any system of fee payment for "personal needs" studies.

There are also similarities in the vertical mobility system. In most of the countries similar to Croatia, enrolment into a vocational college does not enable advancement into the system of several-year-long academic education, which is at odds with the intentions of the BD.

In the summary of the comparison we can say that in almost all the formal parameters that Trends II considers Croatia does not stand out from either the accession countries or the countries in the region. However, as we shall see below, the introduction of a binary system in Croatia in 1998 created a great number of problems that are today eroding the whole tertiary education system. Similarly, we are still not able to judge what the real consequences will be of the nominal introduction of the BP criteria into the new Croatian HE Law, because the mere formal introduction of new institutions so as to "converge on Europe" cannot in itself be adequate.

HARMONISATION WITH THE EUROPEAN SYSTEM AND THE BOLOGNA DECLARATION

Acceptance of the objectives of the BD via domestic legislation is only the first step on the long road to real reform. Croatia in the re-

cently passed law nominally accepted all the principles deriving from the BP. In the item about university autonomy in the new Science and Higher Education Law of July 2003 it surmounted the stumbling block because of which the EU did not previously accept Croatia as a full member or signatory of the Bologna Process. In 2002 we signed and ratified the Lisbon Convention, by which we (without any real awareness of the implications) leapfrogged the legal state of other larger countries that had only signed but not ratified the Convention. Looking at the legal framework for accession, it would seem that there are no very great problems for acceding to the EU.[viii] The new law cannot and will not necessarily and really achieve via the mere existence of good intentions what is meant to be achieved by the reform processes in Europe. In spite of this, it should be said that it is the legal framework that is of primary interest to the EU.

According to certain realistic indicators, Croatia does not essentially lag behind the other candidate countries and countries in the region. It has at the moment five universities and is hence up to the European average (one university to eight hundred thousand to one million inhabitants). The level of investment in the area of tertiary education ranges around 1% of GDP, and according to some figures expenditure in the area is higher than the European mean (Bajo, 2003). Croatia does not stand out either in the matter of number of students, teachers and number of universities and colleges (according to demographic criteria), or in terms of investment. There are also trends noted in the most developed systems, like the increasing number of women enrolled, and we also follow the trend towards the increasing overall enrolment of the students in the generation, and an increasing pragmatisation of studies, if we measure this parameter by the ever greater number of students enrolled in vocational courses.

Croatia, however, has a very small graduate population (7%) and this is one more motive for the introduction of polytechnics and the foundation of Zadar University in 2002. However, instead of founding new institutions, it would seem to be much more important to inaugurate a programme of LLL, because the situation with the older generations is much worse. Regional distribution of knowledge is also very poor. More than 50% of scientific production and a still greater percentage of the science and higher education budget is concentrated in Zagreb. These two facts indicate greater problems for regional development. Apart from the brain drain to other countries, there is a much greater problem in Croatia, that of the brain drain from local communities to Zagreb.

Structural problems of higher education

Nevertheless, there are many other and more important problems. The main institutional problems that weigh down the process of integration with the EHEA are: realisation of the autonomy of the universities, poor government administration, the financial and legal position of the HE institutions, the lack of mobility of faculty and other things (Polšek, 2003).

University autonomy. Although 2005 will see a start to the system of financing via the universities and not via the faculties, as has been the case so far, which should provide greater influence for the universities in the creation of programmes and mobility, the question arises as to whether the faculties, which were previously autonomous, will be ready to accept others' programmes and students, as foreseen in the BD.

Application of the ECTS points system and the recognition of diplomas. Universities will have to make possible internal mobility within larger institutions, which has not been the case to date, or even the mobility of students at the national level. The ECTS rests on the idea of work load (30 points per semester) and is designed primarily as a system of getting individual subjects recognised abroad, i.e., in the case of foreign students.

Recognition of diplomas. The withdrawal of the government from the area of diploma recognition (in spite of the existence of the ENIC/NARIC agency) shows that the universities could still create real problems for students who might want to study in Croatia, or those who have spent part of their study time at some other university, abroad. Experience to date shows that there will be enormous difficulties in getting these studies recognised. Judging from practice at the moment, the already poor mobility of domestic students will stay where it is, irrespective of the introduction of a new system of credit points. Hence, the problem of university autonomy will soon primarily become the problem of recognising courses taken at other faculties or universities. A variant of the same problem might arise if the universities in their internal statutes state that they are the competent authorities for recognition, which would frustrate any attempts to boost mobility and the employment of foreigners through the ENIC/NARIC groups.

Student and faculty mobility and employment problems. As for employment, it would seem that Croatia is not extremely attractive, and for this reason there is no need to pay particular attention to foreign students or employees. However, when real problems do arise, in both mo-

bility situations, it seems that the government will have to intervene. If we assume that the intention of the BD is the creation of a 3+2+2 system (concerning which very provisional judgements are being made pursuant to the BD), then a new problem will arise: how is the current system of studies to be revised so that courses that now last four years are turned into three year courses? Will there be a labour surplus? Will teachers then become reoriented towards more important and attractive subjects?

A number of problems are related to horizontal and vertical mobility of faculty and students. Programmes through which obtaining professional qualifications was linked to remaining in regional universities did not work. The question of the international competitiveness of teaching staff so far has not come up because the barriers to the employment of foreigners have been anyway quite insurmountable, and the curriculum is delivered exclusively in Croatian, while our academic area is not all that attractive. We have often thought of mobility of highly educated people in the sense of the brain drain. If there had been a political will, this drain might have been made up with an inflow from other countries, as is the case with our neighbours in Slovenia. Croatia has not been included in the PHARE and Socrates programmes for student and faculty exchange, and this has been a great barrier to integration. Students and teachers had few chances to work with their fellows at foreign universities. Most of such mobility programmes no longer exist, and Croatia will have to finance such an ostensibly simple task – the attainment of real integration into the European higher education area – from domestic budgetary sources. We will find it hard to make up for this lost step.

Many experts believe that Croatia has highly qualified personnel who can easily compete in Europe and the world, and that at least some institutions have a high reputation of the kind they once had, in the time of the cold war. However, the competition of experts from other parts of Europe has become such that highly educated personnel from Croatia have become practically invisible in Europe. Our broad-spectrum education was good as a qualification in third wave conditions – in conditions of industrialisation, but it is insufficiently specialised in conditions of the knowledge industry or information technology. This does not mean that we do not have good information scientists, rather that other specialists make too little use of informatic technology. However, the EU has understood that the brain drain is actually weakening the social and cultural capital of those countries that need

them most, and so mobility programmes expressly state the necessity of the return of experts to their native countries.

Financial irrationality. In a system of disintegrated universities great problems arise in the irrational spending of money, or the wastage of academic resources. This is visible from the fact that every faculty has its own teaching staff for any given subject. For some this problem is only nominal, since a large number of students anyway have to be catered for with a larger faculty. However, the irrationality is then seen in the accumulation of administrative staff and the absence of inter-faculty and interdisciplinary programmes (Polšek, 2003; Bajo, 2003).

Poor government administration. The administration responsible for the area of higher education is in a very poor state, and according to its own structure of qualifications cannot satisfy the most elementary requirements for the running of a higher education policy. It does not keep elementary statistics, nor are there any means to force the institutions to keep the relevant statistics. The small number of employees in the Higher Education Administration of the Ministry of Science and Technology are deployed as logistics to the para-institutions of the system such as the National Higher Education Council. According to the new Law of 2003, the situation is going to deteriorate if a number of similar agencies are introduced. However, for the functions that should exist according to the Bologna Process (for ENIC/NARIC for example, or for the recognition of diplomas) there are no offices with specially qualified personnel.

The problems of the dual system. A number of problems were introduced with the binary or dual system of 1998, that is, the separation of professional/vocational and scientific/scholarly courses and institutions. At Croatian universities there are four-year courses that are rather vocational than scientific or scholarly, and students are offered the same courses, with the same teachers, in professional and vocational as well as in academic studies. Most of these professional/vocational courses of study are done at the universities, with a different institutional name. In reality, institutional separation never occurred. In almost all cases where it did there are unsettled matters of assets and property, even court cases at the expense of the taxpayer. According to data from 2001, at three Croatian polytechnics not a single person was actually employed, not even dean or rector. For the 19,529 students, a number which is much larger today, teaching is carried out by 91 lecturers, of whom only 25 have the rank of academic teacher (for all data see Polšek, 2002). Teaching is mainly done by teachers from the uni-

versities, but this outsourcing reduces the quality of teaching at the universities. The small costs, the short time the courses last, and the large number of students who pay for their professional course (63%) make such courses economically extremely attractive. But the profitability of such courses does not translate into quality: what is more, in a large number of cases these vocational or professional studies are a smokescreen for the provision of additional sources of income for the universities or, of course, for completely private interests. Although in itself beneficial, the entrepreneurial mentality of the polytechnics is eroding the scientific and scholarly and professional core of instruction. The fact that it is the same teachers working at both kinds of institutions and in both kinds of courses aggravates the already large problem of the lack of pragmatism in the courses, i.e., the separation of academic content and real life. In spite of the fact that a number of European countries have a dual system and that it is one of the aims of the BP, *our* particular dual system is not settled in an ideal way, and its introduction in 1998 jeopardised the whole system of higher education in various ways.

Quality control and employment. All external, or international, evaluations of the quality of our tertiary institutions (Salzburg Seminar 2000, CRE 2000) highlight the problem of employment in the area of higher education and science. The faculty is relatively old and immobile. In spite of certain statutory prerogatives for the renewal of teaching staff, these provisions are not actually used. The programmes for hiring research fellows are very welcome, but they will not settle any problems until systems for the elimination of incompetence are introduced. In fact, in the system of lifetime employment, taking on research fellows will create a bottleneck and frustrate the further hiring of young people. This is a problem of almost all European countries. However, academic productivity statistics (Jovičić et all. 1999; Sorokin et all. 2002) show that employment sclerosis has direct scientific consequences. In spite of the so-called Matthew Effect in science – unto those that have shall be given – the number of science references falls off with age of teaching and scientific staff.[ix]

Lifelong learning. Programmes for lifelong learning are on the whole considered an extension of the fifth or sixth grade (as supplement to secondary or even elementary school) in spite of the fact that some "open universities" provide certificates that are like those of higher education. However, although professional/vocational (polytechnic) courses of studies are burgeoning, many elementary vocations and trades are crying out for labour. Because of the awareness that Croatia will

soon have the need for a highly specialised labour force, the European Commission in collaboration with the Education Ministry has set up a special non-governmental organisation in order to kick-start reform of vocational education. However, because of the increasingly strong competition in the world market, the narrow specialisation needs to be supplemented with lifelong education because of the need for retraining. There are exceptionally few such programmes in our country.

Poor collaboration between business and higher education. Collaboration between business and public higher education establishments is merely symbolic. The Chamber of Commerce and some important Croatian industries have often stated that the qualifications handed out at the universities are not good enough to warrant employment in their companies. On the other hand, it is almost impossible for business to exert any influence on the curriculum. For several reasons, the universities always look at such proposals for curricular reform with suspicion; first they think that scientific or scholarly education is more fundamental than pragmatic needs and that pragmatism leads to cutting standards; secondly, the pragmatism of such requirements should be concerned with vocational and not university studies; thirdly, among the teachers there is a justified fear that such programmes would introduce quality criteria that they themselves would not be able to satisfy. Finally, there is the legislation that does not make possible or rather essentially hampers the transfer of expertise from business into HE without the necessary academic degrees for teaching.

