



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 25 April 2012
(OR. fr)**

9170/12

ELARG 37

COVER NOTE

from:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	24 April 2012
to:	Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union
No Cion doc.:	COM(2012) 186 final
Subject:	Communication from the Commission to the European Parliament and the Council – Monitoring report on Croatia's accession preparations

Delegations will find attached Commission document COM(2012) 186 final.

Encl.: COM(2012) 186 final



EUROPEAN COMMISSION

Brussels, 24.4.2012
COM(2012) 186 final

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

Monitoring report on Croatia's accession preparations

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Monitoring report on Croatia's accession preparations

1. INTRODUCTION

Accession negotiations with Croatia were closed, with the agreement of all Member States, in June 2011, as a result of Croatia fulfilling all the benchmarks set in the negotiating chapters. On this basis, the Accession Treaty was signed by Member States and Croatia on 9 December 2011, and Croatia will become a Member of the European Union on 1 July 2013, subject to ratification by the national parliaments of all Members States.

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.

According to Article 36 of the Act of Accession, the Commission shall 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 that as an integral part of its regular monitoring tables and reports the Commission shall issue six-monthly assessments up to accession on the implementation of these commitments undertaken by Croatia in these areas.

In line with Article 36 of the Act of Accession, this report assesses the progress made by Croatia in its preparations for accession in the period 1 September 2011 to 29 February 2012, 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.

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

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

2. COMMITMENTS AND REQUIREMENTS ARISING FROM THE ACCESSION NEGOTIATIONS

2.1. Competition policy

Croatia is generally making progress towards meeting the commitments and requirements arising from the accession negotiations for this chapter. Croatia can be considered broadly on track in its preparations for membership in the field of competition policy.

Croatia has pursued its efforts to build a positive enforcement record in the field of **anti-trust, including mergers** as well as **state aid**. Croatia's Competition Agency 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.

With regard to Croatia's reporting obligations on the steel and shipbuilding sectors, the first reports have been submitted to the Commission in line with the requirements set during the negotiations. The first report on the steel industry, sent to the Commission on 15 December 2011, is complete and fulfils Croatia's commitment to inform the Commission on the state of the recovery of state aid, plus compound interest, received by the steel mill CMC Sisak. CMC 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 report also provides updated information on the bankruptcy proceedings of the other steel mill, Željezara Split.

On 16 January 2012, Croatia submitted the first six monthly report on the restructuring of the Croatian shipyards in difficulty as requested by Annex VIII of the Act of Accession. The report contains data on the measures taken to return to viability, used aid, own contribution and capacity production, following the methodology on monitoring implementation by Croatia agreed with the Commission services. The report also provides details on the agreements regulating property law.

In March 2012, the bid for the shipyard *Brodosplit* was accepted and Croatia has indicated that the privatisation contract will be finalised without delay, and submitted to the Commission for acceptance. However, 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 the bankruptcy proceedings for *Kraljevica* and to seek new privatisation and restructuring arrangements for *3.Maj* and *Brodotrogir* within 90 days.

- Croatia should proceed with the signing of the privatisation contract for *Brodosplit* 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 the restructuring of the shipyards by the date of Croatia's accession.

Finally, as regards existing aid, Croatia has provided the Commission with a list of eleven aid measures that it wishes to be considered as existing aid upon the date of accession. Seven of these measures have been included in the Act of Accession. The remaining are being assessed by the Commission.

2.2. Judiciary and fundamental rights

Croatia is making progress towards meeting the commitments and requirements arising from the accession negotiations on this chapter, as outlined in Annex VII to the Act of Accession. Croatia can be considered broadly on track in its preparations for membership in the field of judiciary and fundamental rights.

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 foreseen deadlines, including legislative fine-tuning in a number of areas. However, the

entry into force of the new system of public bailiffs, as part of the enforcement reform, which is an important element of the strategy, has been postponed (*see also below under point 3*).

- Croatia still needs to improve human resources planning, including for the long-term needs of the judiciary.

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.

- However, improvements in the implementation of the transitional system of appointments of judges are needed, including greater transparency of marking oral interviews, with attention paid to ensuring equal treatment of all candidates.

The Judicial Academy continues to function well. However, enrolment of the second annual intake to the State School for Judicial Officials has been delayed. The SJC has begun implementation of the new system of assets declarations of judges. Disciplinary measures are being instigated against errant judicial officials.

