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Subject : EUROPEAN UNION COMMON POSITION
Chapter 19: Social policy and employment

EUROPEAN UNION COMMON POSITION
(Revision of CONF-HR 13/08)

Chapter 19: Social policy and employment

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, 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 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 EU notes that Croatia, in its addendum (CONF-HR 5/09) to the negotiating position on Chapter 19 (CONF-HR 2/08) accepts the *acquis* under chapter 19 as in force on 1 June 2009, and that Croatia declares that it will be ready to implement it by the date of its accession to the European Union.

Labour law

The EU takes note of the efforts made by Croatia to further align its labour legislation with the *acquis*. The EU welcomes the amendment of the Labour Act in December 2009 aiming at completing legal alignment with a number of EU Directives, in particular those on fixed term work, part-time work, working time, collective redundancies, transfers of undertakings, European Works Council, European Company and European Cooperative Society.

In view of the above, the EU notes that the requirements of the first closing benchmark related to the amendment of the Labour Act in order to align the Croatian legislation in the field of labour law with the *acquis* set out in the EU common position (CONF-HR 13/08) have been fulfilled.

The EU takes note of the adoption of further acts in 2008 in order to align with the remaining labour law *acquis* in view of addressing shortcomings in the fields of working time in the railway sector and insolvency. The EU takes also note of the commitment given by Croatia to fulfil requirements of the *acquis* in the remaining areas not covered by the Labour Act, such as working time of seafarers and of mobile workers in civil aviation, working conditions of mobile workers engaged in interoperable cross-border services in the railway sector, and posting of workers, before the end of 2010.

As regards administrative capacity, the EU takes note of the Regulation on the internal organisation of the Ministry of the Economy, Labour and Entrepreneurship (MoELE) adopted in March 2008 and strengthening the organisation of the Directorate for Labour and the Labour Market, notably in the area of posting of workers. The EU also takes note of the strengthening of the State Inspectorate as well as of the information provided on the organisation of supervision on implementation of labour relations and safety at work inside the State Inspectorate. Furthermore, the EU takes note of the establishment of a new institution in the area of employers' insolvency in 2008, and the successive steps taken aiming at making it fully operational. The EU underlines the need for Croatia to continue to strengthen administrative capacity to ensure proper implementation and enforcement of the *acquis* in the area of labour law and to ensure sufficient budgetary funds for this purpose. Furthermore, the EU takes note that although no special labour courts have been established in Croatia, judges and panels of judges in general jurisdiction courts at all levels specialise in labour dispute matters. In this respect, the EU encourages Croatia to ensure timely and effective court proceedings, and to continue to offer judges training in the different aspects of the *acquis*.

In view of the above, the EU notes that the requirements of the first closing benchmark related to the demonstration of a satisfactory track record of progress in setting up adequate administrative structures and enforcement capacity, particularly through strengthening of the labour inspection system, and demonstration of the fact that all appropriate administrative structures will be in place in good time before accession to enable Croatia to implement correctly the *acquis* in this field by the time of accession set out in the EU common position (CONF-HR 13/08) have been fulfilled.

Health and safety at work

The EU takes note of the efforts made by Croatia to further align its legislation with the *acquis* in the field of health and safety at work. The EU welcomes the further amendment of the Occupational Safety and Health Act in June 2009 and the publication of several Ordinances in 2008 thus completing legal alignment in this field.

In view of the above, the EU notes that the requirements of the first closing benchmark related to the amendment of the Occupational Safety and Health Act in order to align the Croatian legislation in the field of health and safety at work with the *acquis* set out in the EU common position (CONF-HR 13/08) have been fulfilled.

The EU takes note of the adoption of a National Programme on Occupational Health and Safety 2009–2013 in December 2008. Furthermore, the EU takes note of the establishment of a new Institute for Health Protection and Safety at Work, as an advisory and expert body for prevention, as well as the strengthening of capacity of the Croatian Institute for Health Insurance of Health Protection at Work. The EU takes note that the State Inspectorate has acquired adequate management structures, as well as systems to recruit, train, appoint, authorise and monitor inspection staff.

The EU reminds Croatia that enforcement capacity is of particular significance in the field of health and safety at work. In this respect, the EU takes note of the efforts made by Croatia to strengthen administrative capacity, especially as regards the increase of the number of labour inspectors and ensuring their mobility. The EU underlines the need to continue to ensure sufficient budgetary funds for the implementation of the foreseen measures.