Higher education marketing. Although there are *university days* when the activities of the higher education institutions are highlighted, no systematic marketing of Croatian education exists. Entrepreneurship has been a double-edged sword in the Croatian HE market: the increase in the number of students did not accompany an analogous increase in investment, but led to the reduction of the quality of teaching. There is a very real danger that the institutions that are most ambitious with respect to marketing will with the new law on university autonomy experience the entry quotas as disincentives and be brought down to the level of the unambitious.

All these facts demonstrate that in the area of higher education we are keeping the older model of other branches: we adhere to the law, as expected from us, and yet the rules are only a first step, and mostly not crucial for real integration and enhanced competitiveness. One should not forget, however, that the many problems stated are also problems of a wider context: the model of welfare state on which today's

European universities repose has undergone a crisis, and can not resist the challenge of the highly privatised and enterprising universities in the US, Japan and Australia; the Humboldt university – broad general education of the individual – is in essence dead; the ways of circumventing the levelling of wages by moonlighting cannot be maintained in parallel with quality requirements; this simply confirms the already powerful sclerosis that exists in employment. But this is a poor consolation for those who just want to join a system that is only intending to become competitive (the Bologna Process of integration).

CONCLUSION

With the Science and Higher Education Law of July 2003 and ratification of the Lisbon Convention (2002) almost all the legal barriers for Croatian HE to join Europe have been removed. Unlike other areas, it would seem that in the area of higher education there will not be any problems with the actual laws. This is good news. However, one should draw attention to a few facts. First, joining Europe in the area of higher education is not an end in itself, a situation that can be “put in order" by only cosmetic attention in laws. But even the task of following European trends can be a problem if the government administration and university administration are not strengthened. It is completely possible and realistic that we will join Europe in terms of law, but that we will become increasingly distant from it if law reform is not accompanied by real changes in the area; that increasing numbers of students will study abroad and that the rate of the brain drain will increase and more and more teachers will consider other countries and universities more attractive. The consequences of this voluntary accession will then be disastrous. The primary aims of the BD are not to force member countries or signatories to work in some direction they do not themselves want, but to encourage consideration about what contributes to the general attractiveness of some education system, and work along these lines. For this reason then it is a good idea to be prepared for harsh competition among universities and other tertiary level institutions, by the introduction, for instance, of new and attractive curricula with highly qualified personnel capable of transmitting their knowledge not only in their own but also in some widely-used language. It is necessary to organise international programmes with international certificates. It is necessary to prepare for sharp competition among the teachers and stu-

dents by supplying attractive and technologically demanding programmes. Only by improving the real quality of teaching and research shall we be able to become genuine partners in a united Europe.

Consoling, however, is the fact that in this newly opened market for ideas and students, our problems are not ours alone. Most of the countries in Europe at the moment have a negative balance sheet of that social capital we call students. But from this we should not conclude that moves forward are therefore not necessary, because without mobility, with some new form of fencing, we shall not achieve the quality necessary in this market. Since language (English) is today the main criterion for the creation of such a balance sheet, then we should see a chance for Croatia in this, for our starting position is according to this criterion nothing worse than those of many countries, particularly those with a great cultural tradition, that are still endeavouring to retain only the domestic market. If we make use of it, we shall thus become an equal partner in the world market for knowledge and ideas.

RECOMMENDATIONS

If we assume that the purely legislative barriers to accession have been resolved (about university integration, for example), then some rather important recommendations still remain:

- Croatia needs to resolve the various forms of illegality in the work of the existing HE institutions. What is the sense of strengthening newly created institutions of vocational education until the unsettled questions of faculty and property are addressed?
- Reform of the state administration in the area of higher education is required so as to keep up with and settle tasks of an increasingly vigorous transfer of people and knowledge. This refers in particular to team building in human resources and to stepping up collaboration between the higher education administrations and the international collaboration department of the Ministry.
- Agencies for the question of the mutual recognition of certificates deriving from the Lisbon Convention and provision of information according to the requirements of ENIC/NARIC groups need to have personnel teams developed and to be provided with financial resources.
- The visibility of Croatian higher education at the academic and diplomatic level needs to be enhanced, by participation in activities of va-

rious student, teaching, professional, chancellors' and other academic organisations, so as to surmount the integration step that in other countries have been pursued through programmes like PHARE and Socrates.

- Teachers should become familiar with big international projects and with the priorities of the Sixth Framework. One has to surmount the difficulties in setting up contacts between teachers and scientists with foreign institutions in order to obtain international projects, because the half-heartedness that has taken a hold of domestic teachers has become a self-fulfilling prophecy; if we think that there is no point in such participation, it is not likely that some other country is going to do it for us.
- External quality control should be strengthened. According to members of the LRP, quality control agencies like our National Council for Higher Education should consist of over 50% of foreign scientific personnel in order to prevent the conflicts of interest that arise when such agencies evaluate the work or have to give grants for work in institutions that are competitive with their own.
- It would also be a good idea to make state financing dependent on such evaluations. International quality control will start to make sense only when jobs depend on the quality of the individual teachers.
- Quality control may make the marketing of exceptional institutions feasible. For the moment, however, the formation of centres of excellence (foreseen by the 2003 Law) can be a double-edged sword: the EU bureaucracy has noticed a sudden burgeoning of new centres of excellence (often for internal political reasons) and considers it a kind of Ostap Benderism typical of CE Europe.
- Instead of founding centres of excellence, with a strong quality control, it is necessary to distribute quality of institution, curriculum and teaching staff more equally among the regions. Otherwise the demand for a more equal division of employment and investment will be superfluous.
- It is necessary to open up the domestic market to foreign universities, so that our students are able themselves to make comparisons.[x] Universities should join as soon as possible the so far rare international study programmes – inter-university degrees. It is also necessary to create as many courses as possible in English in order to become more competitive.
- One of the main imperatives (and justifications of university integration) is to shatter professional strongholds and the feudal mentality

concerning the inheritance of academic positions. The point of such university integration is to form new interdisciplinary programmes as fast as possible to correspond to the new and changing requirements of domestic and foreign business, and the increasing specific needs of the clients, that is, the students.

- Trends III mentions the possibility of setting up international commissions for granting doctorates, or the foundation of international doctoral coursers, so as to avoid the tutorial work that prevails in most European countries.
- It is necessary to activate the work of the existing Croatian Science, Education and Technology Foundation as soon as possible. One of the priorities of this foundation should be the foundation of a popular science magazine to inform the public about contemporary interdisciplinary trends.

Annex 1 Comparisons among the candidate countries

Table 1 Higher education systems and degrees (abbreviated)

Country	HE system		Degree structure at universities		Doctoral studies structure	
	unitary	binary	single	double (BA – MA)	single	double
Bulgaria		x		x	x	
Croatia		x		x	x	
Czech Republic	x			x	x	
Hungary		x	x		x	
Poland		x		x	x	
Romania	x			x	x	
Slovakia	x			x	x	
Slovenia		x		x	x	

Source: Trends II (Full Report) p. 71

Table 2 Higher Education qualifications

	Qualifications before doctoral courses according to number of years in HE					Doctoral degree	
Country, kind of institution	+ 1-2 years	+ 3 years	+ 4 years	+ 5 years	+ 6/7 years	Intermediate	Doctoral
Bulgaria/Universities			Bachelor	Master			Doctor
Bulgaria/Poly		Specialist					
Croatia/University			University degree	Medical degree	MSc		DSc
Croatia/Poly		Eng (vocational degree)		Post grad professional degree			
Czech/University and non university		Bachelor		Master			Doctor
Hungary/University	Certificate of higher voc education			Master	Medical Degree		PhD/DLA
Hungary/Colleges	Certificate of higher voc education	Diploma					
Poland/Universities		Bachelor	Engineer	Master	Vocational qualification		Doctor
Poland/Vocational		Licence	Engineer				
Romania/Universities		Diploma de absolvire /Bachelor	Diploma for architect or engineer	Magistar DEA			Doctor
Romania/Proffesional Studies		Diploma de absolvire					
Slovakia/Universities		Bachelor	Bachelor or Master	Meng	Vocational qualification		Doctor
Slovenia/Universities		Vocational diploma	University degree	Specialisation degree	Master, vocational qualificaiton		Doctor
Slovenia/Vocational colleges		Vocational certificate					

Source: Trends II (Full Report) pp. 72-5

Table 3 Access to Higher Education (numerus clausus)

Country	Enrolments into higher education institutions	Limited enrolment
Bulgaria	General requirements (secondary school leaving certificate) and special conditions (entrance exam) organised by the given institute.	No information.
Croatia	General condition leaving certificate from secondary school and entrance exam set by the higher education institute.	Enrolment quotas for regular studies determined by the Ministry of Science, for "personal use" by the higher education institutes.
Czech Republic	General requirements (recognised secondary school leaving certificate) and special conditions (entrance exam) organised by the institutions.	No. Enrolment policy is decentralised.
Hungary	General requirements (recognised certificate of secondary school) and special conditions (entrance exam) organised by the institution in two subjects according to choice of course.	Quota for enrolees financed by the state. The institutions can enrol extra fee paying students.
Poland	General requirement (secondary school leaving certificate) and special conditions (entrance exam) organised by the institution.	Not yet, a new law provides for the possibility of introduction in some disciplines.
Romania	General requirement (secondary school leaving certificate) and special conditions (entrance exam) according to criteria of Min of Education.	Set by state, but each establishment can enrol extra fee paying students.
Slovakia	General requirement (secondary school leaving certificate) and special conditions (entrance exam) organised by the institution of the ministry or both.	No, Establishments can introduce a local quota.
Slovenia	Condition for access to curricula in 3 levels is completion of secondary school and baccalaureate as well as an exam from an extra subject. Condition for access to vocational curricula is also the baccalaureate.	No, an institution can introduce local restrictions with state authorisation (in medicine, law, economics).

Source: Trends II (Full Report) pp. 75-8

Table 4 Credit points transfer system

Country	Credits system
Bulgaria	No national credits system. So far, has been used by two universities. General introduction under debate as medium term project.
Croatia	No national system of credit points. ECTS being introduced from July 2003.
Czech Republic	No national credits system. General trend to introduced ECTS on the basis of the Socrates and Erasmus programmes, which would be brought in for domestic and not only foreign students.
Hungary	Introduced by 1998 law, obligatory for all establishments, to be applied from September 2002; to be supervised by National Accreditation Council. Will be compatible with ECTS. Institutions to have certain degree of operational autonomy.
Poland	No national credits system. Some institutions have started to introduce ECTS in some disciplines.
Romania	1998 a decentralised credits transfer system introduced on voluntary basis. Compatible with ECTS.
Slovakia	No national credits system. Individual institutions experimenting with ECTS. In future, ECTS to be introduced to all institutions.
Slovenia	No national system. Both universities introducing credits system and using ECTS for student exchange in framework of Socrates/Erasmus, but not on basis of student load, rather hours of teaching.

