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Subject: EUROPEAN UNION COMMON POSITION
Chapter 24: Justice, freedom and security

EUROPEAN UNION COMMON POSITION
(Revision of CONF-HR 17/09)

Chapter 24: Justice, freedom and security

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

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

as well as to the requirements set out in points 13, 24 and 26 of the Negotiating Framework.

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

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

The EU notes that Croatia, in its positions CONF-HR 3/08 and CONF-HR 31/10, accepts the *acquis* under chapter 24 as in force on 1 October 2010, and declares that it will be ready to implement it by the date of its accession to the European Union, with the exception of certain provisions of Regulation (EC) No 562/2006 of the European Parliament and of the Council, for the implementation of which Croatia requests a transitional period concerning common border crossing points.

Migration

The EU takes note of the amendments made to the Aliens Act, aligning its provisions on refusing the entry or exit of aliens into and from Croatia, and on travel of unaccompanied minors to the EU *acquis*. The EU notes Croatia's intention to further align its Aliens Act by the end of 2010.

The EU notes the renovation of the reception centre in Ježevo and Croatia's plans to build two new transit reception centres for illegal migrants in Tovarnik and Trilj by 2012. It invites Croatia to continue its efforts in ensuring full implementation and enforcement in the field of migration, in particular the procedures for return and removal and the capacity of reception and detention centres, taking into account the needs of vulnerable categories of migrants.

The EU also takes note of Croatia's commitment to fully assume the readmission agreements it has concluded with the EU and to terminate all agreements which are not in conformity with the *acquis*, by the date of its accession to the EU.

Asylum

The EU takes note of the adoption of the new Asylum Act and of the related implementing legislation, which has completed alignment to the EU *acquis* in this area. The EU notes that the Act provides for free legal aid to all asylum seekers, except those who have sufficient funds, including for the appeal procedures.

The EU notes that Administrative Courts will become the appellate body against a decision of the Ministry of the Interior in the asylum procedures as from their full establishment on 1 January 2012. During the interim period, Croatia established an Appeal Commission to function as second-instance body in asylum procedures. The EU notes that the composition and the internal rules of procedure of the Commission ensure sufficient independence of this body in dealing with asylum seekers' appeals. Asylum seekers can also benefit from free legal assistance in appealing against Ministry of the Interior's decisions on asylum matters.

The EU notes that Croatia has been training border police officers and staff of the Ministry of Interior in asylum laws and procedures, and that an asylum-related module is taught at the basic course for police officers at the Police Academy. It invites Croatia to continue putting emphasis on the training of its border police officers, staff at Ministry of Interior and judges to be appointed to the Administrative Courts, dealing with asylum.

The EU notes that Croatia adopted a Plan for Establishing the Eurodac and DubliNet Systems and that the necessary equipment has been purchased and installed, and that the operational manual has been prepared. The EU also notes the establishment of the national Eurodac and DubliNet units at the Asylum Section of the Ministry of the Interior, and that two new posts have been allocated to these units. Staff from the Ministry of the Interior has attended training on Dublin and Eurodac legislation and its application. The EU invites Croatia to continue its preparations in order to be able to fully implement and enforce the asylum *acquis* as from the date of its accession to the EU, ensuring sufficient administrative and institutional capacity for the correct treatment of asylum seekers, taking into account any increase in numbers at the date of accession.

The EU notes that the progress made by Croatia so far meets the requirements set in the first closing benchmark as set out in the EU Common Position CONF-HR 17/09.

Visa policy

The EU takes note that Croatia consistently implemented its Plan of Full Alignment of the Croatian Visa Regime with the EU Visa Regime of December 2006. Croatia adopted legislation introducing a uniform Croatian format of visa aligned with the EU non-confidential standards in 2010.

The EU also notes that Croatia continued to further align with the EU "negative list" of states whose citizens are required to have a visa to enter the EU. The EU takes note of Croatia's commitment to fully align its visa regime with the EU requirements at the latest three months before accession.