In view of the above, the EU notes that the requirements of the first closing benchmark related to the demonstration of a satisfactory track record of progress in setting up adequate administrative structures and enforcement capacity, particularly through strengthening of the labour inspection system, and demonstration of the fact that all appropriate administrative structures will be in place in good time before accession to enable Croatia to implement correctly the *acquis* in this field by the time of accession set out in the EU common position (CONF-HR 13/08) have been fulfilled.

Social dialogue

The EU acknowledges that social dialogue in Croatia between the government and social partners is relatively well developed. However, the EU recalls the need for Croatia to improve bipartite dialogue and to pay due attention to collective bargaining at sectoral level. The EU takes note that representativeness criteria for employers' associations were adopted in July 2007 and that the criteria for trade unions are still to be adopted. The EU underlines that it will continue to monitor progress regarding representativeness criteria for social partners and a balanced development of bipartite and tripartite social dialogue in Croatia.

The EU takes note of the efforts made by Croatia to strengthen administrative capacity in this field. The EU reminds Croatia that particular attention needs to be given in this respect to the capacity building of social partner organisations (both at inter-professional and sectoral level), since they will need, *inter alia*, to implement, according to Article 139 of the Treaty, the autonomous agreements concluded at European level.

Employment policy

The EU welcomes the signature of the Joint Assessment of Employment Policy Priorities (JAP) between the EU and Croatia in May 2008, as well as the follow-up process in which the main strengths and challenges for the Croatian labour market are examined with a view to EU accession and Croatia's future participation in the EU employment strategy. The EU also takes note of the adoption of the National Employment Promotion Plan for 2009 and 2010 in May 2009.

The EU takes note of the upward trend in the employment rate due to a relatively strong economic growth until 2008 and the pension reform. However, the EU regrets that it is still considerably lower than the average employment rate in the EU. The EU invites Croatia to address the high long-term unemployment and youth unemployment as well as the still persisting significant regional differences. The EU reminds Croatia to aim at improving the combination of flexibility and security on the labour market and of the need to continue to pay sufficient attention to active labour market measures, as the current share of expenditure on active labour market policy is well below the EU average. In this respect, the EU takes note of the adoption of the National Implementation Plan for Employment (2009–2010) in May 2009 providing the basis for launching a new cycle of active employment measures. The EU also takes note of the adoption of the Act on Employment Mediation and Unemployment Rights in July 2008 which regulates the insurance of adequate levels of social security for unemployed, in an attempt to apply the flexicurity principle. The EU underlines the need to ensure sufficient budgetary funds for the implementation of the foreseen measures.

The EU notes that the level of education and expertise of the workforce in Croatia continues to be lower than that of the workforce in the EU, with a particularly marked structural problem of mismatch between supply and demand on the labour market. The EU reminds Croatia of the need to continue to pay sufficient attention to adult education and training and takes note of the adoption of the Adult Education Act in February 2007 followed by relevant Ordinances in November 2008.

As regards undeclared work, the EU takes note of the various measures taken in this field, such as the adoption of the Plan of Short and Long Term Activities for Suppressing the Underground Economy in November 2004 as well as the adoption of the Act on Amendments to the Labour Inspectorate Act in October 2005 that has led, among others, to stricter sanctions. The EU takes note of the increased number of labour inspections, but encourages Croatia to continue to fight against undeclared work, and ensure results-oriented reporting on reducing undeclared work.

The EU takes note of the efforts made by Croatia to strengthen administrative capacity in this field. The EU notably takes note of the fulfilment by the Croatian Employment Service of the recruitment plan for 2009 as well as the expected continuation of recruitments. The EU also takes note that the modernisation of the adult education sector will continue. The EU underlines the need to ensure sufficient budgetary funds for the implementation of the foreseen measures.

European Social Fund (ESF)¹

The EU takes note of the establishment in August 2007 of the Operating Structure for the implementation of IPA Component IV (Operational Programme for Human Resources Development), consisting of five institutions. The EU takes note of the ongoing activities to refine the internal procedures and to complete the setting up of administrative capacities in all these institutions. The EU urges Croatia to continue to strengthen administrative capacity according to the 2007 Action Plan on administrative capacity, and underlines the need to continue to ensure sufficient budgetary funds for the implementation of the foreseen measures. The EU also reminds Croatia that in addition to strengthening of administrative capacity, due attention needs to be paid to adequate training in this field. In this respect, the EU takes note that training plans have been developed in each institution for all new employees. The EU reminds Croatia that also involvement of social partners is a crucial element in implementation, especially as regards the Operating Structure, in order to secure their attendance in the upcoming Monitoring Committees.