Source: Trends II (full report), pp. 78-80

Table 5 Fees and grants for studying abroad

Country	Fees for regular courses	National system of grants for studies abroad
Bulgaria	Fees introduced in 1999. Amount depends on kind of study, set by state. Foreign students also pay fees.	No national grants system; some scholarships offered by foreign institutions as part of bilateral programmes.
Croatia	Most enrolments financed by state, other enrolees pay fees to institutions. Foreign students pay fees. Discussion concerning general system of fee paying.	Government provides scholarships for MS and PhD programmes abroad. Foreign governments give grants according to bilateral agreements.
Czech Republic	At national institutions for full time courses, during the regular period plus one year, no fees. Students that stay longer, pay fees. Foreign students pay for subjects taught in a foreign language. 24 private institutions (non-U) charge fees.	No national grants system; scholarships can be given by depts, institutions, and the ministry, as part of international collaboration.
Hungary	General fee system introduced 1996, but abolished 1998. Large number of places financed by state, for others, institutions charge fees (400 to 2,400 euros per term).	Very limited number of scholarships for study abroad; common as part of bilateral agreements.
Poland	Usual courses, no fees, but evening course, studies outside the main institution and re-taking attract fees. These fees, set by the Ministry, have no connection with student nationality.	No national grants system, but such a system is being introduced for all kinds of study.
Romania	In state institutions, large number of places financed by state, for others, fees are charged (1,500 euros a year). Private institutions charge similarly. Foreign students pay bout 400 euros a month, irrespective of ownership of institution.	No grants system, but scholarships may be given by foreign governments as part of collaboration agreements.
Slovakia	No fees for full time courses for Slovak students (only some charges are made for certain services, partial studies, LLL and so on). Fees can be charged to foreigners.	No national grants system for study abroad. Such studies are financed by the students, with assistance from foreign governments via bilateral agreements.
Slovenia	No fees for first -degree course in state universities. All post grads and also first-degree students in private institutions pay fees. Foreign students annually pay between 1,500 and 2,000 euros, for BA, and 2,250 to 3,000 euros for post grad courses.	No national grants system, some scholarships are given according to bilateral agreements.

Source: Trends II (full report), pp. 83-86

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i *For attempts to unify European tertiary education in Europe before the BD, see Zidarić (1996).*

ii *TRENDS III, p. 11. According to some unofficial sources, the EU does not intend to include education in the negotiating package of services subject to liberalisation.*

iii *Croatia was not among them, because it was not invited to the ministerial meeting in Bologna. Only at the ministerial conference in Prague in 2001 did Croatia, with the Prague Declaration (www.eua.uni-graz.at), the only country in the region to do so, accede to the Bologna Process.*

iv *For the new action plan of the European Commission in the area of uniting higher education, see the European Commission, 2003. It includes the expansion of the "European dimension of education" to other continents.*

v *Haug and Kirsten (1999); Haug and Tauch (2001); Reichert and Tauch (2003). All documents are available online: e.g., www.bologna-berlin.de or www.eua.uni-graz.at.*

vi *More about ENIC/NARIC at www.enic-naric.net.*

vii *Recognition of degrees was de facto within the jurisdiction of the individual faculties, not the state. Thus in reality special problems were created: first, that the faculty did not recognise the diplomas of very reputable institutions, especially those with a three year course, especially British institutions, such as the LSE, with the excuse that the courses are not identical; secondly, that a student whose diploma is not recognised by one university simply goes to another with the same application.*

viii *In fact, it was the alleged demand of Europe that was the main motive for the new law to be passed without any very great public discussion, while previous attempts at passing a law, without the stamp of the EU, met with enormous resistance from the science and tertiary level institutions.*

ix *"On average (for all scientific areas) there are almost 18% of scientists who have published nothing, i.e., 1,160 doctors of science who have published nothing in six years. Among employees, there are the most non-productive doctors of science between 54 and 62 years of age" (Jovičić [et all.], 1999:520-522). See also in Andreis (1998) and Klaić (1998).*

x *According to unofficial reports, some such existing programmes at the level of post-graduate studies – like the course in European law that is held in collaboration with Paris Sorbonne III and the Law Faculty in Zagreb – have shown that the students are better pleased with domestic teachers, and this is a kind of gain, if of an abstract nature.*

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Chapter 12

SOCIO-CULTURAL VALUES, ECONOMIC DEVELOPMENT AND POLITICAL STABILITY AS CORRELATES OF TRUST IN THE EUROPEAN UNION*

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ABSTRACT

This paper provides a comparative empirical analysis of social values in Croatia, the European Union (EU), the countries joining in the first round, and a group of European countries outside the EU. Following up on the analysis of the data obtained in international research into European values carried out at the end of the 90's on national samples of most European countries, the authors have endeavoured to determine the differences in the spread of post-material values and the scope of social capital. The objective is to define where, in terms of social values, Croatia is currently located, and thus to sketch out its readiness or lack of readiness for joining the EU. In the second part, the paper offers a comparative analysis of factors that affect the level of public confidence in the EU.

* *The authors took an equal part in the writing of this paper. We would like to thank the anonymous reviewer for comments and proposals that have removed at least some of the shortcomings.*

Key words:
socio-cultural values, post-materialism, social capital, transition costs, confidence in the European Union, Croatia

INTRODUCTION

According to figures from the Ministry for European Integration (www.mei.hr), most citizens of Croatia want to join the EU. Although in 2003 the percentage of those who think it is necessary to join the EU has fallen since 2000 (74% as against 78%), almost three quarters of the respondents still think that such a course of events would be positive. Is this entirely an assessment of personal gain, neglecting any possible effects of integration on the country as a whole? Figures show a logical link between the assessment of personal and national benefit from joining the EU. Thus, 66% expect a higher standard of living as a consequence, and as many as 75% expect general progress.

The objective of this paper is to show how distant from or close to the EU Croatia is from the point of view of values. We are interested in how much the values that we consider stimulating to development are widespread in Croatia as compared with the EU, or how much, to put it another way, the EU is different from us. The magnitude of this difference is important both for a country that wants to become a member (greater differences imply greater difficulties in adjustment to the EU system of standards) and for those who decide to take on the new members. An example of the latter point can be found in the muted voices that consider the values in Turkey, a Muslim country, impossible to harmonise with those of the European tradition.

In order to make the comparison, the distribution of values, or sets of values, is presented separately for three groups of countries: the EU members, the accession countries, and the countries that are not part of the EU. In the empirical analyses that follow, we start from the assumption that individual values that reflect social, political or economic dimensions can be concisely presented and analyzed (Štulhofer and Rimac, 2002; Fuchs and Klingemann, 2002). In order to do so, we use three theoretical models. The first of them, the theory of post-materialism, defines the change in global values as a shift from materialist to post-materialist values. The second model, the social capital theory, focuses on social cohesion, social trust and cooperativeness. Recent research (Inglehart, 1997; Putnam, 1993; Torsvik, 2000) has pointed to

a positive correlation between post-materialism and social capital on the one hand, and economic growth and political development on the other. The third model introduces some specific features of the process of post-communist transition (Štulhofer, 2000).

Since in this paper we also wish to sketch out the measures that could stimulate convergence in values, in the second part of the paper we analyse the structure of trust and confidence in the EU. In this part we identify the political, economic and social predictors of trust in the EU. In the next step, we use this analysis to outline a set of specific recommendations regarding Croatia's ambition to become a member of the EU.

THE THEORETICAL FRAMEWORK: THE THREE MODELS

The importance of culture, of specific social values, of institutions and manners (tradition) for economic growth and political values is no longer controversial. This is best shown by the recently inaugurated development project of the World Bank called *Social Capital for Development* (www.worldbank.org/poverty/scapital). However, the question of the empirical measurement of social values is more complex and controversial (Grix, 2001). In order to be able to avoid making conclusions on the basis of simple indicators such as the question: "Do you support democracy?", which avoids the issue of the different understandings of democracy and of conforming to social expectations, we base the analysis of the distribution of specific values on three theoretical constructs. Each of these is an interlinked set of political, economic and socio-cultural values.

Model of post-materialist change

The model of social change proposed by the American political scientist Ronald Inglehart is one of the most theoretically elegant and empirically most investigated theories of globalisation (Abramson and Inglehart, 1995; Inglehart, 1997). The model starts off from the assumption that social development is no chaotic and accidental process, but is inextricably linked with a specific structure of values (Inglehart, 1995). Although the claim that socio-cultural values can be grouped into coherent sets, value orientations, is not new, the innova-

tiveness of Inglehart's model rests in the thesis that value orientations are both the cause and effect of economic and political development. In this way, there is a high degree of similarity between the developed countries, as well as between the less developed countries, but not between these two groups. Inglehart's assumptions, it can easily be seen, are based on the modernization theory and postulate linear development.

When he talks of value systems, Inglehart distinguishes three: traditional, modern and post-modern. The last two are global consequences of the industrial or the post-industrial revolution. As for the post-modern orientation, its beginning is usually placed in the 1960s when in the developed countries of the West the post-modern transition commenced; this was characterised by the spread of what were called post-materialist values. Table 1 presents in a condensed way the transformation of values described. At the micro level, the most recent changes are shown in the growth of the number of post-materialists, particularly in the younger generations (Abramson and Inglehart, 1995; Inglehart, 1997). At the same time, there is a decline in the popularity of materialist values, which were dominant in industrial societies.

Table 1 Materialist and post-materialist value systems

	Modern societies (domination of materialist values)	Post-modern societies (domination of post-materialist values)
Fundamental social goal	Economic growth and political stability	Development of human rights and liberties
Personal ends	Maximising utility; growth in purchasing power	Maximising individuality; development of personal identities
Central social authority	Rational and legal (laws)	Self-regulation

What is post-materialist development conditioned by? According to Inglehart, it is mainly the consequence of the growth of prosperity. The relationship between dominant social values and the level of social development shown primarily through standard of living Inglehart defines in terms of two linked hypotheses (Inglehart, 1995). The first of them, the *shortage hypothesis*, puts forward the idea that individual preferences are caused by the socio-economic situation. In conditions of shortage, motives concerning pure existence and survival prevail, and in conditions of abundance, those that transcend them. The *socialisation hypothesis,* on

the other hand, offers a mechanism of value internalisation, stressing the crucial importance of the process of early socialisation. Growing up in a stable environment, security and prosperity stimulates the internalisation and development of post-modern values. The rising importance of the post-materialist value orientation is seen in the new civil initiatives, in the growth of ecological sensitivity, in growing tolerance, multiculturalism and in cosmopolitanism, in the increasing emphasis on human rights and personal identities, the strengthening of the idea of self-regulation and the rejection of classical political ideologies.[i] Thus the expectation of the model is that support for the EU will reflect the spread of post-materialist, transnational values in the national population.[ii]

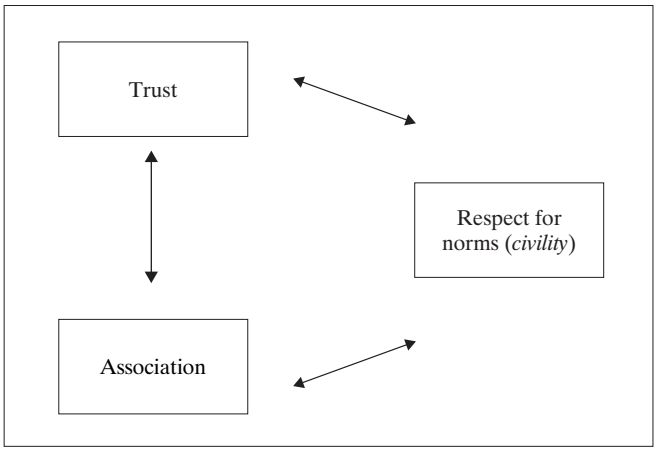
Social capital theory

The idea of social capital is probably the most popular of all those that have emerged in the social sciences in the last ten years (Grix, 2001; Hospers and Van Lochem, 2002).[iii] The reason for this should be sought in the dissatisfaction with the predictive capacities of the classical theory of modernisation, according to which growth and development are predicated on universal and rational institutions. Against this postulate, a series of investigations have pointed to the mediating role of culture, which in some cases supports and in other cases thwarts or holds up development. Specific norms and collective habits can, behind the façade of formal institutions, make a mockery of market and democratic competition. An unpropitious cultural matrix results in chronic economic, political and social backwardness (Štulhofer, 2001:53-78). The first appears in inadequate growth, the second in prolonged political instability and undemocratic proceedings, and the last in general lack of trust, cynicism, opportunism and a high level of social pathology.