The EU notes that Croatia has introduced biometric passports whose security features are in line with Council Regulation (EC) No 2252/2004, and that such passports are being issued since June 2009.

The EU takes note of Croatia's indication that it would phase out existing ID cards issued prior to 2003, held by people who were older than 65 at the time of issuing, who have no set expiry date. The number of existing ID cards was around 1 million in June 2008; Croatia has ceased issuing such type of cards in 2003 and estimates that around 200,000 will still exist at the end of 2012. The EU takes note of Croatia's commitment to amend its legal framework to prevent the possibility for these cards to be used as valid travel documents.

The EU notes that the progress made so far meets the requirements set in the second closing benchmark as set out in the EU Common Position CONF-HR 17/09.

External borders and Schengen

The EU notes that Croatia has adopted its Integrated Border Management (IBM) Action Plan in 2006, which provides for a comprehensive framework for Croatia's preparations in the field of external borders and Schengen, and has regularly updated it. Croatia has consistently implemented the actions included in the IBM Action Plan in order to advance in its preparations towards fulfilling the requirements of EU accession. The EU takes note of Croatia's plans to further update the Action Plan in 2011 to include revised concepts for blue and green borders, and invites Croatia to further build up its track record of implementation of its Action Plan, in particular by strengthening its administrative and enforcement capacities in due time, so as to ensure that it will be in a position to fully implement the EU requirements in the field of external borders upon accession. The EU invites Croatia to continue to provide detailed information, including its updated IBM action plan, and will closely monitor its implementation.

The EU notes that Croatia has amended its State Border Protection Act with the view to align Croatian legislation with Regulation (EC) No 562/2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code).

The EU notes that Croatia established the legal framework for participation in Rapid Border Intervention Teams and established a contact for the exchange of information with FRONTEX. The EU invites Croatia to take the necessary measures for the participation in joint operations also.

The EU takes note of Croatia's decision to re-classify its border crossing points and to abolish 17 of them, as well as to define the overall concept of border crossing points. The EU takes note that the total staff of the border police has reached 90 % of the staff complement defined as required upon accession and that Croatia has developed and consistently implemented a comprehensive training plan for its Border police staff. It invites Croatia to continue implementing the IBM Action Plan and to continue strengthening the Border Police in line with the timetable set in this Plan, in terms of staffing and equipment, as well as of adequate general and specialised training. The EU also invites Croatia to implement all necessary measures related to the fight against corruption in border management, including as regards the control and inspection of border crossing posts, and to ensure the appropriate detection and administrative and judicial follow-up of corruption cases, including dissuasive sanctions.

The EU notes the ongoing deployment of the new National Border Management Information System (NBMIS) at the border crossing points located at the future external border and Croatia's plans to complete the installation by the end of 2011.

As regards the border area of Metkovic, the EU takes note of Croatia's commitment to develop and implement, by the end of 2011, a coherent concept for the checks and surveillance of the border in line with EU requirements, including upgrading the infrastructure and providing for the necessary staffing and equipment.

As regards the area of Neum, the EU takes note of Croatia's plans to re-construct the two land border crossing points at Klek and Zaton Doli, in line with the EU requirements for border controls. It also notes Croatia's plans for establishing by the end of 2011 a 24-hour integrated border surveillance system in the maritime area surrounding Neum and Croatia's maritime police strategy for the development of blue border surveillance, including its intention to establish a national maritime centre for data collecting by the end of 2012. It invites Croatia to fully implement such plans and to ensure that the operational procedures, equipment and staffing necessary to ensure an effective surveillance of the land and blue border will be available at the latest upon accession.

The EU takes note of the setting up of the Croatian Inter Agency Working Group on Integrated Border Management. Croatia shall continue to make progress on interagency coordination and cooperation at central, regional and local level, in order to ensure adequate integrated border management.

The EU invites Croatia to continue its efforts to strengthen its administrative and operational capacities to enhance the fight against trafficking in human beings and illegal migration.