- Secondary legislation needs to be amended to limit the immunity of judges, hence completing the legislative framework in this field and further guidance should be provided on the application of the code of conduct.
- The SJC and SPC need to be provided with further administrative resources to function more effectively, including as regards recruitment procedures and functioning of the school, the systematic and accurate checking of assets declarations and pro-active application of disciplinary procedures.

3) To continue to improve the efficiency of the judiciary

Croatia has continued to implement various measures aiming at improving *efficiency* of the judiciary. The merger of courts as part of the court rationalisation process is continuing. The enforcement of court decisions has improved, in particular through the work of the financial agency FINA. The entry into force of the new system of public bailiffs has been postponed by six months to 1 July 2012. Some progress has been made with the physical infrastructure and computerisation of courts. The Integrated Case Management System is operational in about 60% of courts. Between December 2010 and December 2011, the overall number of pending cases increased by 5.2%. There is a continuing reduction in the backlog of old criminal cases, falling by 12.3% in the year to December 2011. However, the number of old civil cases increased by 6.5% in the same period, while the number of old civil cases at first instance courts fell by 9.5%.

- 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 entered into force on 1 January 2012, albeit with some delays in appointing the necessary staff.

- Croatia needs to continue to implement efficiency measures with vigour, in particular to ensure improved rates of case handling and reductions in the number of old cases.

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

Croatia has continued to process war crimes cases, with further arrests, indictments and court rulings, including in priority cases identified at the national and regional level linked to the 2011 strategy on impunity. Some prominent war crimes trials began, including against a former Assistant Interior Minister and against two former policemen charged with killing Serb civilians in the "Grubori" case. More cases were transferred to the specialised chambers. Measures have been taken to protect witnesses with improved witness support services at certain courts. The new Government has taken contact with Serbia and with Bosnia and Herzegovina with the aim of addressing the potential negative implications of 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 by the outgoing Croatian Parliament in November 2011, on bilateral cooperation on war crimes cases.

- However, tackling impunity for war crimes remains a major challenge in Croatia, especially as the majority of crimes have yet to be successfully prosecuted. Measures need to be taken to facilitate the attendance of witnesses at trial, 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 active, especially on higher level cases. Recent developments include a guilty verdict against a former director of the State-owned power company, further indictments against local mayors (Dubrovnik) and County Court judges (Split) for abuse of office and an indictment for corruption against a political party. While the law enforcement bodies continue focusing on more complex, higher level cases, the overall number of cases being handled is reducing.

- Vigilance is required as regards local level corruption, in particular procurement cases. The implementation of the legal framework on the seizure and confiscation of assets needs to be reinforced across the board.
- Further attention is needed to the system of control of dismissal of criminal reports by the prosecutor.

A number of senior appointments were made in the police by the outgoing administration.

- Appointments and further police reforms will require close attention, especially to ensure depoliticisation and increased professionalism.

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

As regards the financing of political parties and election campaigns, the State Electoral Commission, the supervisory body, was strengthened and the new rules from 2011 were applied without major difficulties in the general elections in December 2011, with only a few shortcomings identified. New rules on access to information are also being applied, with the first appeals reaching court.

- The practice of applying the public interest test for classified information needs to be developed.

Public procurement legislation has been aligned since January 2012 with the spring 2011 government ordinance providing for increased transparency, including publication of information on the actual execution of contracts. Little information has been made publicly available so far.

- Improved and stricter Conflict of Interest legislation was adopted in early 2011, however the new Conflict of Interest Commission has still not been appointed, thus protracting the implementation of the law. A system of verification of assets declarations and unjustified wealth remains to be strengthened.

First steps taken by the new Government concerning conflict of interest rules are a cause of concern, in particular as regards supervisory and management boards of public companies. Earlier provisions on criteria for membership have been overturned.

- Croatia needs to ensure that a strong system is in place for preventing corruption in state owned companies.
- The concept of political accountability and zero tolerance of corruption needs to continue being developed.

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

Protection of minorities has continued to improve, through the continued implementation of measures for the protection of minorities, including the constitutional act on the rights of national minorities (CARNM). Eight members of parliament representing national minorities were elected in December 2011. Although not part of the ruling coalition, cooperation between the political representatives of minorities and the government has started well. Some steps have been taken by the government to implement the May 2011 plan for minority employment for the period 2011-2014, under the CARNM.