What is the general trait of a propitious cultural matrix? According to social capital theorists (Coleman, 1990; Putnam, 1993; Torsvik, 2000; Fukuyama, 2000), its features are mutual trust, generally accepted standards of cooperation and social networks or links between members of the community. According to the influential Putnam study (1993) of the development of Italy, the whole of these features – social capital[iv] - is the generator of economic development and political stability. Unlike the closed circle of underdevelopment, in societies/communities rich in social capital, a positive development loop is at work: cultural habits produce wealth that then in turn increases the social capital.

Empirically, social capital consists of three dimensions (Figure 1). The first of them, trust, denotes initial readiness to cooperate – and not only with members of the family or acquaintances (Fukuyama, 1995; Mistal, 1996). The second dimension, association/connectedness, and the related collective actions, make possible the direct experience of cooperation and its advantages, such as the fulfilment of interests that are beyond the scope of individual action. Social linkage or networking thus works as a school for trust and collaboration. The last dimension, respect for standards or civility,[v] is at the same time the result of the working of the first two dimensions and it is their support and buttress.

Figure 1 Structure of social capital



What kind of relation between social capital and trust in the EU does this model predict? Although the theoretical link is not yet clearly expressed, one should expect (as in the case of post-materialism) that social capital should have a positive effect on the way the EU is seen, both because of its encouragement of social and economic cooperation and because of the links related to the possibility of wider networking. But an alternative interpretation is also possible. If the process of European integration, and hence the institutions and practice of the EU, are seen as threats to established, local and national, networks (McLaren, 2002), social capital will be negatively correlated with trust in the EU.

Situational reaction model

Neither the post-materialism nor the social capital theory takes into account the specific, transitional features of European post-communist societies. Within the universal postulates of the Inglehart theory, such socio-cultural specificities are of secondary importance and are responsible for short-lasting oscillations in the general trend of post-materialism (Inglehart, 1995). In the second model, socio-cultural traits are central, but only in a quantitative sense (Putnam, 1993). Countries can thus be distinguished according to quantity but not according to type (or quality) of social capital.

Considering that both models display a tendency to neglect the transitional reality of post-communism - a process of such great importance for the countries of C, S and SE Europe - we have decided to include a third explanatory model into our theoretical framework. Its role is to contribute to the interpretation of the structure of trust in the EU by taking into account socioeconomic costs of transition.

The situational reaction model (Štulhofer, 2000:149-177) assumes that in moments of major social changes, the perception and evaluation of the current economic political and social conditions will determine the dominant values. For example, observation of a large number of injustices, irregularities and abuses during the process of economic and political changes, and, in particular, the failure to penalise them, will result in widespread cynicism and opportunism. Starting out from the definition of post-communism as fundamental change in economic, political and social life, one accompanied by vast transitional costs (individual and collective), the model predicts that the perception of the EU will be considerably affected by the respondent's assessment of the course of the transitional processes to date. Since the citizens of countries that do not belong to the EU know as a rule very little about the EU institutions and their activities, their estimate of the EU will be a reflection of the effectiveness of the relevant domestic institutions (Anderson, 1998).

METHODOLOGY

Sample

In the analyses we use data collected in the third wave of the European Values Survey (EVS), a research project that started in 1980 with the aim of providing systematic monitoring of the value orientations

(concerning religion, morality, work, politics and society) of the citizens in European countries. The initial survey in 10 Western European countries in 1981 was extended in 1990 and, again, in 1999/2000 when it covered thirty-three countries. Thus the data collected in 1999/2000 are a good basis for the comparison of the values and standpoints of people in different European countries. In all the countries, a single questionnaire was used and rigorous procedures and checks were used to secure the equivalence of questions after translation. In each country a probabilistic sample of the over-18 population was polled, and all the samples consisted of at least 1,000 respondents. The Croatian part of the EVS was carried out by a research team led by J. Baloban of the Catholic Theology Faculty in Zagreb (Rimac and Črpić, 2000). Under the guidance of the University of Tilburg Research Centre (WORC, Tilburg University) and the Central Archive in Cologne, data were checked and aggregated enabling comparative analyses. In this paper we use the fourth revision of the 1999/2000 dataset.

Instruments

The measure of post-materialism as opposed to materialism represents a standard recoding of the selection of preferred objectives of the country. The respondents were asked to choose two out of four items offered (keeping order in the state; giving more rights to people to go on record about important decisions of the government; fight against the rise in prices; protection of liberty of speech). Their task was to select the first and the second most important societal goal in their respective countries. If they chose the first and third goal, which correspond to materialism, then they were classified as materialists. If they chose two goals that suggest post-materialist viewpoints, they were classified as post-materialist, while respondents that chose one materialist and one post-materialist goal were placed in the mixed orientation group. In the regression analysis, a greater value of the index of post-materialism indicates a greater acceptance of post-materialist values.

The opportunism index is an average response value on two questions asking if it is acceptable to *evade tax if you have the chance* and *to receive bribes at work*. The correlation between the variables is moderate ($r = .38$). Higher values on the scale indicate greater opportunism.

The trust in the institutions of the country's political system index is the arithmetical mean of answers on a scale of one to four, in which lower values denote complete trust, and higher values complete lack of

trust in the institutions evaluated. The following institutions were included in the index: church, army, education system, press, unions, police, parliament, civil service, social security, health care system and judiciary. The reliability of the index is satisfactory (Cronbach alpha = .83).

The *Social networking indicator*, that is, the indicator of the involvement of citizens in civil initiatives is a variable that measures the frequency of spending time with "people in clubs and voluntary organisations" (non-governmental sector). Respondents were given a scale with the following responses: not at all, a few times a year, once or twice a month, every week.

Generalised trust was measured by the following question: "In general, would you say that most people can be trusted or that you have to be cautious in your dealings with people?"

Trust in norms was measured indirectly, through respondent's perception of the respect for/violation of norms in his or her community. The logic of using this *perception of civility index* was as follows: the more others respect norms, the greater the motivation of the respondent to do the same. The likelihood that an actor will respect norms depends, substantially, on his or her perception of the relevant procedures of others. Such behavioural strategy is doubly rational – in a cost/benefit sense, as well as socially (maintaining one's reputation). The perception of civility index is the arithmetical mean of answers to ten questions about how widespread violation of norms is in respondent's place of residence.[vi] A scale with four points was used (almost all, many, some, almost no one). The reliability of the index is satisfactory (Cronbach alpha = .80).

Satisfaction with the development of democracy is measured by the question: "How satisfied are you with the development of democracy in our country?" As an indicator of satisfaction with the government we used the following question: "People have various opinions about the manner and system in which the country is governed. On the scale indicate your opinion about how things are." Respondents were offered a 10-point scale, with 1 being very bad and 10 being very good.

GDP data were not an original part of the EVS, but were added subsequently in order to quantify the effect of national economy on respondents' attitudes and values.

RESULTS I: SOCIO-CULTURAL DIFFERENCES

In this section we present the results of the statistical analyses of value orientations. The first part is a descriptive analysis of the spread

of the distinct value orientations, particularly of post-materialism and those related to social capital, in three groups of countries: EU members, accession countries and countries that are not members, including Croatia. We consider this discussion an important one, especially in the light of the future of the collective European identity that the idea of the EU idea postulates. A European people are not imaginable, as Prentoulis (2001:196) observes, as an outcome of common history or culture, but only as the product of "newly formed political values".

Figure 2 Comparison of percent of materialists, postmaterialists and mixed type persons in different countries (%)

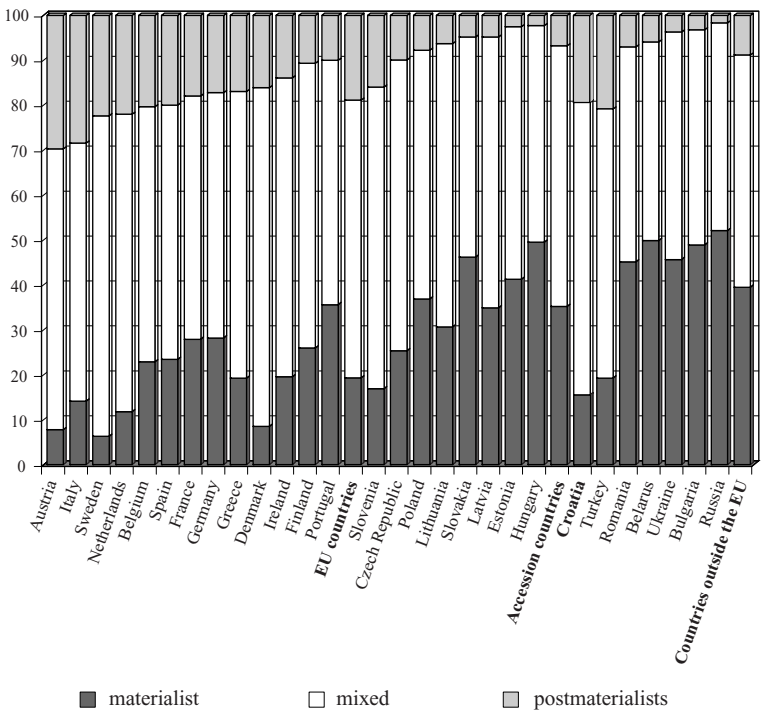


Figure 2 shows the distribution of post-material values. In line with the results of an earlier work (Inglehart and Baker, 2000), our data show considerable differences in the presence of post-materialism in the three groups of countries ($F=1047.7$; $p<.01$). According to expectations based on Inglehart's assumption of the link between prosperity

and the abandonment of materialist values, post-materialism appears most often in EU countries, and most seldom in the group of non-EU countries. However, Croatia deviates markedly from the non-EU group average. It can easily be seen that the level of post-materialist values in Croatia is on a level with the EU average. The fact that the same is also true for Turkey and for Slovenia (in the accession group) suggests a combination of economic (standard of living) and non-economic (exposure to Western cultural influences) sources for post-materialism.