In view of the above, the EU notes that the requirements of the first closing benchmark related to the demonstration of the fact that all appropriate administrative structures will be in place in good time before accession to enable Croatia to ensure the future management of the ESF by the time of accession set out in the EU common position (CONF-HR 13/08) have been fulfilled.

¹ It should be noted that the administrative structures required for the ESF are not *per se* an issue under Chapter 19 “Social policy and employment”. This capacity will be assessed in its own rights under the specific benchmarks under Chapter 22 “Regional policy and coordination of structural instruments”.

Social inclusion

The EU acknowledges that the situation in Croatia as regards social exclusion is similar to that in EU Member States. The EU takes note that the most difficult situation is faced by single-person households as well as elderly (especially older women). The EU takes note that rural poverty is three times higher than urban poverty, and social exclusion among the Roma minority is still widespread. The EU encourages Croatia to continue to address the situation of the Roma minority in order to ensure equal opportunities and non-discrimination of Roma. The EU also takes note that the Serb and Roma minorities still face specific difficulties on the labour market. The EU takes note, however, that pensions and other social transfers significantly contribute to reducing poverty in Croatia.

The EU welcomes the signature of the Joint Inclusion Memorandum (JIM) between the EU and Croatia in March 2007. The EU takes note of the adoption of the National Implementation Plan for Social Inclusion (2009–2010) in June 2009 and of the Follow-up Report on the implementation of the JIM in July 2009. The EU notes that governance, partnership and visibility of the JIM follow-up process for all stakeholders has been substantially reinforced and encourages Croatia to continue progress and assess policy reforms based on a robust, coherent monitoring and evaluation system. The EU takes note of the continued progress in the process of de-institutionalisation for particular targeted groups, namely elderly, but regrets the limited progress for children and children with disabilities. The EU also regrets the limited progress as regards administrative and fiscal decentralisation of social services. The EU takes note of the adoption in April 2007 of a Strategy of the Social Benefits Reform aiming at facilitating access to social rights by streamlining numerous benefit schemes.

The EU takes note of the adoption of a National Strategy for a Uniform Policy for Persons with Disabilities 2007–2015 in June 2007, and welcomes the ratification by Croatia of the UN Convention on the rights of people with disabilities as well as the appointment of the Ombudsman for people with disabilities in May 2008. The EU takes note of good progress made in this field, but recalls that implementation of the relevant measures needs to be further stepped up and that Croatia needs to continue to increase accessibility of the people with disabilities and to create community-based services as an alternative to institutionalisation. Sufficient budgetary funds for the implementation of the foreseen measures need to continue to be ensured, as budgetary constraints continue to limit the scope of the rights of the people with disabilities to health and special care as well as their social integration. The EU also takes note of the efforts made by Croatia to strengthen administrative capacity in this field.

Social protection

The EU takes note that reforms in the health care system are ongoing. The EU takes note that the sustainability of healthcare and quality of services have improved, supplementary insurance has been extended and indebtedness of healthcare providers reduced.

As regards the pension system, the EU encourages Croatia to continue efforts to guarantee a universal coverage and adequacy of pensions in the compulsory pension insurance scheme. The poverty rates among the elderly and elderly women in particular need to be monitored. At the same time, the EU reminds Croatia of the need to take measures to ensure its long-term financial sustainability. Those measures should primarily be directed at increasing the effective retirement age and strengthening disincentives for early retirement. The EU notes that a process of cutting back privileged pensions has started and encourages Croatia to continue converting privileged pensions to the general pension system. In the mandatory funded pillar, the EU invites Croatia to pay sufficient attention to the administrative costs of the ongoing reform and to future sustainability of the system.

The EU takes note that administrative capacity in this field will be further strengthened. The EU underlines the need to continue to ensure sufficient budgetary funds for the implementation of the foreseen measures.

