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**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT AND THE COUNCIL**

**on the Main Findings of the Comprehensive Monitoring Report on Croatia's state of
preparedness for EU membership**

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1. INTRODUCTION

Accession negotiations with Croatia were closed in June 2011. After the Commission's favourable opinion, the European Parliament's assent and the Council decision on the admission of Croatia, the Accession Treaty was signed on 9 December 2011 (OJ L 112, 24.4.2012). Croatia has ratified the Accession Treaty and will become a Member of the European Union on 1 July 2013, subject to the Accession Treaty being ratified by all Members States. As an acceding country, Croatia has an active observer status during the interim period before accession.

In the course of the negotiations, Croatia has agreed to a number of commitments, which have to be implemented by the date of accession, at the latest, unless specific transitional arrangements have been agreed.

In its Strategy Paper and Report published in October 2011, and in the Monitoring Report on Croatia's accession preparations of April 2012¹, the Commission noted the progress made by Croatia in its preparations for accession. The Commission also identified a number of areas where further improvements are necessary in order to fully meet all membership requirements. Croatia has developed an action plan to follow up on the findings of the April Monitoring Report. The action plan is being implemented, with a number of measures having already been adopted. Notably, the restructuring of Brodosplit advanced, and discussions are progressing with regard to the privatisation and restructuring arrangements for 3.Maj and Brodotrogir. Implementation of the judicial reform strategy and action plan has continued and a revised strategy is currently under finalisation. The government proposed new enforcement legislation to Parliament. The track record of results in fighting corruption and organised crime continued to be developed and the initial steps have been taken for the setting up of the Conflict of Interest Commission. In the field of fundamental rights, amendments to the anti-discrimination Act and new Ombudsman legislation were adopted. Discussions have intensified with Bosnia and Herzegovina to address the outstanding issues on border management. Progress was noted in the alignment with the Services Directive and in the field of mutual recognition of professional qualifications. The fee/tax measure on mobile services was abolished with effect from July 2012.

Article 36 of the Act of Accession requires the Commission to closely monitor all commitments undertaken by Croatia in the accession negotiations focusing in particular on competition policy, judiciary and fundamental rights, and freedom security and justice. The Act further provides for the Commission to present a Comprehensive Monitoring Report to the European Parliament and the Council in autumn 2012.

This Communication summarises the main findings of the Comprehensive Monitoring Report, which assesses the progress made by Croatia in its preparations for accession in the

¹ COM(2012) 186 final.

period October 2011 to September 2012, it provides an overall assessment of the level of preparedness for membership and highlights the areas where further efforts are necessary in order for Croatia to be ready for membership on 1 July 2013.

The report assesses Croatia's state of preparedness on the basis of the political and economic criteria for membership and of the requirement to adopt and implement the EU *acquis*, as laid down by the Copenhagen European Council in 1993.

The assessment is based on information gathered and analysed by the Commission, including input provided by Croatia, and information shared by Member States, and international and civil society organisations in their regular contacts with the Commission. The Report is also based on the Commission's findings in its updated Monitoring Tables, a working tool aimed at following up in detail on all of Croatia's commitments in the context of the negotiations.

Through this report, the Commission also aims to assist Croatia in its further preparation for membership.

2. COMPLIANCE OF CROATIA WITH THE COPENHAGEN CRITERIA – SUMMARY OF FINDINGS

2.1 Political criteria

Croatia continues to meet the **political criteria**. In all areas covered by the political criteria (stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities) work has continued and results are becoming tangible.

Parliamentary elections were held in December 2011 in a pluralistic environment and were administered in an efficient and transparent manner. Improvements are necessary with regard to maintenance of the voters' list, for which work has already started. In the field of *public administration*, further efforts are needed to improve the professionalism of the public service. Completion and efficient implementation of the relevant legal framework is necessary in order to build a modern, reliable, transparent and citizen-oriented public service. In view of the recent substantial restructuring of the public administration, and taking into account the additional responsibilities related to EU membership, Croatia should address without delay the administrative capacity constraints identified in the Comprehensive Monitoring Report and ensure that the completion of preparations for EU membership is not affected.

In the field of *judiciary*, efforts to strengthen the independence, accountability, impartiality and professionalism of the judiciary have continued. The reformed State Judicial Council (SJC) and State Prosecutorial Council (SPC) have continued to function independently. Both bodies have continued to appoint judicial officials based on transparent, uniform and objective criteria. Efforts are needed to improve their functioning especially in order for them to carry out their increased tasks including the systematic and accurate checking of assets declarations and pro-active application of disciplinary procedures. Improvements are needed in the procedures leading to the selection and assignment of new judges and prosecutors. Croatia has continued to implement various measures aiming at improving the efficiency of the judiciary. While the backlog of old criminal cases continues to fall, the number of old civil cases has increased over the last 18 months. This general trend of increase of unresolved cases, mainly civil, commercial, misdemeanours and enforcement cases is a matter of concern. The revised enforcement legislation, adopted by government in July 2012, needs to be adopted by parliament and implemented in order to lead to further concrete results.

With regard to the *fight against corruption*, an adequate legal and institutional framework remains in place and a track record of implementation continues to be developed. Law enforcement bodies remain pro-active, especially on higher-level cases. Local level corruption needs attention, particularly in public procurement. Croatia has improved its track record of strengthened prevention measures by means of a number of preventive legal instruments. However, Croatia has not fully implemented the conflict of interest legislation and has overturned the previous provisions on the criteria for membership of supervisory and management boards of public companies. Some initial steps have been taken for the setting up of the Conflict of Interest Commission, with the publication by Parliament of the request for expression of interests for the selection of the Commission's members in August 2012. The Commission needs to be established and start operating without delay. The scope and implementation of the access to information legislation requires attention. Croatia is advanced with regard to police cooperation and the fight against organised crime. Activities have continued with the aim of bringing the national legislation in line with the EU acquis and coping with the future challenges of fighting the organised crime within the EU.