Figure 3 Generalized trust in different countries (%)

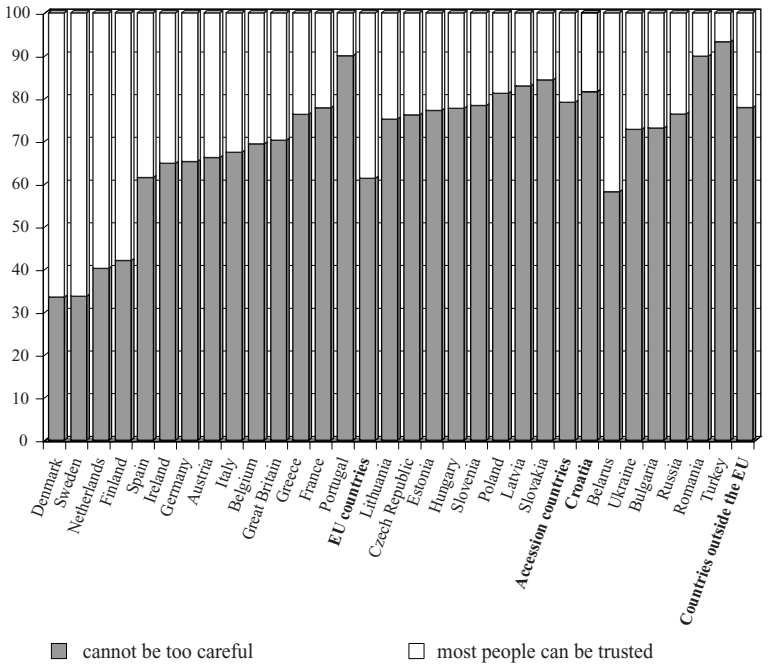
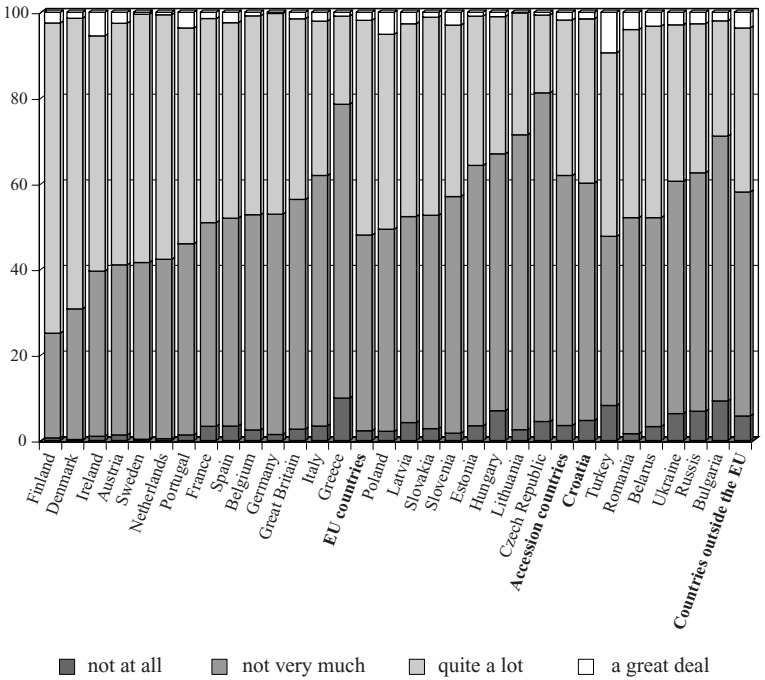


Figure 3 presents the first indicator of social trust, the first of the three dimensions of social capital. This is the so-called generalised trust, that is, the level of initial readiness to cooperate with unknown individuals. Analysis points out the different levels of generalised trust ($F=570.01$, $p<.01$). According to expectation, it is greatest in the EU countries, irrespective of the variations expressed inside the group. The highest levels of generalised trust are in the countries of northern

Europe (Denmark, Sweden, Holland and Finland), and the lowest in the Mediterranean part (Portugal, France and Greece). The difference in the level of trust between the EU accession countries and the countries outside the EU is not statistically significant. Although generalised trust is a dominant feature only in the countries of Northern Europe – which indicates that the differences should be perhaps conceived as differences in the levels of mistrust, rather than trust – one should point out that generalised trust in Croatia is twice as low as the EU average.

Figure 4 Comparison of trust in political institutions in different countries (%)



The second indicator of social trust is trust in institutions. Figure 4 shows the aggregate level of trust in 11 social institutions. As in the previous case, trust is most expressed in the EU countries followed by the non-EU countries ($F=239.33$, $p<.01$). As for this important segment of social stability, the level of trust in Croatia is the same as the mean for the accession countries. Among these countries, trust in institutions

is most widespread in Poland, Lithuania, Slovakia and Slovenia, which could be the consequence of economic growth (Poland, Lithuania), political and economic stability (Slovenia), and the abolition of authoritarian government in the case of Slovakia.

Figure 5 Trust in the reigning standards of society - the civility index (%)

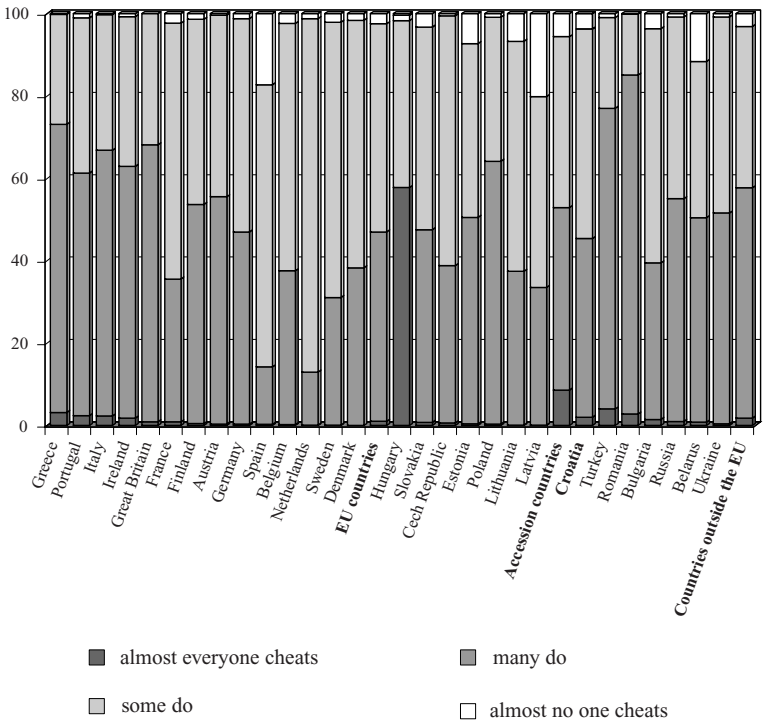


Figure 5 presents the last indicator of social trust: trust in social norms. As already explained, the perception of civility index that is used here does not measure trust in (and accordingly respect for) norms directly, but indirectly. It points to the likelihood that the respondent will respect the norms. The more widespread, in the respondent's opinion, the violation of norms, the less likely it is that s/he will trust the same norms. The basic assumption here is, of course, that the respondents are at least relatively rational, that is that their actions are not independent of experience and tactical (interactional) considerations. In

a milieu in which norms are not respected, legalistic behaviour is very expensive – both financially and in terms of reputation.

According to our results, perception of civility is most widespread again in EU countries, with the level being highest in Holland, Denmark and Sweden, and lowest in the Mediterranean zone (Greek, Italy, Portugal). The highest infringement of standards, that is the lowest level of civility, is perceived by respondents in the transition countries, equally in the accession countries and in the non-EU countries.[vii] If we consider the graph in more detail, the lack of difference between the accession countries and the countries outside the EU (both groups differ from the EU countries (EU / $F = 96.2$, $p<.01$) is the consequence of the extremely widespread perception of the infringement of norms in Hungary. If we subtract this country from the analysis, the level of civility in the accession countries becomes statistically higher than that of the countries outside the EU. In this respect it should be stressed that the perception of civility in Croatia is somewhere between the average of the EU countries and the accession countries.

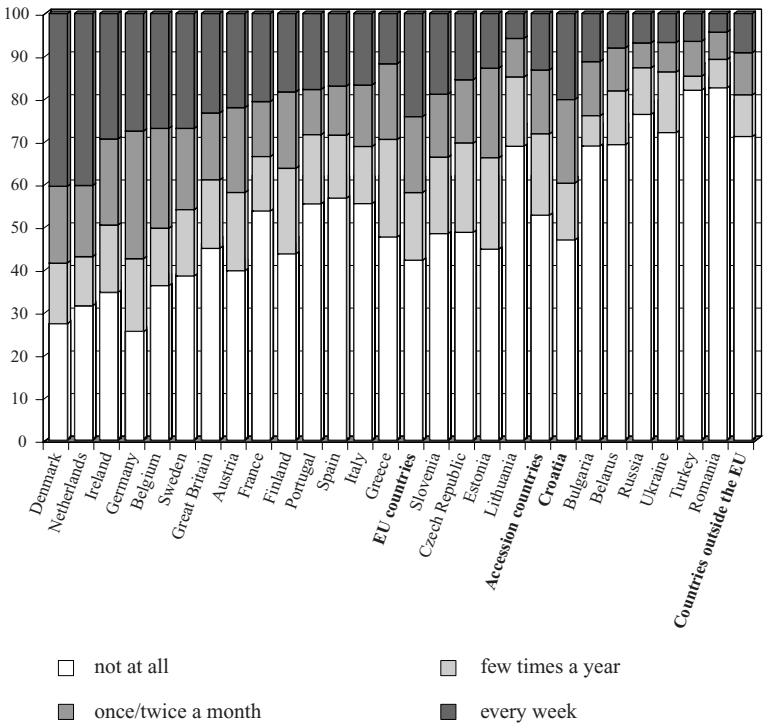
Along with trust and respect for norms, social connectedness (association) is the third key dimension of social capital. Instead of the standard way of measuring the density of social networks, which uses the percentage of respondents involved in voluntary organisations, we decided here on a different approach. Since the usual measurement is not sensitive to the different levels of members' activity (Putnam, 2000), we measured the level of association by the amount of free time that respondent spent in activities of the NGO of which s/he is a member (Figure 6).

All three groups of countries differ according to the level of social connectedness ($F=834.63$, $p<.01$). Bearing in mind that association is positively related to civil society, the expected order is expected: the density is greatest in the EU countries, and lowest in the non-EU countries. Considering the theoretical and empirical link between trust and social connectedness (Fuchs and Klingemann, 2002), this corroborates the findings on trust, and stresses the difficulties the development of civil society meets in countries with trust deficit (Mishler and Rose, 1997).

As in most of the previous analyses, Croatia shows an aberration here from the other countries in the non-EU group, too. The density of social connectedness in Croatia is greater than the average of the accession group. How is this to be explained? There are two possible reasons. According to the first, Croatia - like Slovenia and unlike the other post-

socialist countries surveyed - inherited some kind of foundation of civic organisation, thanks to the greater openness of the former Yugoslav regime. This enabled the more rapid development of the civil society sector. According to the second interpretation, the rapid development of civic associations is primarily the consequence of the war or, more precisely, of local and international humanitarian initiatives prompted by the war.

Figure 6 Free time spent in Non-Governmental Organizations in different countries (%)



The next two graphs present data related to the situational reaction model. Table 2 offers a comparative view of respondent's evaluation of democracy in his/her country. In Eastern European countries this is an indicator of the satisfaction with the basic outcome of the political transition. Consequently, one should be cautious in interpreting the differences between countries with a longer democratic tradition and those with rela-

tively little experience of democratic rule. It is possible that the threshold of sensitivity to mistakes and abuse in the democratic procedure is lower in the first group, simply because the citizens have become accustomed to high standards of political behaviour and general political stability.