Anti-discrimination¹

The EU welcomes the adoption of a single anti-discrimination act in July 2008. The EU invites Croatia to complete legal alignment in this field, in particular with respect to the exceptions to the principle of non-discrimination. In this regard, the EU takes note of the commitment given by Croatia to fulfil all the requirements of the *acquis* in this area, notably as regards the exceptions to the principle of non-discrimination, by the end of 2010.

In view of the above, the EU notes that the requirements of the second closing benchmark related to the adoption of an anti-discrimination act in order to align the Croatian legislation in the field of anti-discrimination with the *acquis* set out in the EU common position (CONF-HR 13/08) have been fulfilled.

The EU takes note that the Anti-discrimination Act enables the Ombudsman to function as the Equality body required by the *acquis*. The EU takes note of the strengthening of the administrative capacity of the Ombudsman's office as well as of the office of the Ombudsman for Persons with Disabilities and of the continuous training provided in the area of anti-discrimination. The EU invites Croatia to ensure that the Ombudsmen's offices will continue to be independent and able to carry out independent surveys and reports and provide independent assistance to victims of discrimination, as required by the *acquis*. The EU takes note of the ongoing awareness-raising activities in the field of anti-discrimination, and of the ongoing efforts to develop a system for statistical monitoring of discrimination cases. The EU underlines the need to continue to ensure sufficient budgetary funds for the implementation of the foreseen measures.

¹ On the non-discrimination of people with disabilities see also above under “Social inclusion”.

In view of the above, the EU notes that the requirements of the second closing benchmark related to the demonstration of a satisfactory track record of progress in setting up adequate administrative structures, particularly the required Equality bodies, and enforcement capacity, and demonstration of the fact that all appropriate administrative structures will be in place in good time before accession to enable Croatia to implement correctly the *acquis* in this field by the time of accession set out in the EU common position (CONF-HR 13/08) have been fulfilled.

Furthermore, the EU takes note of the adoption of the National Programme for the Protection and Promotion of Human Rights 2008–2011 in November 2007 and of the National Plan to Combat Discrimination in September 2008.

Equal opportunities

The EU takes note of the adoption of the National Policy for the Promotion of Gender Equality 2006–2010 in October 2006. The EU invites Croatia to ensure its adequate implementation.

The EU welcomes the adoption of the new Gender Equality Act in July 2008 completing legal alignment in the areas of access to employment, vocational training and promotion, and working conditions, access to and supply of goods and services, equal pay, occupational social security and burden of proof.

In view of the above, the EU notes that the requirements of the second closing benchmark related to the adoption of a new Gender Equality Act in order to align the Croatian legislation in the field of equal opportunities with the *acquis* set out in the EU common position (CONF-HR 13/08) have been fulfilled.

The EU takes note of the adoption of the Act on Maternity and Parental Benefits in July 2008 aiming at completing legal alignment in the areas of parental leave, health and safety of pregnant workers, and equal treatment of self-employed. The EU invites Croatia to complete legal alignment in this field, and takes note of the commitment given by Croatia to amend the Act on Maternity and Parental Benefits as well as the Occupational Safety and Health Act by the end of 2010 in order to fulfil all the requirements of the *acquis* in this area, notably as regards legal provisions on the right to return to equivalent position after a maternity leave, on jobs not permitted for women, definition of pregnancy, and provisions on exposure to risk and on night work for pregnant women.

The EU takes note that the Gender Equality Act enables the Ombudsman for Gender Equality to function as the Equality body required by the *acquis*. The EU invites Croatia to ensure that the Ombudsman's office will continue to be independent and able to carry out independent surveys and reports and provide independent assistance to victims of discrimination, as required by the *acquis*. The EU takes note that county commissions have been established with the task of monitoring the implementation of the Gender Equality Act at local and regional levels. The EU takes note of the ongoing awareness-raising activities in the field of equal opportunities. The EU underlines the need to continue to ensure sufficient budgetary funds for the implementation of the foreseen measures.

The EU welcomes that Croatia has adopted an Action Plan for the alignment of legislation and the building up of necessary capacities for the implementation and enforcement of the *acquis*. The EU invites Croatia to continue to provide further information on the monitoring and co-ordination of the implementation of the Action Plan. The EU will continue to closely monitor the implementation of the Action Plan and other commitments undertaken in the context of the accession negotiations.

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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 and its capacity to ensure proper implementation and enforcement of the *acquis* under this chapter. 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 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 provide regularly 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 June 2009 and the conclusion of the negotiations.
