

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

Brussels, 6 October 2010

AD 37/10

LIMITE

CONF-HR 30

ACCESSION DOCUMENT

Subject: EUROPEAN UNION COMMON POSITION
Chapter 34: Institutions

EUROPEAN UNION COMMON POSITION

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

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

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

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

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

The institutional *acquis* of the Union includes:

- the provisions of the Treaty on European Union (TEU), the Treaty on the Functioning of the European Union (TFEU) and the Treaty establishing the European Atomic Energy Community (EAEC Treaty) concerning the composition and operation of the institutions, bodies, offices and agencies,
- the corresponding secondary law, including the *acquis* on the institutions, bodies, offices and agencies, and on inter-institutional relations, transparency, official languages, the Staff Regulations and other provisions concerning the European Civil Service.

Institutions

European Parliament

The EU considers that, should Croatia accede to the EU before the end of the 2009-2014 parliamentary term, Article 2 of the Protocol on transitional provisions annexed to the TEU, the TFEU and the EAEC Treaty shall be adapted temporarily so as to allocate 12 additional seats in the European Parliament to Croatia for the remainder of that term.

The EU considers that, should Croatia accede to the EU before the end of the 2009-2014 parliamentary term, the Members of the European Parliament representing the citizens of Croatia for the period running from the date of accession until the next elections to the European Parliament, shall, by way of derogation from Article 14(3) TEU, either:

- be elected by direct universal suffrage in ad hoc elections to be held in accordance with the provisions of the *acquis*, or,
- if the date of accession is less than six months before the next elections to the European Parliament, be designated by the national Parliament of Croatia, from its midst, provided that the persons in question have been elected by direct universal suffrage.

The EU considers that, provided that the Protocol amending the Protocol on transitional provisions annexed to the TEU, the TFEU and the EAEC Treaty, signed by the Member States on 23 June 2010, enters into force, the allocation of 12 additional seats to Croatia will constitute a temporary derogation from the maximum number of seats provided for in the first subparagraph of Article 14(2) TEU for the remainder of the 2009-2014 parliamentary term. The EU recalls that Article 2(3) of the Protocol on transitional provisions (as inserted by the Protocol of 23 June 2010), once in force, states that the European Council, in accordance with the second subparagraph of Article 14(2) of the Treaty on European Union, shall adopt a decision determining the composition of the European Parliament in good time before the 2014 European Parliament elections.

European Council and Council

The EU recalls that as from accession, Croatia is entitled to be represented within the European Council and the Council.

The EU considers that, should Croatia accede to the EU before 1 November 2014 or should a member of the Council make a request according to Article 3(2) of the Protocol on Transitional Provisions annexed to the TEU, the TFEU and the EAEC Treaty, in accordance with Article 3(3) of the Protocol, Croatia shall be allocated 7 votes. The number of votes in favour necessary to adopt an act indicated in the third subparagraph of Article 3(3) of the Protocol shall be at least 260.

Commission

The EU recalls that, should Croatia accede before 1 November 2014, the Commission will, in accordance with Article 17(4) TEU, comprise from the date of accession a national of Croatia. The new Commissioner will be appointed by the Council acting by qualified majority, by common accord with the President of the Commission, after consulting the European Parliament and in accordance with the criteria set out in the second subparagraph of Article 17(3) of the Treaty on European Union. The new Commissioner will enlarge the existing Commission until the end of its current term of office. As regards the composition of the Commission as of 1 November 2014, the EU recalls the conclusions of the European Council of 18/19 June 2009 (doc. 11225/2/09), according to which a decision would be taken, in accordance with the necessary legal procedures, to the effect that the Commission shall continue to include one national of each Member State.

Court of Justice and General Court

The EU recalls that, as from accession, the Court of Justice and the General Court will both include one judge from Croatia who will be appointed by common accord of the governments of the Member States in accordance with Article 19(2) TEU. The EU recalls that the members of the specialized courts attached to the General Court, where established, will be appointed by the Council, acting unanimously, pursuant to Article 257, fourth paragraph, TFEU.

The EU considers that Article 48 of the Protocol on the Statute of the Court of Justice of the European Union annexed to the TEU, the TFEU and the EAEC Treaty shall be modified so that the General Court shall consist of 28 Judges. Furthermore, the EU considers that the rotation system provided for in Article 9 of the same Statute shall be amended so that every three years 14 Judges shall be replaced. Equally, the EU considers that in order to clarify that, when sitting in the full Court in accordance with Article 16, fourth paragraph, and Article 50, second paragraph of the Statute, the Court and the General Court have an uneven number of judges, the Rules of Procedure shall be adapted so that the rule provided for in Article 26(1) of the Rules of Procedure of the Court of Justice and in Article 32(1) of the Rules of Procedure of the General Court also apply to such a situation.

European Central Bank

The EU recalls that, as from accession Croatia, as a Member State with a derogation as defined in Article 139(1) TFEU, will be entitled to be represented in the General Council of the European Central Bank by the Governor of its national central bank, in accordance with Article 44. 2 of Protocol N° 4 on the Statute of the European System of Central Banks and of the European Central Bank. Equally, the EU recalls that, when Croatia adopts the single currency, the Governor of its national central bank will also be a member of the Governing Council, pursuant to Article 283(1) TFEU.