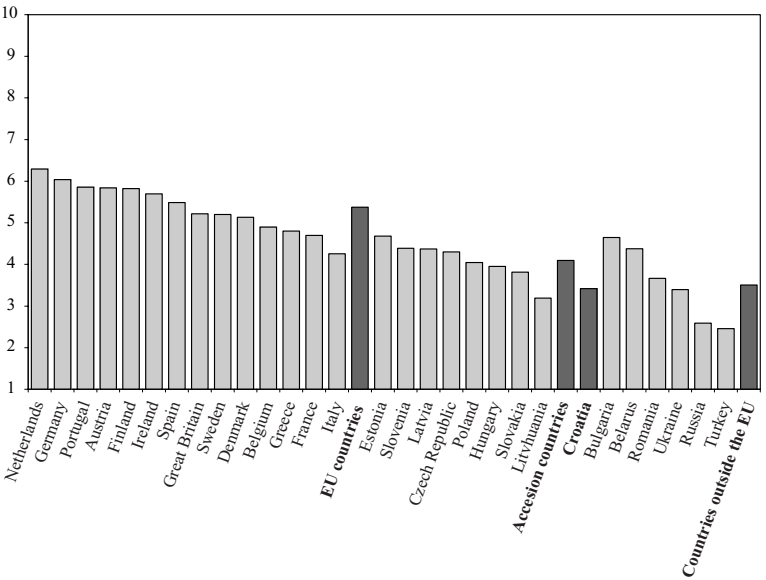
Table 2 Satisfaction with democracy in various countries (%)

	Very satisfied	Satisfied	Not very satisfied	Dissatisfied
Denmark	12.3	54.7	30.0	3.0
Portugal	10.1	66.5	20.2	3.2
Germany	10.0	65.4	19.7	4.9
Ireland	9.9	53.6	30.0	6.4
Austria	7.8	69.2	20.2	2.8
Greece	7.5	47.8	35.8	9.0
Spain	6.6	53.9	33.3	6.2
Netherlands	6.4	67.4	24.2	2.0
UK	5.5	48.2	35.0	11.3
France	4.4	45.0	39.3	11.3
Finland	4.0	52.6	39.2	4.3
Sweden	2.9	57.0	34.4	5.7
Belgium	2.4	46.9	35.0	15.7
Italy	1.6	34.3	52.7	11.4
EU countries - average	6.5	54.5	32.1	6.9
Poland	2.0	43.2	41.6	13.1
Estonia	2.0	33.8	51.8	12.3
Hungary	1.8	29.6	56.2	12.5
Lithuania	1.6	23.9	52.5	22.0
Latvia	1.3	29.0	59.5	10.3
Slovenia	0.9	44.1	44.4	10.6
Slovakia	0.8	22.6	52.9	23.7
Czech Republic	0.7	36.5	49.7	13.0
Accession countries - average	1.4	32.8	51.1	14.7
Croatia	2.2	14.7	58.4	24.6
Belarus	5.8	27.1	39.2	27.8
Turkey	3.1	20.7	25.7	50.6
Bulgaria	2.9	24.5	49.8	22.7
Romania	1.7	19.2	52.2	26.9
Ukraine	1.4	14.2	48.5	35.8
Russia	0.4	6.7	42.9	50.0
Countries outside the EU- average	2.5	18.2	45.3	34.1

According to our results, there are significant differences in the assessment of the state of democracy between the three groups of countries (F = 3121.11, p<.001). Contrary to the "greater sensitivity" assumption, the greatest satisfaction is displayed by the EU respondents. Predictably, the least satisfied were respondents from non-EU countries where the evasion of democratic procedures is most frequent and most flagrant. Here, Croatia is closer to the non-EU average than to the average score of accession countries. It should be emphasized that Croatian data were collected in April 1999, eight months before the general elections characterized by the widespread dissatisfaction with the ruling party.

The next indicator, satisfaction with current government activities, is shown in Figure 7. As in the previous case, all three groups of countries differ significantly (F = 3064.62, p<.01). The level of satisfaction is highest in the EU countries, and lowest in the non-EU countries. Again, the average value for Croatia is lower than the mean value of the accession countries. Of all the countries included in the analysis, only in three countries (Lithuania, Russia and Turkey) the satisfaction is lower than in Croatia.

Figure 7 Average satisfaction with government performance in different countries (ten point scale)



Summing up the findings of the analyses carried out so far, it should be pointed out that in almost all the measured value dimensions significant differences among the three groups of countries exist. The differences co-exist with many overlaps, which are the consequence of the important cultural, historical and political within-group differences (Laitin, 2002).

Do our findings support an optimistic (Zielonka and Mair, 2002; Laitin, 2002) or a pessimistic (Fuchs and Klingemann, 2002; Rohrschneider, 2002) view of the outcome of the future enlargement of the EU? In our view, both positions are ideologically biased. The methodology on which all the relevant studies have been based, including ours, simply does not allow for a differentiation between quantitative ("difference in degree") from qualitative ("incompatible") differences.[viii]

Regarding post-materialism and social capital in Croatia, their levels are most often similar to those of the accession countries, that is, they differ considerably from the non-EU averages. But this does not hold true for the assessment of democracy and the government. The levels of satisfaction with the state of democracy and government activities in Croatia are substantially lower than those in the accession countries. To say that they are situational effects, a reflection of the widespread dissatisfaction with the way the transition processes were managed in the nineties, does not mean that they cannot have more lasting consequences - especially if dissatisfaction with the government becomes chronic. As Misler and Rose (1997:441) argue, an evaluation of the government is closely related to trust and explains the greater percentage of its variance than indicators of "cultural inertia" (socialist heritage).

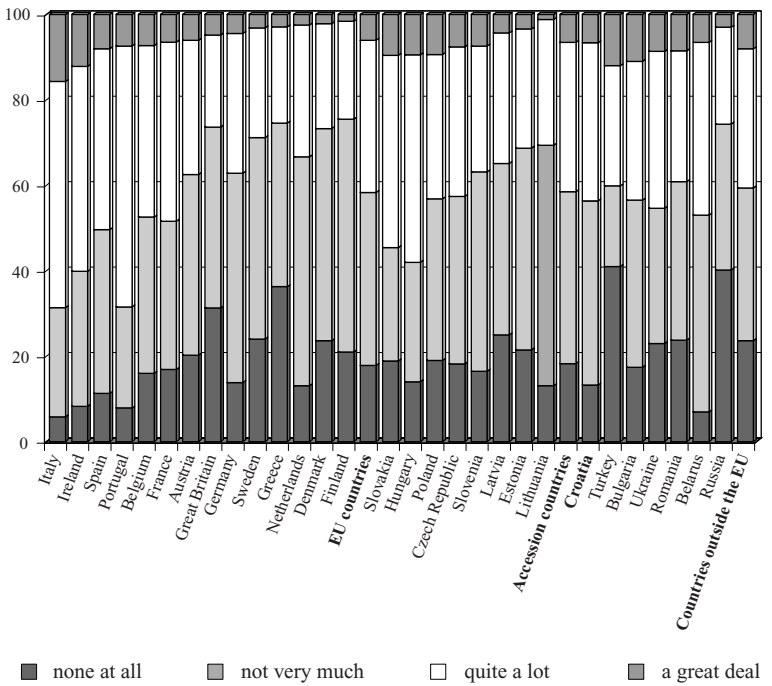
RESULTS II: TRUST IN THE EUROPEAN UNION

In the second part of the paper we test trust in the EU, which we consider crucial for the debate about the dynamics and consequences of EU enlargement and the positioning of Croatia within this process. First we present the differences in trust in the EU, and then proceed with an interpretation based on an analysis of the factors affecting it.

The distribution of trust in the EU in the three groups of countries shown in Figure 8 indicates differences between the EU and the

accession countries on the one hand, and the non-EU countries on the other. Trust is highest in the member countries and then in the associate countries. The difference between these two groups does not attain statistical significance, but both differ from the non-EU countries ($F=75.95$, $p<.01$). Trust in the EU is lowest in the countries outside the EU. What is the situation in Croatia? The figures are encouraging. The level of trust in the EU in Croatia is comparable to the average levels in the EU countries and the accession countries.

Figure 8 Confidence in the European Union in different countries (%)



The fact that the more successful transitional countries show a higher level of trust in the EU than the less successful seems to be based on the belief of the citizens that integration is a guarantee for the continuation of reforms which they view favourably. Using another database (*Central and Eastern European Eurobarometer*), Tucker et all., (2002) show that this holds at the national level too, that is within each

individual transitional country. As their analyses show, successful states (the winners) are characterized by greater trust in the EU than the unsuccessful (the losers). Transitional specifics of the dynamics of trust in the EU are emphasized in a research study (Alvarez, 2003) showing that union membership is negatively correlated to the trust in the EU in Western European countries, but is positively correlated to it in Eastern European countries.

How can one explain the differences in trust in the EU? To identify the factors affecting the trust, we included all the three explanatory models (the post-materialist changes, social capital and situational reaction models) in a regression equation, adding an additional indicator of situational reaction (opportunism index) and the measure of economic development (per capita GDP). The results of this multivariate analysis are shown in Table 3. Although because of the size of the overall sample (about 35,000 respondents) seven of the nine indicators reach the level of statistical significance set in advance ($p<.01$), the most powerful predictor of trust in the EU is trust in the national institutions. This finding corroborates Anderson's thesis (1998), according to which citizens, when they do not have enough information about the EU, use an evaluation of local (national) institutions and government as proxy. The two indicators of situational reaction - satisfaction with democracy and the government - are less strong correlates, but they clearly indicate the impact of the post-communist transition on the way the EU is perceived.

Contrary to our expectations, the effect of the economic development indicator (GDP) on trust in the EU is rather small. How should this be interpreted? Setting aside the issue of how reliable an indicator of the state of economy the GDP is, it is possible that GDP has an indirect, rather than direct, influence expressed through non-economic or exogenous variables.[ix] The analysis of the cross-correlations points to the significant linkages between the degree of economic development and socio-cultural indicators.[x] To test this hypothesis fully an application of the modelling techniques will be required (Arminger and Clogg, 1995).[xi]

In a summary of the findings of the analysis of trust in the EU, it is important to stress two things. Firstly, trust in the EU is significantly greater in the set of successful transition countries. Countries still searching a way out of the transition-caused recession and anomie are markedly more distrustful of the EU. Secondly, our analysis indicates that socio-cultural dimensions are important predictors of the trust. Nevertheless, since a series of methodological restrictions rendered distinguishing between economic and non-economic effects impossible,

the domination of the latter in the regression analysis should be taken with caution.

Table 3 Correlates of trust in the European Union

	b	Beta
Generalised trust	.05*	.03*
Trust in institutions	.62*	.36*
Trust in norms (civility)	.04*	.03*
Association (social connectedness)	.01	.02
Satisfaction with democracy	.12*	.11*
Satisfaction with government	.03*	.08*
Opportunism	-.02*	-.03*
Post-materialism	.09*	.06*
Per capita GDP (1999)	.00*	.06*
		*p<.01; R^2 =.18

Clearly, our results do not support Laitin's (2002:76) claim that the problems of integration of new members of the EU – if there will be any at all – will not be the consequences of "cultural differences".[xii] Without discarding the possibility of political frictions, which are at the moment best described as the fear of the new members of being granted a second rate status (Zielonka and Mair, 2002), socio-cultural differences are real and under certain conditions could well be generators of conflict.

CONCLUSIONS AND RECOMMENDATIONS

In the previous sections we have attempted to answer two questions: how far is Croatia, value-wise, from the EU, and what determines trust in the EU? The answer to the first question is that in most of the dimensions – with an exception of satisfaction with the government – Croatia seems to be similar to the 10 accession countries. When trust in the EU is considered, the crucial factor turned out to be the confidence of the respondents in the institutions of their own societies. Anderson (1998) offered an explanation of this finding: we make an assessment of institutions we do not have enough information or experience about according to an assessment of the work of comparable institutions about which we do have information. In other words, respondents, particularly those with lower levels of education, often judge transnational institutions on the basis of their perception of national institutions.