The EU recalls that Croatia's entry into the Schengen area will only take place following a Council decision on the full application of the Schengen *acquis* in Croatia, taken after verification in accordance with the applicable Schengen evaluation procedures that the necessary conditions for the application of all parts of the *acquis* concerned have been met, and underlines that all the Schengen *acquis* shall be binding on Croatia already from the date of its accession to the EU. The EU invites Croatia to continue its preparations for full participation in the Schengen cooperation.

The EU takes note of Croatia's request for a transitional period to continue not applying certain provisions of Regulation (EC) No 562/2006 of the European Parliament and of the Council so as to maintain the common border crossing points at its border with Bosnia and Herzegovina.

The EU considers that it is acceptable to grant this transitional period until the moment the Council of the EU takes a decision on the full application of the Schengen *acquis* in Croatia, or until the Regulation is amended to include provisions governing border control at common border crossing points, whichever is the earlier, and that to this effect Regulation (EC) No 562/2006 shall be amended as in the Annex of this document. The EU recalls that all entry and exit checks by Croatian border guards through the common border crossing point with Bosnia and Herzegovina shall be carried out in compliance with the *acquis* of the Union.

The EU takes note of Croatia's commitment to undertake all activities necessary to amend its Local Border Traffic Agreements with Serbia and Bosnia and Herzegovina to bring them in line with Regulation (EC) No 1931/2006 at the time of accession.

The EU recalls that in accordance with the Negotiation Framework for the Accession Conference with Croatia (CONF-HR 2/05), Croatia will be required to terminate all international agreements concluded by Croatia, which are incompatible with the obligations of membership. The EU underlines that it is the responsibility of Croatia to ensure that before accession all its international agreements are in conformity with the *acquis*

The EU notes that the progress made so far meets the requirements set in the third closing benchmark as set out in the EU Common Position CONF-HR 17/09.

Judicial co-operation in civil matters

The EU takes note of Croatia's progress in harmonising its legislation with the relevant *acquis* and of its efforts to strengthen its administrative capacity.

The EU notes that Croatia amended several pieces of legislation in order to further align its legislation to the EU *acquis* and to create the necessary legal framework for the implementation of EU legislation upon accession. Notably, by amending its Courts Act, Croatia has entrusted municipal, county and commercial courts to conduct international legal co-operation with EU Member States, following Croatia's accession to the European Union, in the field of respective competence.

The EU also notes that amendments to the Civil Procedure Act adopted in 2008 transposes Regulation (EC) No 1393/2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters, Regulation (EC) No 1206/2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters, Regulation (EC) No 1896/2006 creating a European order for payment procedure and Regulation (EC) No 861/2007 establishing a European Small Claims Procedure; the relevant provisions will entry into force as from the date of accession.

The EU takes note of the ratification by Croatia of the European Convention on the Compensation of Victims of Violent Crimes, of the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters. The EU also takes note of the ratification of the Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children.

The EU notes that Croatia's Courts have consistently complied with requests for the approval and execution of foreign court decisions, completing the relevant tasks within reasonable period of time since the receipt of the requests. Only a very limited number of cases at municipal courts, commercial courts and at the High Commercial Court lasted longer than one year.

The EU invites Croatia to continue its efforts in this area both as regards legal alignment and the further strengthening of the institutional framework, in order to ensure full compliance with EU requirements by the date of accession.

Judicial co-operation in criminal matters

The EU notes that Croatia in June 2009 amended Article 9 of its Constitution, repealing the provision preventing the extradition of Croatian nationals to another state. This allows the implementation of Council Framework Decision 2002/584/JHA of 13 June 2002 on the European Arrest Warrant and the surrender procedures between Member States.

The EU also takes note of the adoption of the Act on Judicial Co-operation with EU Member States, which ensures the application of the mutual recognition principle as a fundamental principle of judicial co-operation in criminal matters in the EU as from the date of Croatia's accession to the EU. The EU also notes the signature of extradition agreements with Serbia and Montenegro.