The EU recalls that the European Central Bank's subscribed capital and the ceiling on the European Central Bank's foreign exchange reserves will be increased in the context of Croatia's accession. The EU furthermore recalls that this increase will be determined in accordance with Article 48. 3 of Protocol N° 4 on the Statute of the European System of Central Banks and of the European Central Bank.

Court of Auditors

The EU recalls that, as from accession, Croatia will, in accordance with Article 285, second paragraph, TFEU, be entitled to propose one national as member of the Court of Auditors to be appointed in accordance with the procedure provided for in Article 286(2) TFEU.

Committees, groups, agencies and other bodies established by the Treaties or by an act of the institutions

Economic and Social Committee

The EU recalls that the maximum number of members of the European Economic and Social Committee, laid down in Article 301, first paragraph, TFEU, shall not exceed 350.

The EU considers that, should Croatia accede during a five years' term of office of the Economic and Social Committee referred to in Article 302 (1) TFEU:

- Article 7 of the Protocol on Transitional Provisions annexed to the TEU, the TFEU and the EAEC Treaty, shall, by way of derogation from Article 301, first paragraph, TFEU, be adapted to allocate Croatia 9 members;
- The overall number of members provided for in Article 301, first paragraph, TFEU, shall be temporarily increased to 353 until the end of the aforementioned term, or until the entry into force of the decision referred to in Article 301, second paragraph, TFEU, whichever comes first. If that decision has already been adopted by the date of accession, by way of derogation from Article 301, first paragraph, Croatia shall be temporarily allocated an appropriate number of members until the end of the term during which it accedes to the EU.

Committee of the Regions

The EU recalls that the maximum number of members of the Committee of the Regions, laid down in Article 305, first paragraph, TFEU, shall not exceed 350.

The EU considers that, should Croatia accede during a five years' term of office of the Committee of the Regions referred to in Article 305, third paragraph, TFEU:

- Article 8 of the Protocol on Transitional Provisions annexed to the TEU, the TFEU and the EAEC Treaty, shall, by way of derogation from Article 305, first paragraph, TFEU, be adapted to allocate Croatia 9 members;
- The overall number of members provided for in Article 305, first paragraph, TFEU, shall be temporarily increased to 353 until the end of the aforementioned term, or until the entry into force of the decision referred to in Article 305, second paragraph, TFEU, whichever comes first. If that decision has already been adopted by the date of accession, by way of derogation from Article 305, first paragraph, Croatia shall be temporarily allocated an appropriate number of members until the end of the term during which it accedes to the EU.

European Investment Bank

The EU recalls that, as from accession, Croatia will, in accordance with Article 308, second paragraph, TFEU, be a member of the European Investment Bank. The EU also recalls that, as from accession, Croatia will be represented, in accordance with Article 7(1) of Protocol N° 5 on the Statute of the European Investment Bank, by a minister designated by Croatia in the Board of Governors. Furthermore, the EU recalls that, with respect to the Board of Directors, the Board of Governors will appoint a Director nominated by Croatia, as indicated in the second subparagraph of Article 9(2) of Protocol N° 5. The term of office of this Director will expire at the end of the mandate of the Board of Directors in place at the time of accession.

Euratom Scientific and Technical Committee

The EU considers that, as from accession, an additional member from Croatia shall be appointed to the Euratom Scientific and Technical Committee, in accordance with the procedure provided for in Article 134(2) of the EAEC Treaty, and the number of members of the Committee shall be 42.

Further appointments following the accession of Croatia

The EU considers that, unless otherwise provided for in this Draft Common Position, new members from Croatia of the committees, groups, agencies or other bodies created by the Treaties or by an act of the institutions shall be appointed under the conditions and according to the procedures laid down for the appointment of members of these committees, groups, agencies or other bodies and that the terms of office of the newly appointed members shall expire at the same time as those of the members in office at the time of accession. It shall equally be provided that the membership of the committees, groups, agencies or other bodies created by the Treaties or by an act of the institutions with a number of members fixed irrespective of the number of Member States shall be completely renewed upon accession, unless the terms of office of the present members expire within the year following accession.

Other issues

Territorial scope

The EU considers that Article 52(1) TEU shall be amended in order to include Croatia in the Union's territorial scope.

Language regime

The EU considers that, as from accession, Croatian shall be recognised as an authentic language of the Treaties and that the texts of the acts of the institutions shall be drawn up in Croatian and shall be authentic under the same conditions as the texts drawn up in the present official languages. The EU therefore considers that Article 55 TEU, Article 225 EAEC and both Council Regulations N°1 of 15 April 1958 determining the languages to be used by the European Economic Community and by the European Atomic Energy Community shall be amended accordingly.

The EU also considers that Article 29(1) of the Rules of Procedure of the Court of Justice and Article 35(1) of the Rules of Procedure of the General Court shall be amended so as to include Croatian.

European Civil Service

The EU recalls that following accession the Staff Regulations and Conditions of Employment will be applied to officials and other servants from Croatia.

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The EU invites Croatia to confirm that it can accept the *acquis* under this chapter and it will be ready to implement it by the day of accession.

Subject to Croatia's acceptance of the above considerations, the EU notes that, at this stage, this chapter does not require further negotiation.

In view of all the above considerations, the EU will, if necessary, return to this chapter at an appropriate moment.

Furthermore, the EU recalls that there may be new *acquis* between 24 September 2010 and the conclusion of the negotiations.