With regard to *human rights and the protection of minorities*, human rights continue to be generally well respected, with attention still needed for the respect of Lesbians, gays, bisexual and trans-gender people (LGBT) rights. The gay pride events in Split and Zagreb took place without major incidents, with strong commitment of the Croatian government to their smooth organisation.

With regard to respect for and protection of minorities and cultural rights, protection of minorities has continued to improve, through the implementation of measures for the protection of minorities, including the Constitutional Act on the Rights of National Minorities. However, the level of employment of minorities in the state administration and judiciary remains below the requirements set by the act. In line with the Constitution, eight representatives of national minorities were elected at the parliamentary elections of December 2011. However, Croatia needs to continue to foster a spirit of tolerance towards minorities, in particular Croatian Serbs and to take measures to protect those who may still be subjected to threats or acts of discrimination, hostility or violence. The Roma minority faces particularly difficult living conditions, and challenges remain in the areas of education, social protection, health care, employment and access to personal documents.

The situation with regard to refugee return issues has improved and the implementation of the housing care programmes continues, although at a slower pace. Conditions for sustainable refugee return need to be further developed.

With regard to *war crimes*, Croatia continues to cooperate with the International Criminal Tribunal for the former Yugoslavia (ICTY) and to process war crimes cases. Efforts to address impunity for war crimes should be intensified, as the majority of crimes have yet to be successfully prosecuted. Measures need to be taken to facilitate the protection and attendance of witnesses at trial, especially in cases relocated to the specialised chambers. As regards *regional cooperation*, Croatia has maintained the dialogue with neighbouring countries in order to address open bilateral issues. The Declaration of the Croatian Parliament of October 2011 on promoting European values in south-east Europe emphasised Croatia's firm commitment to supporting the other countries of the region on their path to the EU. Croatia continued to engage in cooperation on war crimes at the bilateral and regional level and good cooperation between judicial authorities, in particular prosecutors, is in place. Croatia has continued to contribute actively to the Sarajevo Declaration Process. An international Donors' Conference was held in April 2012 in Sarajevo to secure funding for a durable solution for all

refugees in the region who were displaced as a result of the armed conflicts in the former Yugoslavia in the 1990s. Croatia needs to allocate the necessary additional funding.

A comprehensive process to review the cases of missing persons needs to be carried out as an important step in the reconciliation process in the region.

With regard to *bilateral relations*, the procedure on the international border arbitration between Croatia and Slovenia started and the Arbitral Tribunal held its first procedural meeting on 13 April 2012. Concrete progress remains to be achieved with regard to border demarcation with Serbia, Montenegro and Bosnia and Herzegovina.

2.2 Economic criteria

The **economy of Croatia** stabilised temporarily in mid-2011 before returning to recession towards the end of the year. The economic contraction continued in the first half of 2012. Unemployment, public deficit and debt continued to increase in 2011 from already high levels. The high external indebtedness remains a key vulnerability of the economy.

As regards the economic criteria, Croatia is a functioning market economy. Vigorous implementation of urgently needed structural reforms should enable Croatia to cope with competitive pressures and market forces within the Union in the near term.

Broad political consensus on the fundamentals of a market economy was maintained. Given the existing constraints, macroeconomic policy has, by and large, been appropriate. The central bank succeeded to preserve exchange rate and financial stability while maintaining a relatively accommodative monetary policy as underlying inflationary pressures stayed low. The banking sector remained well capitalised. In the fiscal area, the authorities made efforts to contain the rising deficit by reining in expenditures. The current account deficit remained at a low level as a renewed rise of imports was offset by increasing exports. Gross external debt has stabilised, albeit at a very high level.

Structural reforms progressed slowly in some areas, not least with respect to privatisation and the restructuring of loss-making enterprises, and were almost non-existent in others. In the area of labour markets in particular, where already low levels of employment and participation declined further, reforms are still at a very early stage and need urgently to be stepped up. The investment climate continued to suffer from a heavy regulatory burden, lengthy procedures, uncertainties in the legal environment, unpredictability of administrative decisions, and a high number of non-tax fees. Social transfer payments, which represent a relatively high share of public budgets, remained not well-targeted. Considering the need to achieve medium-term fiscal sustainability, the budgetary process could be improved further. Enhancing the efficiency of public spending remains a key challenge.

2.3 Ability to take on the obligations of membership

Regarding its **ability to take on the obligations of membership**, Croatia has continued to make progress in adopting and implementing EU legislation and is now completing its alignment with the *acquis*. Nevertheless, the Commission has identified a number of issues requiring continued attention. The Croatian authorities need to take all necessary measures to ensure that the country is fully prepared for membership by 1 July 2013, including with regard to the administrative capacity for the implementation of the *acquis*.

In accordance with Article 36 of the Act of Accession, particular focus is given in this section to competition policy, judiciary and fundamental rights and freedom, justice and security.

Chapter 8: Competition policy

Croatia is generally meeting the commitments and requirements arising from the accession negotiations in the field of competition policy and should be in a position to implement the *acquis* as of accession. Urgent attention must be paid to the signature of the contracts for privatising the shipyards in difficulty.

Croatia has largely aligned its legislation in the fields of **anti-trust and mergers** and of **State aid**. It has also kept up its efforts to build a positive enforcement record. Croatia's Competition Agency (CCA) is fully operational and functionally independent; it carries out its duties in line with the legislation in force. A proper system of merger and State aid control is in place.

In the field of **anti-trust and mergers**, since 1 October 2011, the CCA issued 29 decisions and 25 opinions. The CCA continued to provide the government with assessments of draft laws and other expert opinions.

In the field of **State aid**, the CCA took 30 decisions, of which 13 involved aid schemes and 17 concerned individual aid measures.

With regard to Croatia's reporting obligations in the steel sector, the first reports were submitted to the Commission on 15 December 2011 and 18 June 2012 in line with the requirements arising during the negotiations.