Both our answers indicate the importance of measures that would help increasing convergence in values with the EU. The point of such measures, of course, is not just to facilitate and speed up Croatian integration into the EU, but, primarily, to achieve a greater level of social trust, economic success and political stability. Although it may sound trivial, it should be emphasized that the desire for a value change must not be motivated by political correctness, or the need to present ourselves more favourably to those whose club we want to enter, but by efforts to improve the Croatian reality. The authors of this paper do not see the common EU Culture as a value in itself, rather something that has a potential of making the everyday life in the members' societies more pleasant and successful.

Six brief recommendations we present in conclusion are based on the previous analyses, as well as on authors' earlier research (Štulhofer, 2001; Štulhofer and Rimac, 2002). Their ordering, we should add, does not reflect their relative importance, nor does it rank the recommendations according to implementation priority.

Fight against corruption. The objective is to halt the spread of cynicism and opportunism, particularly among youth (Štulhofer and Rimac, 2002). In order to achieve this it is necessary to step up the work of the existing institutions (particularly the recently established office against corruption) and their presence in the media. Anti-corruption campaign must be systematic, meaning that it should start in one sector, and then move to others.

Improving the openness and independence of the media, as well as their analytical scope and responsibility. The objective is to facilitate a better understanding of social decisions and to improve, through public awareness and pressure, the process by which they are made. Higher quality media can help the growth of trust in institutions in two ways: by increasing trust in one's own work, and by increasing the quality of the political decision-making, which will result in an increase in trust the citizens place in the government.

Increasing the effectiveness of the judiciary. The objectives are to increase the trust of the citizens in institutions and particularly to increase generalised trust. As is well known, generalised trust cannot develop in a society in which it can be easily taken advantage of. If free riders are not effectively sanctioned, trust and spirit of cooperation will evaporate. At the moment, the duration of legal procedures in Croatia is pushing social trust to the edge of irrationality.

Increasing public information about the EU. The objective is to improve the *quality* of trust in the EU via better knowledge of its role

and activities, and greater use of its programmes and services. Although according to the data of the Ministry for European Integration more than 95% of citizens have heard of the EU, the knowledge of the Croatian public about the activities, structure and procedures of the EU is still very modest. The formal educational system in Croatia has to assume a central role in providing systematic information about the EU.

Improving the educational level of the population. The objectives are to increase value convergence and improve the capacity of the public to obtain and understand relevant information (***, 2003a). In order to accomplish this, a fundamental reform of the educational system, at all levels, is necessary. Bearing in mind that Croatia is lagging behind the educational average of the EU (10% of college educated people, in comparison to the EU average of 17%, *** 2003a:5; ***, 2003b:13), it is of particular importance to introduce fundamental changes in the system of higher education. The reform should increase the quality, innovativeness, and capacity of the system.

Increasing the effectiveness of the government. The objective is to increase the trust that citizens place in the state institutions - particularly in the government - through the increase in satisfaction with the efficiency of the decision-makers. In order to achieve this, a number of actions must be carried out with the task of:

- attaining greater professionalism in the public services, which, apart from setting up a cult of expertise and professional ethics, also requires an effective division of political from economic roles; where interests of the ruling party are above the public ones, professionalism is necessarily in short supply;
- creating greater transparency of the work in the ministries and other government offices and establishing a more timely and comprehensive dialogue between the decision-makers and the public;
- personalising responsibility for decisions made; faulty decisions and inadequate practices for which no one is liable remain the basic source of the lack of trust in institutions.

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i *Inglehart recently demonstrated that the West and the East differ significantly in their levels of post-materialism (Inglehart and Baker, 2000).*

ii *For empirical confirmation cf. Deflem and Pampel (1996).*

iii *Here we leave aside numerous criticisms of the conception of social capital, particularly in the Putnam version, pointing out the theoretical lack of clarity and excessive scope, simplified empirical measuring, the neglect of negative forms of social capital (mafia) and so on (Grix, 2001; Woolcock, 1998; Hospers and Van Lochem, 2002).*

[iv] *Social capital can be defined as a set of cultural features that create and retain trust and cooperation in a given community (Štulhofer, 2001). Social capital is the characteristic of a community and hence is reflected in everyday interactions.*

[v] *Our understanding of the category of civility is different from the one proposed by Billante and Saunders (2002). By civility they refer mainly to respect for other members of the community.*

[vi] *The index includes the following violations of norms: use of social privileges to which one is not entitled, tax cheating, bribing to avoid paying taxes, use of narcotics, dumping trash in public areas, driving too fast, drinking and driving, public transport fare avoidance, lying for personal gain, and receiving bribe.*

[vii] *A number of authors have referred to lack of trust in transition countries stressing the negative effects of widespread corruption (Rose-Ackerman, 2001; Mishler and Rose, 1997; Fuchs and Klingemann, 2002).*

[viii] *Best illustrated by the empirically questionable attempt to argue for fundamental differences in the perception of democracy in the West and the East (Fuchs and Klingemann, 2002).*

[ix] *In other words, this assumes a sequential influence of economic and non-economic factors on trust in the EU.*

[x] *GDP is significantly correlated with generalised trust (r = .12), trust in institutions (r = .12), civility (r = .04), social connectedness (r = .27), post-material values (r = .21) and satisfaction with democracy (r = .36) and with the government (r = .37).*

[xi] *Another possibility is that the relationship between GDP and trust in the EU is curvilinear.*

[xii] *Laitin's (2002) claim that a common culture already exists in Europe is based mainly on evidence about the convergence of pop-culture tastes in European countries. Laitin claims to find evidence of a common culture in the dominance of English, the preference for American films and a global pop music. Although at one place he points to the unpopularity of the European film, Laitin never for a moment thinks that the cultural novelties he notices might be described as Americanisation. In our opinion, the phenomenon he is describing indicates something completely different from what we should call a common European culture.*

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GLOSSARY

ACCESSION PARTNERSHIP – the main instrument for the pre-accession strategies of the applicant countries and the EU. Its purpose is to determine the priorities and the necessary financial assistance for each area during the harmonisation of it to the legislation of the Union. Each country has to work out a detailed programme for the application of the *acquis*, determine the timetable for assignments, and the human and financial resources necessary.

ACQUIS COMMUNAUTAIRE or COMMUNITY ACQUIS – the body of rights and obligations that binds and links all the Member States in the EU. It does not cover only laws in the narrow sense, but also the common objectives laid down in given founding treaties. Each country that wishes to become a member of the EU has to accept the decisions in the foundation treaties and adjust its legislation with the community acquis

AGENDA 2000 – a document of the European Commission containing a programme of activities related to the development of the EU and the financial framework for enlargement with the new Member States in the period 2000-2006.

ASSOCIATED COUNTRIES – countries that have signed an associated membership agreement, that is, the Central and Eastern European applicant countries.

ASSOCIATION AGREEMENTS, EUROPE AGREEMENTS – a special form of association agreement between the EU and separate countries of Central and Eastern Europe and the Baltic countries. The basic objective of an agreement is the preparation of the associated countries for EU accession. It is based on the principles of respect for human rights, democracy, the rule of law and the market economy. Europe Agreements have been signed with ten countries: Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia.

CARDS (Community Assistance for Reconstruction, Development and Stabilisation) - a new programme of EU technical and financial assistance for South East Europe (beneficiary countries: Albania, Bosnia and Herzegovina, Croatia, Serbia and Montenegro and FYR

Macedonia), meant for the implementation of the stabilisation and association process. CARDS priorities are: reconstruction, the return of refugees and displaced persons, the stabilisation of the region; the establishment of the institutional and legislative framework (democracy, human rights, rights of minorities, reconciliation, civil society, media independence, the fight against organised crime); sustainable economic development and economic reform oriented towards a market economy; social development; cross-border, trans-national and regional collaboration.

CENTRAL EUROPE FREE TRADE AGREEMENT, CEFTA – the basic objectives of CEFTA are the harmonisation of the development of economic relations among the states signatories, the raising of the standards of living and the ensuring of better employment opportunities, increasing productivity, a rise in financial stability and the removal of trade barriers among the signatories. CEFTA created one of the preparatory activities on the way to full membership in the EU. In December 1992 the Agreement was signed by the then Czechoslovakia, Hungary and Poland; in 1996 by Slovenia, in 1997 by Romania, and in 1999 Bulgaria. Croatia signed a CEFTA Accession Treaty on 12 December 2002, and has become a full member on 1 March 2003.

COMMON AGRICULTURAL POLICY, CAP – its objective is to provide reasonable prices of agricultural products for European consumers, appropriate incomes for farmers and the application of the principle of single prices, financial fairness and a preferential approach to EU agricultural products. It is one of the most important common policies of the EU, and about 45% of the EU budget is spent on its implementation.

COPENHAGEN CRITERIA, ACCESSION CRITERIA – principles and criteria laid down at a meeting of the European Council in Copenhagen in 1993. The heads of Member States of the EU agreed that it would accept the countries of Central and Eastern Europe as members if they meet these political and economic criteria: (1) stability of institutions to ensure democracy, the rule of law, the respect for human rights and the rights of minorities; (2) respect for an effective market economy and (3) ability to assume the obligations that derive from the *acquis*, including the implementation of the political, economic and monetary objectives. The EU retains the right of decision as to when it will receive new members.

COUNCIL OF EUROPE – an intergovernmental organisation that encourages in the member countries the development of democracy, respect for human rights, the rule of law and promotes the European cultural heritage. The Council of Europe was set up in 1949 by ten European countries (Belgium, Denmark, France, Ireland, Italy, Luxembourg, Norway, Netherlands, UK and Sweden) and has today 43 members. All members of the EU are also members of the Council of Europe, which is headquartered in Strasbourg.

COUNCIL OF THE EUROPEAN UNION (often cited as the Council or the Council of Ministers in the texts) – the most important decision-making body of the EU. The members of the Council are the line ministers of the 15 states members, who meet according to the topics: for foreign policy, agriculture, industry and so on. Irrespective of the varying sectoral composition of the ministers of the Council, depending on the topic being debated, the Council works as a single institution. Each Member State chairs the Council for six months. According to the Amsterdam Treaty, the secretary general of the Council also acts as the high representative for the common foreign and security policy. In the institutional triangle of the Union (the European Commission, the Council of the EU and the EP), the Council represents the Member States.

ECONOMIC AND MONETARY UNION, EMU – the process by which Member States of the EU harmonise their economic and monetary policies with the ultimate aim of adopting the single currency, the euro. The Maastricht Treaty completely developed the objective of monetary union, the method and timetable for its creation. The European Central Bank is charged with the implementation of European monetary policy; since 1999 it has fixed exchange rates and introduced the common currency. From January 1991 on, the EMU had 11 members, and Greece joined in 1993. The common currency was not adopted by three Member States: Denmark, Sweden and the UK.

EUROPE AGREEMENTS → ASSOCIATION AGREEMENTS

EUROPEAN CENTRAL BANK, ECB – administers the European central bank system, its task being to determine cash flows, manage foreign currency transactions, manage the official foreign currency reserves of the Member States and look after orderly payments clear-

ing. It was founded on 30 June 1998, when it took over the responsibility for implementing European monetary policy.