- However, actual recruitment of minorities remains limited largely due to low recruitment levels. Stronger monitoring is required in this area.
- Croatia also needs to continue to foster a spirit of tolerance towards minorities, in particular Croatian 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

Further progress has been made with regard to housing issues. Housing care programmes for returnees continue to be implemented. 210 cases from the March 2011 plan for dealing with the approximately 2,350 remaining applications have been settled, out of which 86 families took over the keys. 1,012 positive approvals for housing care have been issued so far. Implementation of the decision on validating pension rights has continued. Croatia has also continued to engage with its neighbours in the Sarajevo Process where progress is being made, in particular on a major regional housing project. There has been limited implementation of the new purchase options under favourable conditions for housing care beneficiaries.

9) To continue to improve the protection of human rights

Human rights continue to be generally well respected.

- However, existing legal provisions need to be applied with more vigour.

Croatia has further developed its track record of implementation of the Anti-Discrimination Law and legislation on hate crimes.

- This needs to continue to develop, with attention paid to ensuring dissuasive sanctions are applied.

In October 2011 a law was passed merging the Office of the Ombudsman with the Centre for Human rights, as well as with the three specialised Ombudspersons for gender equality, for children and for disabled. In February, the Constitutional Court decided on procedural grounds, that the law can not enter into force on 1 July 2012, as foreseen.

- Once the legislative framework is in place, Croatia should ensure that the merger of the offices is properly implemented. Particular attention should be paid to ensuring that a stronger human rights protection system emerges, and that adequate office premises, joint database and clear financing are assured.

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

Croatia's cooperation with the ICTY has continued. 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 against Croatian Generals Gotovina and Markač verdict was rejected by the Court.

2.3. Justice, freedom and security

Croatia is making progress towards meeting the commitments and requirements arising from the accession negotiations for this chapter. Croatia can be considered on track in its preparations for membership in the field of justice, freedom and security.

With regard to **migration**, a new Aliens Act was adopted on 28 October 2011 and has already entered into force, further aligning Croatian legislation with the *acquis* in this field.

- However, a migration strategy ensuring a broader approach to protection of migrants and refugees has to be in place. Further efforts are needed to solve the problems related to the construction of the receptions centres, and to provide adequate assistance to unaccompanied minors.

In the field of **asylum**, preparations for the implementation of the *acquis* on asylum are moving forward. Since January 2012 the newly established administrative courts, for second instance cases, are fully operational. The Presidents of all four courts have been appointed, as well as 20 judges and 34 civil servants. In 2011, the number of asylum requests has considerably increased, requiring enhancement of administrative capacity in this field.

- In particular, transfer of know-how from the Asylum Commission to the Administrative Courts needs to be ensured, as well as trainings for their new judges.

As for **visa policy**, Croatia's list of countries whose nationals require a visa to enter its territory, remains only partially aligned to that of the EU.

- As regards document security, efforts to manage the administration of biometric passports compliant with EU standards must continue, as well as to phase out identity cards issued before 2003 and amend the legal framework accordingly.

With regard to **external borders and Schengen**, the process of alignment with the Schengen *acquis* has continued by further improving the system of integrated border management. Interagency cooperation, as well as coordination with the neighbouring countries and EU bodies in this field has advanced.

Activities foreseen in the 2011 Integrated Border Management (IBM) Action Plan have been partly implemented, however, some delays can be reported on procurement of certain technical equipment and on certain infrastructures. Amendments to the State Border Control Act were adopted in October 2011 to introduce the second line check; its implementation still needs to be supported by proper infrastructures. A system of risk analysis is being implemented. Cooperation with FRONTEX has continued. Regular meetings take place with relevant authorities of the neighbouring countries, as well as joint patrols of border police. A common contact point office with Serbia has been established in the Border Crossing Point (BCP) of Bajakovo. A first coordination meeting with the authorities of Bosnia and Herzegovina (BiH), to implement the mutual agreement on state border control, was held in December 2011. Discussions with both countries, as well as with Montenegro, to bring bilateral agreements on local border traffic in line with the EU *acquis*, are advancing and should be finalised before accession. The Free Transit Agreement with BiH should be brought in line with the EU *acquis* before accession.