Sisak has yet to reimburse the aid received. In October 2011, the owners decided to close and sell the steel mill, resulting in production being completely halted. The owners of CMC Sisak sold the steel mill to a new investor, the Italian group Danieli.

The reports also provide updated information on the bankruptcy proceedings concerning the other steel mill, Željezara Split.

With regard to Croatia's obligations to report on the shipbuilding industry, on 16 January 2012 it submitted the first six-monthly report on the restructuring of the Croatian shipyards in difficulty as required by Annex VIII of the Act of Accession. The report contains data on the measures taken to return to viability, aid used, own contribution and production capacity, following the methodology for monitoring implementation by Croatia agreed with the Commission. The report also provides details on the agreements regulating property law in the context of expropriation in the maritime domain. On 16 July 2012 Croatia submitted its second six monthly report on the restructuring of the Croatian shipbuilding industry. In addition, Croatia submitted the first Report on the Annual Output of the Shipyards under restructuring.

In March 2012, the bid for the shipyard *Brodosplit* was accepted and Croatia has indicated that the privatisation contract will be signed shortly. The bids for the shipyards *Kraljevica* and *Brodotrogir* were rejected by the government and the bid for the shipyard *3.Maj* was withdrawn by the potential investor. The government has decided to initiate bankruptcy proceedings for *Kraljevica* and to seek new privatisation and restructuring arrangements for *3.Maj* and *Brodotrogir*.

Croatia needs to proceed with the signing of the privatisation contract for *Brodosplit*, following the Commission's positive decision of August 2012, and with finding a solution for *3.Maj* and *Brodotrogir*, as a matter of urgency in order to fulfil the requirements of the Treaty Annex on restructuring of the shipyards by the date of Croatia's accession.

As regards existing aid, Croatia has provided the Commission with a list of 11 aid measures that it wishes to be considered as existing aid at the date of accession. Seven of these measures have been included in the Act of Accession. Croatia needs to provide further information on the remaining ones for the Commission to complete its assessment.

Chapter 23: Judiciary and fundamental rights

Croatia is generally meeting the commitments and requirements arising from the accession negotiations in the field of the judiciary and fundamental rights and should be in a position to implement the *acquis* as of accession, as outlined in the 10 areas set out in Annex VII of the Act of Accession. However, increased efforts are needed to continue strengthening the rule of law, by improving administration and the judicial system, and to fight and prevent corruption effectively. Prosecution of domestic war crimes, respect for human rights and the protection of minorities require continuous attention.

1) To continue to ensure effective implementation of its Judicial Reform Strategy and Action Plan

Implementation of the judicial reform strategy and action plan has continued generally in line with the deadlines set, and included legislative fine-tuning in a number of areas. Working groups have been established and are active to further improve specific legislation and to increase coordination of legal instruments. Human resources planning, including for the long-term needs of the judiciary, remains to be improved. The budget available for the judiciary remained stable at around € 337 million, or 0.7% of GDP. A council for monitoring the implementation of the Judicial Reform Strategy was established in February 2012, focusing in particular on the efficiency of court proceedings. Amendments to the State Judicial Council Act were adopted in October 2011 to further increase scope for transferring judicial staff according to needs.

2) To continue to strengthen the independence, accountability, impartiality and professionalism of the judiciary

Implementation of the various measures taken in 2010 and 2011 to strengthen the independence, accountability, impartiality and professionalism of the judiciary has continued. The reformed State Judicial Council (SJC) and State Prosecutorial Council (SPC) have continued to function independently.

Both bodies have continued to appoint judicial officials based on transparent, uniform and objective criteria. Since 2011 63 judges have been appointed. Improvements in the implementation of the transitional system of appointing judges and prosecutors have been introduced, including greater transparency in marking interviews, with attention paid to ensuring equal treatment of all candidates. This is important in the final months of implementation of the transitional system, up to December 2012. Lessons learned from the implementation of the transitional system should be applied to the implementation of the new system of appointments through the State School for Judicial Officials, which will start in January 2013. This experience should also be taken into account in upgrading the selection procedure for transferring judges to different positions. The first intake of candidates for the

State School for Judicial Officials is finishing the second school year. However, enrolment of the second annual intake of 55 candidates was substantially delayed, with candidates being selected only in July for the programme to start in September.

The SJC has begun implementation of the new system of asset declarations for judges. Disciplinary measures are being taken in cases of wrongdoing by judicial officials. Both SJC and SPC became more proactive. However, the track record of implementation of the new system of disciplinary proceedings needs to be further developed.

The SJC and SPC need to be provided with further administrative resources to function more effectively and need to demonstrate independence and accountability in carrying out their increased tasks, including systematic and accurate checking of asset declarations and proactive application of disciplinary procedures.

Secondary legislation remains to be amended to limit judges' immunity, thereby completing the legislative framework in this field, and further guidance should be provided on the application of the code of conduct.

The Judicial Academy continued to work well. Professional training programmes, including initial training, have continued. Training on EU law has been stepped up. The involvement of the Judicial Academy in Europe-wide activities has increased and Croatia has signed a Memorandum of Understanding with the Commission on participation in the EU Civil and Criminal Justice Programmes. However, budget limitations (a cut of approximately 28% in the 2012 budget compared to 2011) affected the functioning of the Academy. Attention has to be paid to fully preparing judges to apply EU law and jurisprudence as of accession.

3) To continue to improve the efficiency of the judiciary

Croatia has continued to implement various measures aiming at improving the efficiency of the judiciary. In the first semester 2012 the backlog of criminal cases continued to fall by around 12%, and the number of old civil cases decreased by around 5%. However, a bigger effort is needed to reduce the number of unresolved civil and commercial cases further. Slightly more new cases entered the system in the first semester 2012 (844,218) than were resolved (836,160).

