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Subject: EUROPEAN UNION COMMON POSITION
Chapter 23 - Judiciary and fundamental rights

EUROPEAN UNION COMMON POSITION

(Revision of CONF-HR 21/10)

Chapter 23 – Judiciary and fundamental rights

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

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

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

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

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

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

The EU notes that Croatia, in its addendum CONF-HR 12/11 accepts the *acquis* under chapter 23 as in force on 1 June 2011, and that Croatia declares that it will be ready to implement it by the date of its accession to the European Union.

The EU notes the various measures taken and plans to be fulfilled set out in Croatia's position CONF-HR 6/10 pertaining to all aspects of chapter 23: Judiciary and fundamental rights. The EU notes efforts undertaken aimed at completing the legislative framework. Moreover, the EU underlines the importance of Croatia continuing to develop its track record of implementation across the board, thereby further demonstrating that the reforms introduced continue delivering concrete results.

(i) Judiciary

The EU calls on Croatia to continue to strengthen the independence, accountability, impartiality and professionalism of the judiciary, in particular by completing the process of improvement of the administrative capacity of the State Judicial Council and the State Prosecutorial Council, by ensuring a sustained track record of recruiting and appointing judges, state prosecutors and Court Presidents based on transparent, objective, uniform and nationally applicable criteria, and by proactively applying the improved disciplinary rules and procedures. The EU underlines the importance of continuing to improve the efficiency of the judiciary. In particular, the EU calls on Croatia to ensure a sustained reduction of the overall case backlog, including the backlog of enforcement cases and old civil cases, and to continue to establish a track record of improved application of civil procedures.

Independence

The EU takes note of the information regarding the *independence* of the judiciary and, in particular, of the measures regarding the recruitment and career management of judges and state attorneys. The EU notes Croatia's adoption in this respect of amendments to the underlying legislation (covering the Law on State Judicial Council, the Law on the Prosecution Service, the Law on the Judicial Academy and the Law on Courts) in October 2010 as well as the necessary secondary legislation and stronger implementing rules. The State Judicial Council and the State Attorney's Acts were further amended in May 2011. The EU encourages Croatia to fully implement recently amended legislation and notes the necessity to continue to strengthen the public accountability of the judiciary, as well as the importance of preventing political and other interventions in judicial proceedings.

The EU notes the first intake of 60 candidates to the State School for Judges and Prosecutors in January 2011, with first appointments expected on completion of the school programme and examinations in 2013. The EU underlines the importance of continuing to ensure that selection systems based on uniform, transparent, objective and nationally applicable criteria are in place for the recruitment and appointment of judges and state prosecutors. The EU underlines the particular importance it attaches to the proper functioning of the State School as well as the full and proper implementation of transitional provisions for the appointment of judges and prosecutors. In this regard, the EU notes Croatia's recruitment planning in the coming period and invites Croatia to continue to build up a track record demonstrating the recruitment and appointment of judicial officials based on merit without political interference. Particular attention will be paid to the functioning of the State Judicial Council (SJC) and the State Prosecutorial Council (SPC) and to the further strengthening of key functions such as appointment and disciplining of judges and prosecutors. As regards career management, Croatia should ensure that the professional evaluation of judges takes sufficient account of criteria related to quality of justice.

The EU notes the changes to the framework criteria for judges introduced in April 2011 providing, inter alia, that those members of the SJC who are judges are exonerated of 50% of their normal duties, with a 75% exoneration for the SJC President. The EU calls on Croatia to incorporate such provisions in legislation, as opposed to implementing regulations issued by the Minister of Justice. Croatia should continue to ensure that judicial independence is guaranteed with respect to appointments to the position of Court Presidents.

Impartiality

The EU takes note of the information provided by Croatia regarding the *impartiality* of the judiciary in particular the Code of ethics for judges and state attorneys, the system of disciplinary proceedings and the immunity of members of the judiciary. The EU also notes and underlines the importance of Croatia's reform of the appointment procedure for members of the SJC and SPC, the reduced scope for political interference in the work of these bodies, and the abolition of the 5-year probation period for judges. In this context, the EU underlines the importance of a transparent process for the election by peers of professional members of these bodies. In particular, the EU underlines the importance of the SJC and SPC pro-actively applying the improved disciplinary rules and procedures that have been put in place in an efficient, objective and transparent manner.