The EU notes the entry into force of Croatia's agreement with Eurojust and the secondment of a liaison officer to Eurojust. The EU also notes the entry into force of the Additional Protocol to the Convention on the Transfer of Sentenced Persons.

The EU notes that Croatia's Courts have consistently complied with requests for the recognition and enforcement of foreign court decisions in criminal cases, completing the relevant tasks within reasonable period of time since the receipt of the requests.

The EU invites Croatia to continue its efforts in this area both as regards legal alignment and the further strengthening of the institutional framework, in order to ensure full compliance with EU requirements by the date of accession.

The EU notes that Croatia has thus modified its legal framework to ensure the implementation of the Council Framework Decision on the European Arrest Warrant and has thus met the requirements set in the fifth closing benchmark as set out in the EU Common Position CONF-HR 17/09.

Police co-operation and fight against organised crime

The EU takes note of the signature between Croatia and Europol of a Memorandum of Understanding to establish secure communication lines and of an Agreement on Interconnected Computer Networks.

The EU notes the adoption of the Plan for Assigning Police Liaison Officers to Work Abroad for the period 2008-2012 and notes that Croatia posted a liaison officer to Europol in 2008. The EU also notes that the referral procedures have started for the posting of liaison officers to Austria, Israel, Serbia and Interpol. It invites Croatia to continue implementing the plan and posting liaison officers to Member States and third countries.

The EU notes the adoption of the Action Plan for the establishment of the Supplementary Information Request at the National Entry (S.I.R.E.N.E.) office and for the exchange of information within the Schengen Information System (SIS). The EU invites Croatia to implement the action plan, including by establishing the National Office.

As regards fight against organised crime, the EU notes the entry into force of several multilateral instruments and the creation of the necessary internal legislative framework for the creation of joint teams. The EU notes the adoption of the new Criminal Procedure Act, which among others aligned Croatia's legislation to the Convention for the Protection of Human Rights and Fundamental Freedoms, as well as to Council Framework Decision 2005/212/JHA of 24 February 2005 on Confiscation of Crime-related Proceeds, Instrumentalities and Property. The EU also takes note of the establishment of the National Police Office for the Suppression of Corruption and Organised Crime (PNUSKOK) within the General Police Directorate, together with four regional departments.

The EU notes that the PNUSKOK has been established as the national body entrusted with combating smuggling and illegal possession of firearms, as well as monitoring, controlling and coordinating activities in this field.

The EU invites Croatia to continue its efforts on police cooperation and the fight against organised crime, with regard to legal alignment, reinforcement of administrative and technical capacity, strengthening of the prevention and enforcement capacity, and further developing appropriate mechanisms to ensure effective inter-agency coordination. It calls on Croatia to establish a convincing track record of investigations, prosecutions, convictions and enforced sentencing in particular in dealing with the trafficking of drugs, human beings and firearms, financial investigations, asset confiscation and management, fighting money laundering and deploying a pro-active, transparent, intelligence led and accountable law enforcement culture. It invites Croatia to ensure adequate internal controls, able to properly detect and sanction any infringement of the law of the code of ethics within the police, at all levels. The EU will closely monitor progress and actions by Croatia in this area, including actions taken by Internal Control. It will also closely monitor up until accession further actions taken to counter organised crime and in particular trafficking of drugs, human beings, counterfeited goods (cigarettes), arms and stolen vehicles as well as people smuggling, counterfeiting Euros, and cybercrime.

The EU takes note of the adoption of the Protocol for Identification, Assistance and Protection of Victims of Human Trafficking and of the National Plan for the suppression of trafficking in human beings for the period 2009-2011. The EU also notes the actions undertaken to strengthen cooperation with civil society and to provide training to staff in different agencies involved. The EU invites Croatia to continue its efforts in this area and will continue monitoring progress.