Also the number of enforcement cases increased by around 5% in the first semester 2012, although the enforcement system for monetary claims run by the financial agency FINA worked well. In July 2012 the government submitted to Parliament proposals for new enforcement legislation, which no longer provides for the introduction of public bailiffs. The new system, once adopted, will have to demonstrate its capacity to ensure the enforcement of court decisions and writs of execution and to reduce the backlog of enforcement cases. Further attention needs to be paid to ensuring that higher courts, including the Supreme Court, are adequately equipped to handle the disproportionate increase as cases advance through the system. The new system of administrative justice came into force in January 2012, albeit with some delays in appointing the necessary staff. Croatia needs to continue to implement the foreseen immediate and short-term efficiency measures with vigour, in particular to ensure improved rates of case handling and reductions in the number of old cases.

Some progress has been made with the physical infrastructure and computerisation of courts. The merger of courts as part of the court rationalisation process is continuing. The roll-out of the integrated case management system (ICMS) in 33 municipal courts is underway. Once it is finished, it will cover almost all courts in Croatia. However, the system should be applied

to all courts, including the High Commercial Court and, for case management of misdemeanours, the High Misdemeanour Court. Moreover, further improvements are still needed in statistical data collection and analysis and in the monitoring of the overall length of proceedings. In general, misdemeanour courts need better equipment and premises. Further efforts are needed to increase mobility of judges and to develop the framework criteria for assessing their productivity.

4) To continue to improve the handling of domestic war crimes cases

Croatia has continued to process domestic war crimes cases. Implementation of the strategy for addressing impunity has started and a number of priority cases identified at national and regional level have been addressed, with further arrests, indictments and court rulings. However, the majority of crimes have not yet been pursued in Court. A more balanced approach to trials has continued, with further cases being transferred to the four specialised courts (87). Measures have been taken to protect witnesses with improved witness support services at certain courts. The war crimes database should be upgraded to enable more analytical information searches and should be effectively used by county prosecutors. Courts should further specialise in war crimes trials, through specific training of dedicated judges, and should prepare for an increasing number of cases. Croatia needs to give continuous attention to the issue of witness protection and attendance of witnesses in war crimes trials, especially in cases relocated to the specialised chambers. The review of cases tried *in absentia* should continue. The *Law on invalidation of certain legal acts of the judicial bodies of the Former Yugoslav National Army, the former Socialist Federal Republic of Yugoslavia and of the Republic of Serbia* adopted in October 2011 gave rise to concerns about future bilateral cooperation with Serbia in war crimes cases. The law has been challenged by the President in the Constitutional Court on procedural grounds. Croatia has made contact with Serbia to address the possible adverse effects of the law, and has started technical negotiations with Serbia on an agreement on cooperation in this field.

Further efforts have to be made to tackle impunity especially as the majority of cases have yet to reach final verdict or are still to be investigated. Croatia needs to give continuous attention to the issue of witness protection and attendance of witnesses in war crimes trials, especially in cases relocated to the specialised chambers.

5) To continue to ensure 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, and in vulnerable sectors such as public procurement

An adequate legal and institutional framework remains in place for the fight against corruption and organised crime and a track record of implementation continues to be developed. Law enforcement bodies remain proactive, especially in higher-level cases. Developments include guilty verdicts against a former manager of a state-owned company, a city mayor and a County Court judge for abuse of office and indictment of a political party for corruption. While the law enforcement bodies continue to focus on more complex, higher-level cases, the overall number of cases being handled is falling.

Local-level corruption needs attention, particularly in public procurement. The legal framework for the seizure and confiscation of assets needs to be better implemented across the board.

Further attention should be paid to the system for checking on dismissals of criminal cases by the prosecutor. The current system does not provide for independent checks on decisions by State prosecutors to dismiss reports of crime.

A number of senior appointments to the police were made. The implementation of the Law on the Police should be ensured, in particular to depoliticise the police and increase professionalism of the police.

6) To continue to improve its track record of strengthened prevention measures in the fight against corruption and conflict of interest

Croatia improved its track record of strengthened prevention measures in the fight against corruption by means of a number of legal instruments, e.g. on the financing of political parties and electoral campaigns, access to information and public procurement. However, Croatia has not efficiently implemented all legal measures to prevent conflict of interest.

As regards the financing of political parties and election campaigns, the State Electoral Commission, which is the supervisory body, was strengthened and new rules were applied to the general elections in December 2011 without major difficulties and with few reported shortcomings. A working group was set up to draw on lessons learnt in preparing for the local elections planned for 2013. Continuous efforts are needed to effectively control the financing of political parties, including outside the election period.

New rules on access to information are being applied, with the first appeals reaching court. However, general monitoring by the Data Protection Agency, which is in charge of implementing the law, is difficult because in 2011 less than half of the institutions concerned submitted a report to the agency. In 2011, no public interest test was applied to classified data. The current practice of the Administrative Court is to confirm the existence of such data and deny access to it. The practice of applying the public interest test to classified information needs to be developed, including through legislative changes.

The new public procurement legislation in force since January 2012 provides for increased transparency, including publication of information on the actual execution of contracts. The effective implementation of this legislation is key.

Improved and stricter conflict of interest legislation was adopted in early 2011; however, the new Conflict of Interest Commission has still not been appointed, and this has delayed the implementation of the law. Some initial steps have been taken for the setting up of the Commission, with the publication by the Parliament of the request for expressions of interest for the selection of the Commission's members in August 2012. The system for checking on asset declarations and unjustified wealth needs to be strengthened and effectively implemented.

Provisions of the previous legislation on criteria for membership of the supervisory and management boards of public companies have been overturned. Croatia needs to ensure that a strong system is in place to prevent corruption in state-owned companies. The Conflict of Interest Commission needs to be established without delay. The concept of political accountability and zero tolerance of corruption needs to be strengthened.