The EU notes that Croatia has enhanced the capacity of the State Judicial Council and State Prosecutorial Council to perform their key functions, in particular for the appointment, training, promotion and disciplining of judicial officials, and invites Croatia to continue to strengthen these bodies and ensure they function impartially and with full accountability. The EU also calls on Croatia to ensure full application of the Code of ethics and to continue to implement the improved system of assets declarations of judges and prosecutors, including systematic checking for accuracy. The EU underlines the importance of Croatia continuing to consolidate a track record in these areas.

Professionalism and competence

The EU takes note of the information provided by Croatia regarding the *professionalism and competence* of the judiciary and in particular of the measures concerning the development of the Judicial Academy, including its independent status and increased capacity. The EU notes that the Judicial Academy has begun effective operation and has been provided with permanent premises. The EU invites Croatia to ensure the independence of the Judicial Academy in practice, to continue to improve the delivery of initial and in-service training, including on matters of EU law, to strengthen the relevant training institutions, including staff increases, and ensure the State School for Judicial Officials carries out its role effectively. The EU underlines the importance of Croatia improving publication of and access to final court decisions both in the interests of the development of case law and consistent judicial practice, and in view of wider public dissemination.

Efficiency

The EU takes note of the information provided by Croatia regarding the *efficiency* of the judiciary and, in particular, the reduction of the case backlogs before courts, the process of rationalisation of the court network, the introduction of IT systems, the reform of the enforcement procedure and the introduction of a system of public bailiffs. The EU notes that while the overall case backlog before the courts has been further reduced, especially for old criminal cases, problems with the length of proceedings and backlogs of old civil cases and enforcement cases remain. The EU invites Croatia to continue its efforts and implement its commitments to further reduce the case backlogs before all types of courts and ensure the full functioning of a single comprehensive system for statistical monitoring of case handling before all courts and State Attorneys' offices, ensuring *inter alia* that the average length of proceedings for different categories of cases can be adequately monitored. The EU underlines the importance of providing courts with sufficient resources to perform their duties and invites Croatia to implement the functional and physical mergers of municipal and misdemeanour courts as well as of prosecutor's offices in line with its timetable. The EU notes the adoption in December 2010 of a clearly defined plan for rationalisation of county courts and commercial courts and invites Croatia to implement this accordingly.

The EU calls on Croatia to ensure tangible improvements in the enforcement of court decisions even before introduction of the planned new enforcement system. The EU notes in this regard the entry into force of the new Act on the conduct of the enforcement against assets and the partial entry into force of the Enforcement Act in January 2011, and the adoption in November 2010 of the Public Bailiffs Act that will enter into force in 2012. The EU underlines the importance of completing the reform of the system of administrative justice without delay.

The EU notes Croatia's plans as regards alternative dispute resolution (ADR) and encourages Croatia to ensure appropriate recourse to ADR is made in order to contribute to greater judicial efficiency. Greater attention should be paid to out-of-court mediation and to ensuring in-court mediation is not seen as a disincentive in terms of performance indicators for judges. The EU notes the further improvements to the system of judicial inspections, including staff increases, as well as greater transparency in the inspection of prosecution offices.

The EU notes the steps already taken and encourages Croatia to ensure the final necessary implementing regulations are adopted, training continues to be provided and other preparations completed to allow full application of the new provisions of the Criminal Procedure Code concerning the modifications of the judicial investigation and transfer of competence to the State Prosecutor. The EU notes changes to the Civil Procedure Act were adopted in May 2011 aimed at strengthening procedural discipline and limiting the extensive use of extraordinary legal remedies. The EU invites Croatia to continue its reform of the civil procedure, in particular by preventing repeated and frequent referrals of cases from higher instance to lower instance courts, and to further develop a track record of implementation of the Civil Procedure Codes.