The EU notes that the progress made so far in the areas of police and judicial cooperation and in fight against organised crime meets the requirements set in the fourth closing benchmark as set out in the EU Common Position CONF-HR 17/09.

Fight against terrorism

The EU takes note of the amendments to the Criminal Code, which have fully aligned Croatia's legislation with the EU definition of terrorism as referred to in Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism.

The EU notes that the amendment to Croatia's definition of terrorism meets the requirements set in the sixth closing benchmark as set out in the EU Common Position CONF-HR 17/09.

The EU also notes the adoption of the National Strategy for the Prevention and Suppression of Terrorism and Croatia's indication that it will adopt Action Plan for the prevention and suppression of terrorism in 2010. The EU also notes the establishment of the Inter-departmental Council for the Prevention and Suppression of Terrorism, in charge of defining the key elements of the anti-terrorism strategy in Croatia, in line with the National Strategy.

The EU invites Croatia to continue its efforts in the fight against terrorism, by strengthening its administrative and operational capacity and further developing inter-agency coordination.

Fight against drugs

The EU takes note of the further alignment achieved by Croatia in aligning its legislation in the field of drugs to the EU *acquis* and invites Croatia to complete alignment in this field by the date of accession at the latest.

The EU notes that the agreement between the Republic of Croatia and the European Community for Croatia's participation in the work of the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) has been initialled and preparations for its signature are ongoing.

The EU takes note of the adoption in 2009 of the second Action Plan for Combating Narcotic Drug Abuse in the Republic of Croatia for 2009 – 2012, implementing the National Strategy for Combating Narcotic Drug Abuse in the Republic of Croatia for the period 2006 – 2012.

The EU invites Croatia to continue its efforts to strengthen its administrative and operational capacity, as well as its coordination of relevant bodies at central, regional and local level, in particular to reduce drug supply. It calls on Croatia to further establish a convincing track record of drugs seizures.

Customs cooperation

The EU takes note of the progress made by Croatia in the field of customs cooperation by aligning its legislation to the EU *acquis* and developing the IT systems needed to ensure access to the Customs Information System (CIS). The EU notes that Croatia's customs information systems can fully support access to CIS and it takes note of Croatia's plans to develop the necessary measures to guarantee the security of CIS data. It invites Croatia to continue its preparations, notably with regard to the training of its staff.

Counterfeiting of the euro

The EU takes note of the progress made by Croatia in establishing a coherent institutional framework for the prevention of counterfeiting of the Euro, in particular with the setting up of a national contact point for the suppression of counterfeiting at the National Police Office for the Suppression of Corruption and Organised Crime.

The EU also notes the establishment of a National Counterfeit Centre (NCC), a National Analysis Centre for Counterfeit Notes (NAC), and a Coin National Analysis Centre (CNAC) within the Croatian National Bank. The EU invites Croatia to continue its preparations in this area.

The EU invites Croatia to keep it regularly informed of the developments and steps undertaken in this chapter.

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In view of all the above considerations, the EU notes that, at this stage, this chapter does not require further negotiations.

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

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

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

LEGAL AMENDMENTS ARISING FROM THE DCP

32006 R 0562: Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 105, 13.4.2006, p. 1):

The following is added after Article 19:

" Article 19a:

By derogation from the provisions of this Regulation relating to the establishment of border crossing points, and until the entry into force of a decision by the Council of the European Union on the full application of the provisions of the Schengen *acquis* in Croatia pursuant to [Article 4(2)] of the Act of Accession or until this Regulation is amended to include provisions governing border control at common border crossing points, whichever is the earlier, Croatia may maintain the common border crossing points at its border with Bosnia and Herzegovina. At these common border crossing points, border guards of one party shall carry out entry and exit checks on the territory of the other party. All entry and exit checks by Croatian border guards shall be carried out in compliance with the *acquis* of the Union, including Member States' obligations as regards international protection and non-refoulement. The relevant bilateral agreements establishing the common border crossing points in question shall, if necessary, be amended to that end."