7) To continue to strengthen the protection of minorities, including through effective implementation of the Constitutional Act on the Rights of National Minorities (CARNM)

Implementation of the Constitutional Act on the Rights of National Minorities continues. Eight members of parliament representing national minorities were elected in December 2011. Some steps have been taken by the government to implement the May 2011 plan for minority employment for the period 2011-2014. The level of employment of minorities in the state administration and judiciary remains below the requirements set by the Constitutional Act on the Rights of National Minorities. While this may be partially explained by relatively few new recruitments due to the general economic crisis, more efforts should be made to ensure implementation of this plan, including increased monitoring efforts.

Croatia also needs to continue to foster a spirit of tolerance towards minorities, in particular Serbs, and to take appropriate measures to protect those who may still be subjected to threats or acts of discrimination, hostility or violence. The Roma minority faces particularly difficult living conditions, and challenges remain in the areas of education, social protection, health care, employment and access to personal documents.

8) To continue to address outstanding refugee return issues

Housing Care programmes for returning refugees continue to be implemented, although at a slower pace. Under the March 2011 plan for dealing with the approximately 2,350 remaining applications, by August 2012, 259 were settled, out of which 139 families took over the keys. By August 2012, 1,305 positive approvals for housing care above the benchmark for housing care have been given. 106 appeals for housing reconstruction are still pending. The decision on validating pension rights continues to be implemented. Croatia has also continued to engage with the other countries of the region in the Sarajevo Declaration Process, in which progress is being made, particularly on the regional housing project. There has been limited implementation of the new purchase options under favourable conditions for housing care beneficiaries and no significant progress with regard to the 15 unsolicited investment cases. Conditions for sustainable refugee return need to be further developed.

9) To continue to improve the protection of human rights

Human rights continued to be generally well respected. However, existing legal provisions need to be applied with more vigour. The general Ombudsman and specialised ombudspersons continue to play an important role in human rights protection. However, the follow-up of the Ombudsman's recommendations needs to be ensured. The Constitutional Court revoked a law on the merger of the Ombudsman's offices with the Centre for Human Rights and with the three specialised Ombudspersons for gender equality, for children and for disabled persons, due to procedural reasons. New legislation, which no longer foresees the merger of the offices, was adopted in July 2012. The Ombudsman offices need to be strengthened to further improve the human rights protection system. This includes providing adequate financing and office premises, and setting up a joint database.

Croatia has further developed its track record of implementation of the Anti-discrimination Act and legislation on hate crimes. This needs to continue to develop, with attention paid to ensuring that dissuasive sanctions are applied. Amendments to the Anti-discrimination Act were adopted by the Parliament in September 2012. The gay pride events in Split and Zagreb took place without major incidents, with strong commitment from the Croatian government to

their smooth organisation. Lesbians, gays, bisexual and trans-gender (LGBT) people still face threats and attacks. The legal framework for free legal aid has to be improved to enable better access to legal aid and to foster the role of NGOs as legal aid providers.

10) To continue to cooperate fully with the International Criminal Tribunal for the former Yugoslavia

Croatia continues to cooperate with the International Criminal Tribunal for the former Yugoslavia (ICTY). There have been no particular developments with respect to Croatia's investigations aimed at locating or determining the fate of missing military documents requested by the Office of the ICTY Prosecutor. Croatia's request to act as *amicus curiae* in the appeal against the verdict of 15 April 2011 in the case of Croatian Generals Gotovina and Markač was rejected by the Court. The ICTY Chief Prosecutor has issued a positive report on Croatia's cooperation with the ICTY.

Chapter 24: Justice, freedom and security

Croatia is generally meeting the commitments and requirements arising from the accession negotiations in the field of justice, freedom and security and should be in a position to implement the *acquis* as of accession. Increased efforts are needed in the area of migration, visa policy, border management and the fight against organised crime, including on trafficking of human beings and anti-terrorism, in order to ensure that Croatia completes its preparations for membership by the date of accession.

In the field of **migration**, Croatia has further aligned with the *acquis* and preparations in this area are almost complete. The number of irregular migrants apprehended in 2011 increased to 3,461. Over the same period, 552 unaccompanied irregular minors were identified (their number is almost twice as high as the previous year). Good cooperation with the other countries of the region in the field of readmission can be noted; the agreement with Bosnia and Herzegovina entered into force in April 2012. A similar agreement was signed with Germany in March 2012. Work is on track to build the facility for minors and other vulnerable groups of irregular migrants in Jezevo. Further efforts are needed to start building two additional transit reception centres for irregular migrants. On legal migration, the new Aliens Act entered into force in January 2012, further aligning the national legislation with the *acquis* in this field. The preparation of a new migration strategy needs to continue without delays.

Croatia will need to implement the legal framework on unaccompanied minors, by developing for them appropriate assistance, and start building the new reception centres for irregular migrants before accession. Alternative temporary solutions, taking into account the growing number of migrants entering the country, especially in the border areas, need to be considered.

In the field of **asylum**, Croatia has almost completed alignment with the *acquis*. Preparations need to ensure sufficient institutional capacity in this field, in terms of sufficient and trained personnel, taking due account of the steady increase in the number of asylum seekers in the country.

Implementing legislation in the field of free legal aid during the asylum procedure was adopted in March 2012. The administrative courts took over responsibility for second-instance asylum cases as of January 2012. Following a three-month transitional period, the commission for asylum ceased its work in March 2012. An initial number of posts for judges and administrative staff of the new courts were filled and training on asylum for the staff

began. Refugees still face difficulties in securing access in practice to the rights granted to them by national law. The recruitment and training of administrative courts' judges and employees need to continue. The number of asylum seekers increased sharply, from 290 in 2010 to 807 in 2011. The Ministry of the Interior has stepped up its efforts to offer certain services to asylum seekers, with the support of local NGOs, but the involvement of all the other ministries needs to be ensured. Preparations for implementing the Dublin and Eurodac Regulations have continued, including by providing the personnel of the Ministry of the Interior and the border police with relevant training. Croatia will need to ensure that refugees enjoy full access to their rights.