War crimes

The EU takes note of the information provided by Croatia on the conduct of domestic *war crimes* investigations and trials. The EU notes the progress towards establishing a track record of impartial handling of war crimes cases by the courts and underlines the importance of continued efforts in this area. In this context, the EU also encourages Croatia to continue to address the issue of those reported missing in the conflict in the 1990's. The EU underlines the need to end impunity. In this context, the EU notes the adoption by the Ministry of Justice in February 2011 of a strategy by Croatia aimed at effectively deploying resources to investigating the most serious and particularly sensitive cases, followed by operational plans of the State Attorney's Office and the Ministry of Interior. The EU notes the adoption of amendments to the ICC law in May 2011 concerning systematic use of the specialised war crimes chambers for new cases.

The EU notes that an increasing number of cases have already been transferred from local courts to the special war crimes chambers and encourages Croatia to make continued full and appropriate use of the specialised war crimes chambers, including for most pending cases, which are not automatically transferred, and to ensure automatic transfer of cases overturned by the Supreme Court, in line with its commitment. The EU calls on Croatia to fully implement its war crimes strategy, to ensure appropriate resources are allocated to the specialised chambers, the prosecution service and police and to accelerate progress with investigations and prosecutions so as to ensure a sustainable track record of handling war crimes cases. The EU calls on Croatia to fully implement its commitments on priority cases without delay. The EU also calls on Croatia to ensure increased transparency in this area and greater public awareness.

The EU notes the work undertaken by Croatia on a database of all war crimes incidents. The EU calls on Croatia to complete this database and to make it an effective, operational tool, also at the regional level, that contributes to the prosecution of war crimes and allows effective monitoring of progress achieved and work still to be undertaken on war crimes cases. The EU invites Croatia to work closely with relevant international organisations and NGOs, in particular to ensure full clarity on war crimes committed and on the number of victims, so as to end impunity. The EU encourages Croatia to continue its constructive dialogue in the region on war crimes issues.

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

The EU also notes that Croatia has implemented its action plan for the review of *in absentia* cases, and looks forward to continued implementation of the new provisions of the Criminal Procedure Code on renewal of proceedings and the deployment of other legal remedies such as protection of legality, thus ensuring that both the requests for the renewal of proceedings and any renewed trials are properly and impartially handled by all relevant judicial authorities.

Judicial reform

The EU takes note of the information provided by Croatia concerning the *judicial reform* process. The EU notes that Croatia updated its Judicial Reform Strategy in December 2010 and its Action Plan in May 2010 and calls on Croatia to continue to develop its track record of effective implementation. The EU calls on Croatia to continue to ensure sufficient institutional capacity for the management of judicial reforms, including post-legislative scrutiny. The EU notes that Croatia has completed an internal reorganisation of the Ministry of Justice, and encourages Croatia to continue to ensure sufficient staffing particularly in key reform areas and effective coordination of all the bodies involved. The EU calls on Croatia to improve human resources planning, including for the long term needs of the judiciary, which takes into account the impact of many on-going and planned reforms. The EU underlines the importance of timely preparations for the use of the European Social Fund, and in particular the Operational Programme for Institutional Capacity Development dealing with judiciary reform and anti-corruption measures.

(ii) Anti-corruption

Policy and domestic institutions

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

The EU underlines the importance of ensuring continued implementation of the National Anti-corruption Strategy and Action Plan, and legal and institutional stability of the anti-corruption framework. The EU notes that Croatia strengthened the institutional mechanism of coordination for the implementation and monitoring of anti-corruption efforts, including the Ministry of Justice coordination structure. The EU calls on Croatia to continue to improve its capacity and performance, including the coordination and follow-up role of the Ministry of Justice as well as that of the Ministry of Public Administration given its broad responsibilities under the anti-corruption strategy and action plan. The EU stresses the importance of reliable statistical data and of ensuring capacity to develop policy impact analysis. The EU underlines the importance of effective implementation of measures at national and local level leading to concrete results, as well as of its action plan on fighting corruption in state owned companies, in particular to reduce political interference and to improve independent oversight and control.