EUROPEAN COMMISSION – the executive body of the EU charged with initiatives, the implementation of the founding treaties, governance and control. It is composed of 20 members (two each from France, Germany, Italy, Spain and the UK, and one each from the other countries). Members of the Commission are agreed on together by the Member States, and they are confirmed by the European Parliament, to which the Commission is answerable. The period of office of the Commission members lasts for five years. Within the context of the institutional triangle of the Union (the European Commission, the Council of the EU and the European Parliament), the Commission represents the European Community.

EUROPEAN COMMUNITY – an expression that used to be used unofficially (until the negotiations concerning the European Union) as a common term for all three communities: the European Coal and Steel Community, laid down by the 1951 Treaty of Paris, the European Economic Community (EEC) and the European Atomic Energy Community (EURATOM), founded in Rome in 1957. In official EU communications all these three communities are referred to in brief as the Community.

EUROPEAN COUNCIL – a concept that arose in practice, and was then founded by the Single European Act (1986). The heads of states or governments of the Member States of the EU meet at least twice a year with the president of the European Commission in order to debate questions essential for the EU.

EUROPEAN ECONOMIC AREA, EEA – created in 1992 by an agreement signed by the then 12 Member States of the European Commission and EFTA for the sake of the creation of a single market in which the freedom of the movement of people, goods, services and capital would be respected. Today the EEA consists of 18 states: the 15 states of the EU and the Member States of EFTA (Iceland, Liechtenstein, Norway). In the EFA area, about 80% of the regulations of the single EU market are applied.

EUROPEAN EMPLOYMENT STRATEGY, EES - a part of the wider political programme that the Union set off in 1997 in Luxembourg, and confirmed in Lisbon in 2000, the aim being to create an EU that is the

most dynamic and most competitive region in the world and to encourage greater employment and social cohesion.

EUROPEAN FREE TRADE ASSOCIATION, EFTA – an international organisation uniting the markets of Iceland, Liechtenstein, Norway and Switzerland into a free trade zone that is at the same time a platform for the participation of its three members (not including Switzerland) in the European Economic Area together with the 15 states of the EU. EFTA was founded by the Stockholm Convention of 1960 as an alternative to the EEC as it then was.

EUROPEAN MONETARY SYSTEM – an agreement by which the Member States of the EU linked their currencies so as to avoid great fluctuations in exchange rates and inflation. This monetary system, founded in 1979, was the forerunner of the Economic and Monetary Union.

EUROPEAN PARLIAMENT – the representative body of the inhabitants of the EU. Members of this Parliament have been chosen by direct ballot since 1979; the number of members chosen in a given Member State is in proportion to the population of the country as a share of the total population of the EU. The EP currently has 626 members, and its remit includes: consideration of the proposals of the European Commission, participation in the adoption of regulations, appointing and discharging members of the European Commission, the right to queries related to the work of the European Commission and the Council of the EU, division of authority in the adoption of the annual budget and supervision (with the Council) of the execution of the budget. In the institutional triangle of the Union (the European Commission, the Council and the European Parliament), the Parliament represents the citizens of the Union.

EUROPEAN UNION, EU – a supranational community created as a result of collaboration and integration that was started in 1951 by six countries (Belgium, France, Germany, Italy, Luxembourg and the Netherlands). After more than 50 years and four waves of enlargement (1973, Denmark, Ireland and the UK; 1981, Greece; 1986, Portugal and Spain; 1995, Austria, Finland and Sweden), the EU today has 15 members. The title of European Union was introduced in the European Union Treaty of Maastricht (1992). The first pillar of the EU consists of the three communities: the European Coal and Steel Community, the

European Economic Community and the European Atomic Energy Community; the second pillar is its common foreign and security policy; and the third is collaboration in matters of justice and internal affairs.

EVOLUTIONARY CLAUSE – a formulation from the Stabilisation and Association Agreement. In it, a state that starts the association process expresses its intention to join the EU, and the EU accepts this.

EXCHANGE RATE MECHANISM, ERM – the germ of the Economic and Monetary Union. This is a system of adjustable exchange rates in which the exchange rates of the Member States fluctuated within set limits. It was expected that this system would stabilise exchange rates, control inflation and be a spur to trade. Also developed was the ERM II system, as aid to countries that do not have the euro so that, respecting common economic criteria, they can prepare for membership in the Union.

MAASTRICHT CRITERIA – principles laid down in the Maastricht Treaty of 1992, when the Member States set up the EU and agreed on these criteria for the establishment of economic and monetary union and a single currency: (1) the rate of inflation can be at most 1.5% greater than the average rate of inflation of the three EU countries with the lowest inflation; (2) long-term interest rates must not be 2% higher than the average of the three EU countries with the lowest inflation; (3) the deficit of the national budget must not be greater than 3% of GDP; (4) the public debt must not be more than 60% of GDP; (5) the national currency must be in the normal ERM range (Exchange Rate Mechanism) during the two previous years.

PHARE PROGRAMME – an assistance programme set up in 1989 after the fall of communism in the countries of Central and Eastern Europe, the objective of it being the reconstruction of these countries. At first it covered only Poland and Hungary and was called Pologne-Hongrie: Assistance à la restructuration économique (hence the acronym). In time it spread to the countries of CEE (apart form Poland and Hungary, these are Albania, Bulgaria, Czech Republic, Estonia, Macedonia, Latvia, Lithuania, Romania, Slovakia and Slovenia, with the PHARE programme being replaced in 2000 in Albania and Macedonia by the CARDS programme). Apart from giving help to the reconstruction of the economies of these countries, PHARE is the main financial instrument of the pre-accession strategy of the ten countries

of Central and Eastern Europe that have submitted applications for EU membership. The objectives of the PHARE for the 2000-2006 period are mainly related to the construction of the institutions and the financing of investments in applicant countries.

PRE-ACCESSION STRATEGY – a form of assistance that ought to facilitate the economic and political transition in the countries of CEE. The European Council adopted it in 1994, and it is based on a deepening of the associated countries and EU institutions, development of the association agreements, financial aid via PHARE and preparations for integration into the single market.

SOCIAL POLICY PROTOCOL – this was adopted in Maastricht in 1991, and was signed by 11 countries of the EU (the UK did not sign). It was subsequently signed by Austria, Finland and Sweden. In it, the states signatories expressed their intentions to increase employment, improve conditions of work and life and so on. This topic was later included in the Amsterdam, and the Social Protocol ceased to exist as a separate document.

STABILISATION AND ASSOCIATION AGREEMENT, SAA – a new generation of Europe agreements offered to the countries of SEE as part of the stabilisation and association process. The Agreement governs the general principles, political dialogue, regional collaboration, the free movement of goods, the movement of labour, the foundation of legal entities, the provision of service and capital, harmonisation of laws, implementation of laws and rules of market competition, justice and internal relations, political and financial collaboration. The Agreement gives a signatory country the status of potential applicant for membership in the EU. Croatia signed such an agreement with the EU on 29 October 2001.

STABILITY AND GROWTH PACT, SGP – the foundation for the third degree of the establishment of the EMU which started on 1 January 1999. Its objective is to ensure the budgetary discipline in the member countries after the introduction of the single currency. According to the provisions of the Pact, the European Council can penalise a Member State that does not undertake measures to reduce an excessive deficit.

STABILITY PACT FOR SOUTH EASTERN EUROPE – a political document agreed on 10 June 1999 in Cologne, with the strategic objec-

tive of the convergence of the countries of SEE on the Euro-Atlantic structures and the strengthening of mutual collaboration. The pact sets up a framework for the collaboration of the states of SEE, the Member States of EU, the USA, the Russian Federation, international organisations (including international financial institutions) and various regional initiatives. In Croatia, it is the Ministry of Foreign Affairs that is charged with the coordination of all activities related to the Pact.

TRANSITION INDICATORS – a system of qualitative indicators for the transition countries that are published by the EBRD. In accordance with them, in values of from 1 to 4+, grades are given to the restructuring and privatisation of the corporate sector, the liberalisation of the market and the condition of financial institutions.

TREATIES OF ROME – these were signed in 1957 in Rome during the foundation of the European Economic Community (EEC) and the European Atomic Energy Community (EURATOM). They also set up a customs union among the countries of the ECSC (European Coal and Steel Community) and the objectives for the creation of a common market to ensure the free movement of people, goods, services and capital were laid down. The EEC and EURATOM treaties are often known as the Treaties of Rome.

TREATY ON THE EUROPEAN UNION, EU TREATY – a treaty that set up the European Union and defined the objectives of the EMU, the single currency, common foreign and security policy, a common defence policy, the introduction of Union citizenship and close cooperation in justice and internal affairs. The Member States signed it in 1992, and ratified it in 1993.

URUGUAY ROUND – trade talks that started in 1986 in Uruguay. It was only in 1994 that an agreement was signed by the ministers of 125 countries meeting in Morocco. Although the negotiations lasted many years, they are considered to have been successful because they covered a number of trade matters and heralded the foundation of the WTO.

WHITE PAPER – an EU document with proposals for future activities in a given area.

List of useful web addresses

Name of institution	URL	Descrption
CEFTA	http://www.cefta.org/	Site devoted to the Central European Free Trade Agreement
European Commission in the Republic of Croatia	http://www.delhrv.cec.eu.int/	
EFTA	http://www.efta.int/structure/main/index.html	Site of the European Free Trade Association
Economical and Social Committee of the EU	http://www.esc.eu.int/	Useful links to the European Parliament, the EU and the European Commission
EU Business	http://www.eubusiness.com/	News from Europe and the EU
EU in the USA	http://www.eurunion.org/	Publications, information about the EU in the USA; list of web sites of EU Member States
EU Observer	http://www.euobserver.com/	EU site with latest news from Europe
European Investement Bank	http://eib.eu.int/	
European Central Bank	http://www.ecb.int/	
European Union	http://europa.eu.int	Official site of the EU
	http://europa.eu.int/comm/enlargement/enlargement.htm	EU enlargement site
Statistical Office of the EU	http://europa.eu.int/comm/eurostat/	
Council of the EU	http://ue.eu.int/	
European Commission	http://europa.eu.int/comm/index_en.htm	Official portal of the European Commission
	http://europa.eu.int/comm/enlargement/docs/newsletter/weekly_arch.htm	Newsletter of the European Commission general administration for enlargement

European Parliament	http://www.europarl.eu.int/	Tasks; members; announcements
European Movement	http://www.europeanmovement.org/	
Ministry for European Integration	http://www.mei.hr	
	http://www.mei.hr/default.asp?ru=16	European integration glossary
	http://www.mei.hr/download//2002/06/05/E-H Glosar-final.pdf	English-Croatian glossary of the SAA
NYU School of Law – Jean Monnet Center	http://www.jeanmonnetprogram.org/calendar/index.html	Annual calendar of conferences and seminars related to European integration
Stability Pact	http://www.stabilitypact.org/	
PUMA	http://www.oecd.org/puma/	OECD site; information related to the area of administration and the organisation of public sector
SIGMA	http://www1.oecd.org/puma/sigmaweb/index.htm	OECD and EU site concerning state administration and public sector reform in the countries of CEE
Slovenija doma i u Evropi	http://evropa.gov.si/	Information on the EU and Slovenia's accession process
The Court of Justice of the European Communities	http://curia.eu.int/	
European Court of Auditors	http://www.eca.eu.int/	

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