Legislative alignment is moderately advanced as regards **visa policy** and needs to progress, to reach full alignment with the *acquis* on visa requirements and travel documents. The new Aliens Act entered into force in January 2012; the related implementing legislation has not yet been adopted. On visa requirements, Croatia has fully aligned its legislation with the EU positive list of Regulation 539/2001. Further alignment is required with the uniform procedure for issuing visas and the EU visa code. The list of countries whose nationals require a visa to enter Croatian territory is not yet fully aligned with that of the EU. The government adopted a decision temporarily liberalising the visa regime for citizens of the Russian Federation, Ukraine and Kazakhstan for transit through or staying up to 90 days from 1 April to 31 October 2012, which is not in line with the *acquis*; the decision will cease to apply as of November. Biometric passports are compliant with EU standards; the old ID cards issued before 2003 are still in circulation but in August 2012 the Government adopted the decision that they cannot be used as valid travel documents.

With regard to **external borders and Schengen**, legislative alignment with the *acquis* has progressed moderately and needs to continue for Croatia to be prepared to take over control of the EU external borders. The State Border Control Act and its implementing legislation were amended at the end of 2011. The Integrated Border Management (IBM) Action Plan was revised in April 2012. The National Maritime Centre in Zadar has started to be operational; yet its interconnectivity with relevant Ministries has to be ensured. The cooperation with Frontex was enhanced and includes Croatia's participation in different activities and joint operations. Regular coordination meetings take place with neighbouring countries, as do joint patrols of the borders; those with Serbia and with Montenegro need to be enhanced. A common contact point with Serbia was established at the border crossing point (BCP) of Bajakovo-Batrovci and it is fully operational. A first coordination meeting with the authorities of Bosnia and Herzegovina, to implement the mutual agreement on state border control, was held in December 2011. Discussions with both countries, and with Montenegro, to bring bilateral agreements on local border traffic in line with the *acquis* are advancing and need to be finalised before accession. The Free Transit Agreement with Bosnia and Herzegovina ('Neum agreement') needs to be brought in line with the EU *acquis* before accession.

Staffing targets for the border police set for 2011 were almost completely met; 308 new officers were hired in 2011. The total number as of May 2012 is 6,017, of which 4,647 are at the future external border. The recruitment needs to continue to reach the Schengen standards. Basic and specialised training continued; full alignment with the programme of the Common Core Curriculum needs to be ensured, with the specialised training systematically included in the curricula of the border police.

The IBM Action Plan was partly implemented; certain activities planned in 2011, relating to the procurement of technical equipment and to infrastructures, have been postponed to 2012. Delays in these areas need to be properly monitored and addressed, particularly with regard to

the Neum corridor. The construction of the BCPs at the Neum corridor needs to be finalised such that they are operational upon accession. The installation of the National Border Management Information System (NBMIS) has continued but the new system is not yet installed at all BCPs. As of August 2012, it was operational at 81 BCPs. The preparation and the relevant training need to continue.

Efforts need to be made to conclude the interministerial agreement and to continue recruitment, purchase of equipments and trainings, with a view to making the National Maritime Centre in Zadar fully operational. Inter-agency cooperation on IBM issues has continued, but a joint risk analysis is missing. Croatia will need to address the delays in implementing the IBM Action Plan, especially those related to infrastructures. All bilateral agreements need to be brought into line with the *acquis* before accession.

Croatia has continued to align its legislation in the field of **judicial cooperation in civil and criminal matters** and the preparation is almost completed. An agreement on mutual execution of criminal judgments with Montenegro, and an extradition agreement with the former Yugoslav Republic of Macedonia, were signed in October 2011. A working group has been set up and met several times to prepare the new Act on International Private Law. Cooperation with the European Judicial Network in civil and commercial matters has progressed; a network of national contact points is being developed in this regard.

Croatia will need to continue strengthening interinstitutional coordination on judicial cooperation.

As regards **police cooperation and the fight against organised crime**, activities have continued with the aim of bringing the national legislation into line with the EU *acquis* and coping with the future challenges of fighting organised crime within the EU. In this area, Croatia is advanced, but needs to remain vigilant given the important challenges as regards organised crime activities in the region.

A number of bilateral agreements in the field of police cooperation and organised crime were signed; those with Bulgaria and with Poland were ratified. Good cooperation with Europol has continued. Two new liaison officers have been appointed, respectively for Europol and for Bosnia and Herzegovina. The technical preparation and staff training to establish the Supplementary Information Request at the National Entry (SIReNE) Office and the National Office for the Schengen Information System (SIS) have progressed. The regulatory framework for the SIS office is still missing. A decision on the premises, staff and the budgetary allocation destined to the SIReNE office needs to be taken.

Both the legal framework and the institutions in charge of combating organised crime have effectively contributed to counteracting this phenomenon, at both national and international level, taking into account the good level of alignment with the EU standards achieved in this area. Training and activities to improve police performance continued. The government decided not to revise the Law on Police currently in force; part of the legislation implementing the Police Act is still missing and needs to be prepared without delay. The Ministry of the Interior needs to develop IT support to ensure transparent implementation of the Strategy for its Human Resources Management. The track record on organised crime cases has continued to develop, not least on drug trafficking.

Implementation of the legal framework on the seizure and confiscation of assets needs to be consolidated, as does the coordination between criminal and financial investigations. The total

level of assets seized and confiscated is relatively low and further efforts are necessary in this regard. A monitoring system to fight corruption in border management is in place. The equipment and the premises of PNUSKOK's regional office in Split would still need to be upgraded; operational guidelines and specialised training for the newly employed staff of the office need to be introduced. The second-instance body which reviews cases of offences against the public administration is remains to be strengthened.