The EU encourages the continuation of a pro-active approach of the National Council for Monitoring the Implementation of the Anti-corruption Strategy, including through proposing corrective measures to the Strategy and Action Plan based on thorough analysis of results achieved, and the initiation of regular public debates on corruption issues. In addition the EU encourages the Croatian Government to continue to carry out regular awareness raising activities regarding the existence, causes and gravity of and the threat posed by corruption, involving in a coordinated way all institutions concerned as well as civil society.

Domestic legal framework

The EU notes the information provided concerning the domestic legal anti-corruption framework in Croatia. The EU encourages Croatia to continue to improve this framework with a view to improving its effectiveness. The EU notes that Croatia adopted improved legislation on the funding of political parties and election campaigns in February/May 2011, *inter alia*, consolidating existing legislation and creating the conditions for improved transparency and independent oversight, taking into account recent GRECO recommendations. The EU calls on Croatia to apply this legislation fully and effectively and to strengthen the implementing bodies involved, in particular the State Electoral Commission by ensuring a fully functional supervision mechanism and the application of dissuasive sanctions in case of breach of the legal provisions.

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

The EU notes the information provided as regards Article 82 of the Criminal Code and notes that, with the entry into force of the Act on the Procedure of Seizure and Confiscation of the Proceeds of Crime and Misdemeanours in December 2010, Croatia has put in place appropriate institutional arrangements for the proper management of property confiscated in criminal proceedings. The EU calls on Croatia to make full use of the legal tools leading to concrete results in seizure and confiscation of assets in corruption and organised crime cases.

The EU underlines the importance of improved transparency, efficiency and integrity in public administration as one pillar of the anti-corruption framework. In this regard, the EU invites Croatia to continue to establish a track record of prevention measures in the fight against corruption and conflict of interest, in particular by fully implementing recently adopted legislation, by reinforcing the implementing bodies, and by increasing human resources, including continuous staff training enhancing, *inter alia*, integrity.

The EU calls on Croatia to complete without delay the amendment and implementation of legislation necessary for full application of the General Administrative Procedures Act aimed at ensuring transparency, objectivity, clarity, efficiency and legal certainty. The EU invites Croatia to fully and properly implement newly amended access to information legislation such that increased transparency is achieved. Croatia should strengthen the Data Protection Agency given its new tasks in this field, and ensure the relevant staff is able to rule on the merit of all cases, including those where information was classified. The EU notes the Government conclusion on transparency in public procurement, and looks forward to full information on the actual execution of contracts being made public. Croatia should continue to improve implementation of the system of ethics and integrity in public administration and to ensure effective implementation of and achieve concrete results from anti-corruption action plans in state owned companies. The EU also underlines the importance of depoliticisation measures in the civil service and the completion of the legal basis for building a professional civil service through the establishment of a new salary system so as to ensure merit-based promotion, reward mechanisms and retention of skilled staff, thus minimising the risk for corruption.

The EU underlines the importance of effective and consistent handling of conflict of interest situations at all levels of the public administration, including the judiciary and state-owned companies, and notes improvement made in this regard, including the adoption of a new Act on the Prevention of Conflict of Interest in February 2011 which foresees the introduction of an improved system to protect against and sanction conflicts of interest at all levels. The EU looks forward to the establishment without delay of the new Conflict of Interest Commission (CIC) under the newly adopted law and the continued development of a track record of implementation of conflict of interest provisions, including strengthened professional and administrative support available to the CIC, and its effective operation. The EU notes that both the CIC and the Ministry of Public Administration have issued written interpretive guidelines and provided training for public officials on conflict of interest in all relevant state bodies. The EU calls on Croatia to ensure these guidelines (ethics code/ code of conduct) continue to be pro-actively brought to the attention of staff. The EU also calls on Croatia to ensure full implementation of its system for monitoring and verification of assets declarations of public officials and judges, including dissuasive sanctions in case of irregularities and to consider extending the range of persons subject to assets declarations.