Inter-agency cooperation in exchanging data on transactions suspected of involving money laundering or terrorist financing is now facilitated by the signature of an annex to the protocol on cooperation between authorities dealing with corruption, organised crime and the associated crimes of money laundering and terrorist financing. Training on anti-money laundering measures and on the fight against cybercrime has continued. Administrative capacities in the anti-money laundering field need to be improved (*see also Chapter 4 — Free movement of capital*), as well as the capacities of the law enforcement authorities to conduct financial investigations.

The new Criminal Code, adopted in October 2011, splits the criminal offence of trafficking in human beings and slavery, introducing new types of exploitation. The national action plan against trafficking in human beings for the period 2012-2015 was adopted in February 2012; a new national committee for action against trafficking was set up in March 2012.

Implementation of the legislative framework on trafficking needs to be strengthened, as does public awareness, to ensure better identification and protection of the victims. The new national committee for action against trafficking has not yet met, since the beginning of 2012.

In 2011, only 14 victims were identified (7 in 2010). Further measures need to be put in place to ensure their rehabilitation and compensation. The training for judges, prosecutors and other civil servants dealing with trafficking needs to be improved, as the level of sentencing in cases of human trafficking is very low compared to other types of organised crime.

Croatia will need to complete a number of steps in this field before accession. These include putting in place the regulatory framework for the SIS office and making the SIRENE's one fully operational, upgrading police equipment and the facilities of PNUSKOK, increasing the level of seized and confiscated assets and better coordinating criminal and financial investigations. In the fight against trafficking in human beings, attention needs to be paid to implementation of the relevant legal framework and to the overall definition of policies in this area.

With regard to internal border control, a decision on the application of the relevant Schengen *acquis* in Croatia shall be taken by the Council, in accordance with the applicable Schengen procedures and while taking into account a Commission report confirming that Croatia continues to fulfil the commitments undertaken in its accession negotiations that are relevant for the Schengen *acquis*.

Other *acquis* chapters

Croatia is meeting the commitments and requirements arising from the accession negotiations and is in a position to implement the *acquis* as of accession in the fields of *freedom of movement for workers, company law, intellectual property law, financial services, information society and media, economic and monetary policy, trans-European networks, science and research, education and culture*, as well as *foreign, security and defence policy*.

Croatia is meeting the commitments and requirements arising from the accession negotiations and is expected to be in a position to implement the *acquis* as of accession in the fields of *free movement of goods, right of establishment and freedom to provide services, free movement of capital, public procurement, transport policy, energy, taxation, statistics, social policy and employment, enterprise and industrial policy, consumer and health protection, customs union, external relations, financial control, and financial and budgetary provisions*.

However, for these chapters further efforts are required, in the following areas.

In the field of *free movement of goods*, further efforts are required in particular in the field of horizontal measures, as well as new and old approach product legislation. Urgent attention must still be paid to the requirements imposed by Croatia for additional intermediate storage of imported petroleum products.

In the field of *right of establishment and freedom to provide services* further efforts are needed, particularly for the alignment with the Services Directive and in the field of mutual recognition of professional qualifications, despite the progress achieved to date in both areas.

In the field of *free movement of capital* further efforts are required, in particular as regards amendments to the Act on Privatisation of INA and of Telecom as well as the Nature Protection Act and the implementation of the action plan against anti-money laundering.

In the field of *public procurement* further efforts are required, in particular for the implementation of the new public procurement act, especially at local level, also in view of the future management of the structural funds. Furthermore, improvements concerning the system of remedies are required.

In the field of *transport policy* further efforts are required, in particular to strengthen the administrative capacity of the railway safety agency and to establish a joint accident investigation body.

In the field of *energy* further efforts are required, in particular to complete the legislative alignment in the area of the internal energy market, and to ensure the development of a competitive market for electricity and gas. Croatia also needs to continue efforts to meet the 2020 requirements regarding the promotion of energy efficiency and renewable energy.

In the field of *taxation* further efforts are required to ensure that all relevant IT systems are in place and able to exchange information with the EU and other Member States as from the day of accession.

In the field of *statistics*, further efforts are required, in particular to complete preparations in the areas of ESA95 transmission programme, GNI inventory and the government deficit and debt statistics (EDP).

In the field of *social policy and employment*, further efforts are required, in particular to complete legal alignment in the field of equal opportunities, address the structural weaknesses on the labour market, better target social welfare, and to strengthen the administrative capacity.

In the field of *enterprise and industrial policy* further efforts are required, in particular to improve the business environment and to align the legislation as regards combating late payment in commercial transactions.

In the field of *consumer and health protection* further efforts are required, in particular in the area of medically assisted reproduction, where legal alignment remains to be completed, and in the areas of blood, tissues and cells, where facilities for handling them need to be upgraded and restructured in accordance with the EU technical requirements, and as regards staffing of the National Competent Authority in this field.

In the field of *customs union* further efforts are required, in particular to ensure that all relevant IT customs systems are in place and able to exchange information with the EU and other Member States as from the day of accession.

In the field of *external relations* further efforts are required, in particular as regards alignment with the *acquis* of Croatia's bilateral investment agreements with third countries.

In the field of *financial control* further efforts are required, in particular to consolidate the overall functioning of the Public Internal Financial Control and external audit at central and local level.

In the field of *financial and budgetary provisions* further efforts are required, in particular to further strengthen the capacity to coordinate the overall system of own resources efficiently after accession. The modernisation of the customs control strategy, so that it focuses more on post clearance controls, needs to be stepped up.

Croatia is generally meeting the commitments and requirements arising from the accession negotiations and should be in a position to implement the *acquis* as of accession in the fields of *competition policy, agriculture and rural development, food safety, veterinary and phytosanitary policy, fisheries, regional policy and coordination of structural instruments, judiciary and fundamental rights, justice, freedom and security and environment*.

However, for these chapters increased efforts continue to be necessary in the following areas.

In the field of *agriculture and rural development* increased efforts are needed in the area of direct payments and rural development.

In the field of *food safety, veterinary and phytosanitary policy* increased efforts are needed in the area of the animal by-products sector, the upgrading of establishments and its monitoring and in particular with regard to border inspection posts. Continued attention needs to be paid to the further strengthening of administrative capacity in this area.

In the field of *fisheries* increased efforts are needed in the legislative alignment and implementation of the *acquis* in the areas of fleet and resources management, inspection and control as well as structural measures, in particular as regards the preparation of the management plans, the phasing out of the category of subsistence fisheries and the completion of the satellite based vessel monitoring system.

In the field of *regional policy and coordination of structural instruments*, increased efforts are needed to strengthen the administrative capacity for future cohesion policy implementation and to develop a high-quality and mature project pipeline with a view to swift absorption of regional policy funds, building on the recent report of the European Court of Auditors.

In the field of *environment*, increased efforts are needed to properly implement and enforce legislation. In particular in the field of *climate change*, urgent steps need to be taken to be in a position to implement the *acquis* by the date of accession. Administrative capacity needs to be

strengthened, especially in the fields of climate change, industrial pollution control and risk management, nature protection and chemicals. Investments need to be increased across the sectors, but more particularly in the fields of air quality, industrial pollution control and risk management, water and waste. Specific attention needs to be paid to the timely fulfilment of commitments in the fields of waste and industrial pollution control and risk management. The quality of environmental impact assessment for projects needs to be significantly improved.

2.4 Translation of the *acquis*

Croatia must ensure that the *acquis* is translated into Croatian. Of the nearly 144 000 pages of *acquis*, Croatia has already translated about 114 000 pages. However, about 50% of these already translated pages have still to be revised by the national authorities before they can be submitted to the EU institutions.

Croatia should further increase its capacity to ensure the completion of the translation and revision of the *acquis* in time for accession. The Commission calls on the Croatian authorities to maintain focus on this issue, which is essential in order to ensure legal certainty in the implementation of EU legislation.

2.5 EU support measures

Financial assistance is provided under the Instrument for Pre-accession Assistance (IPA). The 2012 IPA programmes amounted to € 156 million. This assistance is focused on institution-building and preparing for implementation of the EU's common agricultural policy and cohesion policy. In addition, Croatia continued to benefit from regional and horizontal programmes. A transition facility has been agreed for the first year following accession to strengthen administrative and judicial capacity in Croatia.

3. Conclusions

In light of the above, the Commission confirms its earlier assessment that Croatia continues to meet the political criteria. Efforts must continue to strengthen the rule of law, by improving public administration and the justice system, and by fighting corruption and organised crime effectively. As regards the economic criteria, Croatia is a functioning market economy. Vigorous implementation of urgently needed structural reforms should enable Croatia to cope with competitive pressures and market forces within the Union in the near term.

Croatia has continued to make progress in adopting and implementing EU legislation and is now completing its alignment with the *acquis*. Further progress has been achieved since the 2011 Progress Report, followed by the Monitoring Report on Croatia's accession preparations and the last update of the monitoring tables of April 2012. The Commission has identified areas where further efforts are necessary and a limited number of issues where increased efforts are required. These issues relate in particular to (1) the preparations for future EU structural funds in order to ensure their proper management; (2) the restructuring of the Croatian shipbuilding industry; (3) the strengthening of the rule of law through continued implementation of Croatia's commitments to further improve public administration, the justice system, (4) preventing and fighting corruption effectively, as well as (5) the management of external borders. Without prejudice to the importance of addressing all issues underlined in the Comprehensive Monitoring Report, the Commission considers that particular attention should be paid by Croatia in the coming months to the following specific actions in the areas of competition policy, judiciary and fundamental rights, and freedom security and justice:

1. Sign the privatisation contract for Brodosplit shipyard and take the necessary decisions to find a viable solution for the shipyards 3.Maj and Brodotrogir in order to complete the restructuring of the Croatian shipbuilding industry.
2. Implement the immediate and advance on the short-term measures elaborated in September 2012 for increasing the efficiency of the judiciary and reducing the court backlog.
3. Adopt the new enforcement legislation, in order to ensure the execution of court decisions and reduce the backlog of enforcement cases.
4. Establish the Conflict of Interest Commission so that it starts its regular working activities.
5. Adopt the new law on access to information, in order to strengthen the legal and administrative framework in the area of access to information.
6. Complete the adoption of related by-laws, to ensure the implementation of the police law
7. Complete the construction of border crossing points at the Neum corridor.
8. Achieve the established recruitment target for border police for 2012.
9. Finalise and adopt the migration strategy, clearly defining measures for the integration of the most vulnerable groups of migrants.
10. Increase the capacity to translate and revise the *acquis* such that this task can be completed in time for accession.

In addition, particular attention should be paid by Croatia, in the field of agricultural and rural development, to complete the alignment of the legislation on direct payments and the accreditation of the paying agency for direct payments by the end of 2012 at the latest.

In view of the recent substantial restructuring of the public administration, and the additional responsibilities related to EU membership, Croatia should also take immediate steps to address administrative capacity constraints identified in the Comprehensive Monitoring Report and ensure that the completion of preparations for EU-membership is not affected.

The Croatian authorities should take all necessary measures to ensure that the country is fully prepared for membership by 1 July 2013. This includes the full translation of the *acquis* in time before accession.

The Commission will continue monitoring the fulfilment of the commitments taken by Croatia in the context of the accession negotiations focusing on the issues identified in the comprehensive monitoring report and, if circumstances would so warrant, make use of all instruments available under Article 36 of the Act of Accession.

In accordance with that Article, the Commission will present a final monitoring report on Croatia's accession preparations in spring 2013.

In order to help Croatia preparing for the economic policy coordination within the EU, Croatia will participate in the 2013 European semester on an informal basis.

Croatia is expected to continue playing an active role in regional cooperation in the Western Balkans, and is encouraged to address the remaining open bilateral issues with its neighbours.