International legal framework and institutions

The EU notes that Croatia has aligned with all relevant international legal instruments in this field. The EU encourages Croatia to implement these legal instruments and to adopt anti-corruption policies and measures pursuing a multidisciplinary approach. The EU notes the information provided by Croatia as regards the establishment and further strengthening of the so-called USKOK vertical system in Croatia, made up of USKOK, PNUSKOK and specialised anti-corruption chambers in the County Courts of Zagreb, Split, Osijek and Rijeka. The EU notes that implementation of these institutional arrangements is producing concrete results in terms of investigations, indictments and court rulings. In this context, the EU underlines the importance of Croatia ensuring a sustained track record of substantial results based on efficient, effective and unbiased investigation, prosecution and court rulings in organised crime and corruption cases at all levels, including high level corruption cases and cases related to public procurement and the judiciary. The EU calls on Croatia to ensure continued improvements in interagency cooperation, especially among law enforcement bodies and in the area of financial cooperation and data sharing. The EU also encourages Croatia to continue to improve its international cooperation, particularly on organised crime, including exchange of information based on international conventions.

The EU notes that Croatia has further strengthened the capacity of USKOK with the recruitment of 4 additional deputy prosecutors, bringing the total to 28, with further recruitment planned. The EU stresses the need for Croatia to continue to grant USKOK, PNUSKOK and other anti-corruption bodies the necessary independence to enable these bodies to carry out their functions effectively and free from any undue influence. The EU underlines the importance of investigations being sufficiently broad to ensure all feasible avenues have been explored, including possible links between corruption, money laundering and organised crime offences.

The EU also underlines the importance of ensuring sufficient human and technical resources are available to the police and of improving police effectiveness, including through depoliticisation, increased professionalism and appointments based on merit, strengthening specialised expertise, especially for financial crimes, and improved cooperation between PNUSKOK, the tax administration, customs and the police, including financial police. The EU notes the adoption of the Police Act and looks forward to the prompt adoption and implementation of necessary secondary legislation. The EU notes that PNUSKOK is now fully staffed.

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

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

(iii) Fundamental rights

General

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

Human rights

The EU notes the information provided by Croatia concerning human rights. In particular, the EU notes Croatia's plans concerning *prison conditions*, notably the foreseen increases in prison capacity. The EU encourages Croatia to pursue this and other measures to ease overcrowding in prisons, including full implementation of the new probation system in 2012 pursuant to the Probation Act of December 2009. The EU stresses that conditions of detainment are one of the key factors for building up mutual confidence in the respective legal systems. As regards *freedom of expression*, the EU invites Croatia to continue to implement its plans in this area ensuring that EU standards are met. The EU underlines that freedom of expression as well as freedom of the press and freedom of assembly are fundamental rights in the EU. The EU calls on Croatia to pay particular attention to the investigation and prosecution of incidents of intimidation and violence against journalists, particularly those investigating cases of corruption and organised crime. Moreover, the EU calls on Croatia to ensure editors and journalists do not face political pressure, whether at the national or local level.

As regards *anti-discrimination and hate crimes*, the EU underlines the importance of full implementation of the relevant legislation and ensuring that law enforcement authorities deal effectively with cases. Croatia should continue to develop a track record in this area and ensure the application of dissuasive sanctions. The EU notes that Croatia has taken measures to strengthen the position of the Ombudsman office as the central body in charge for implementation of the Anti-discrimination law, including by increasing budget and staffing. The EU also notes the importance of appropriate follow-up of the recommendations made by the Ombudsman and calls on Croatia to implement the new mechanism introduced in this area.

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

Procedural safeguards

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

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

Respect for and protection of minorities, cultural rights

The EU notes the information provided by Croatia as regards measures aimed at the *protection of minorities*, including its Action Plan 2012-2013 for the implementation of the Constitutional Act on the Rights of National Minorities (CARNM).

The EU underlines the importance of Croatia taking measures to further improve the protection of minorities, in particular the Serb and Roma minorities who face particular challenges. The EU calls on Croatia to improve implementation of the CARNM, in particular in order to address the under-representation of minorities in state administration, the judiciary and the police. The EU notes the adoption of an action plan on minority employment under the CARNM, which includes a target of 5.5% by 2014. In this context, Croatia is invited to improve its monitoring and to provide regular information on the implementation of the action plan and employment plans coordinated by the Ministry of Public Administration and to ensure targets are met and a tangible improvement in the level of employment of the national minorities in the public sector achieved. The EU takes note of the information provided concerning the councils for national minorities, including at local level. In this regard the EU invites Croatia to continue to take measures to ensure the effective functioning of these councils, including the budgetary autonomy of the local councils for national minorities and sufficient human resources.

The EU also calls on Croatia to continue to address discrimination of minorities more widely, including by ensuring appropriate follow-up to address problems of discrimination of minorities in the public sector not covered by the CARNM. The EU underlines the importance of reviewing these measures once the latest census results are available, as announced by Croatia. Attention should also be paid to access for members of minority groups to social rights. The EU encourages Croatia to continue awareness raising activities for persons belonging to national minorities concerning the rights to which they are entitled and to take measures to build confidence among members of minority groups in the government's minority policy, including through increased transparency and dialogue. The EU calls on Croatia to continue to implement its strategy and action plan for the protection and integration of Roma, especially as regards employment, education and housing, and ensure availability of the necessary means.

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

The EU notes the implementation of Croatia's Action Plan on the Housing Care Programme for refugees and former tenancy rights holders wishing to return to Croatia, including meeting the target for 2008 and its expectation to have fully met the 2009 target for the provision of accommodation both within and outside the Areas of Special State Concern by mid June. The EU notes the progress made in providing accommodation to other successful applicants for Housing Care and the budgeted plan prepared in this context, and invites Croatia to implement all remaining cases without delay, including close cooperation with UNHCR where appropriate. The EU notes that Croatia has improved the handling of appeals for rejected housing reconstruction applications, has almost eliminated the backlog of existing appeals and made significant progress with the reconstruction of the remaining properties. The EU calls on Croatia to complete all reconstruction without delay. The EU invites Croatia to also settle remaining unsolicited investment cases without delay.

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

The EU underlines the importance of Croatia continuing to improve the accuracy of its statistical monitoring of the refugee return process.

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

Measures against racism and xenophobia

The EU calls on Croatia to continue to implement measures to increase tolerance in society and reconciliation between ethnic groups. In particular, Croatia should continue to encourage a spirit of tolerance towards the Serb minority and take appropriate measures to protect those who may still be subject to threats or acts of discrimination, hostility or violence. Croatia should continue to undertake measures against racism and xenophobia, including through education and reviewing the role of schooling, raising awareness of the general public, the media, and adequate response at the political and law enforcement level to racist incidents. The EU invites Croatia to fill gaps in the existing legal framework, including by amending the Criminal Code to fully align with the Framework Decision of the Council 2008/913/JHA on combating certain forms and expressions of racism and xenophobia by means of criminal law and by examining the possibility of amending the Misdemeanour Law to introduce the misdemeanour of violations against public peace and order caused on racial, ethnic, religious and other grounds.

Protection of personal data

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

(iv) EU Citizens rights

Right to vote and stand as candidate in municipal elections

The EU notes the adoption by Croatia of the Act on Amendments to the Act on the Election of Members to Representative Bodies of Local and Regional Self-government, as well as July 2010 amendments to the relevant Constitutional provisions allowing for the exercise, from accession, of active and passive electoral rights at local elections and in European Parliament elections in Croatia for EU citizens who reside in Croatia.

Right to move and reside freely

The EU notes the adoption by the Croatian government of amendments to the Aliens Act in 2011 in order to fully align its provisions with Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the rights of citizens of the Union and their family members to move and reside freely within the territory of the Member States. The EU notes Croatia's plans to provide civil servants with the necessary training to apply these provisions.

Diplomatic and consular protection

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

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

In view at 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 June 2011 and the conclusion of the negotiations.