Border police numbers have increased and 308 border police officers have been recruited in 2011. Specialised trainings for border police officers have not systematically been made part of the curriculum. Installation of the National Border Management Information System (NBMIS) has continued in 33 additional BCPs. At the end of February 2012 it was operational in 74 BCPs, 38 of which are located at future EU external borders; the system is not yet fully functional. At Neum, a 24 hour integrated border surveillance system is in place. Construction work on the new BCPs is delayed, but expected to be completed by the end of

2012. A video surveillance system for the green border in Metkovic is operational. A first phase of establishing the National Maritime Centre for Information Exchange, allowing tracking and monitoring of vessels in the Croatian territory, has been completed.

- The Centre needs to be reinforced with specialised and trained staff. The inter-connection with the radars of the relevant Ministries needs to be ensured.
- Implementation of the IBM Action Plan needs to continue on time and delays should be properly addressed. A comprehensive plan for the renovation of borders' infrastructures should be prepared.

In the areas of **judicial cooperation in civil and criminal matters**, an agreement on mutual execution of criminal judgments with Montenegro, as well as an extradition agreement with the Former Yugoslav Republic of Macedonia, were signed in October 2011. A working group has been formed and has met several times to prepare the new Act on international private law. Cooperation with the European Judicial Network in civil and commercial matters has advanced.

- Efforts need to continue to align legislation and strengthen the institutional framework and the communication between authorities on judicial cooperation.

With regard to **police cooperation and the fight against organised crime**, good cooperation with Europol has continued. Technical preparations and staff training with a view to the establishment of the Supplementary Information Request at the National Entry (S.I.Re.N.E) Office and of the National Office for the Schengen Information System (S.I.S.) have advanced.

- However, the regulatory framework for these offices is still missing.

Various trainings took place on the fight against organised crime, including on strengthening criminal intelligence analysis and on anti-money-laundering. A monitoring system to fight corruption in border management is in place.

- A new Law on police is currently being prepared; attention should be paid to ensure that the draft includes the criteria of transparency and equal treatment, according to the Strategy for the Management of Human Resources.

The track record on organised crime has continued to develop, notably with a number of investigations and convictions in the field of drugs smuggling.

- The level of confiscated assets needs to be increased.
- Attention should be paid to the coordination of criminal and financial investigations as well as to the implementation of the legal framework in the field of fight against trafficking in human beings.

The capacities of the national police office for the suppression of corruption and organised crime (PNUSKOK) have been strengthened through *ad-hoc* staff trainings.

- Further efforts are necessary in upgrading equipments and facilities, particularly in the Split department.

Inter-agency cooperation on exchanging data on transactions of suspected money laundering and 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 financing of terrorism.

2.4. Overview of state of play in the preparations in other *acquis* chapters

In most areas of the *acquis* preparations for membership are well advanced. Preparations are **almost complete** in the field of *freedom of movement for workers, company law, intellectual property rights, financial services, economic and monetary policy, statistics, trans-European networks, science and research, education and culture, as well as foreign security and defence policy*.

Croatia has achieved a good level of alignment, with a **limited number of outstanding issues** still remaining, in most of the *acquis* chapters.

- With regard to *free movement of goods*, Croatia must complete legislative alignment in the field of horizontal measures, as well as new and old approach product legislation. Urgent attention must be paid to the requirement imposed by Croatia for additional intermediate storage of imported petroleum products, which constitutes a measure having an effect equivalent to quantitative restriction, in violation of the *acquis*.
- As regards *free movement of capital*, further attention must be paid to the amendments to the Act on Privatisation of INA and the Act on Privatisation of Telecom; efforts to implement the action plan against money laundering must continue.
- With regard to *public procurement*, attention must be paid to legislative alignment in secondary legislation, especially in the field of defence procurement and also to the proper implementation of the newly adopted legislation, especially at local level, also in view of the future management of the structural funds.
- In the area of *information society and media*, the fee / tax measure on mobile services re-introduced in January 2012 needs to be urgently abolished.
- In the field of *transport policy*, attention must be given to further legislative alignment in the areas of combined transport and to improving administrative capacity, in particular in relation to the functioning of the railway safety agency.
- With regard to *energy*, attention must be given to further legislative alignment in the areas of the internal energy market, and to continue the liberalisation process of the electricity and gas markets.
- With regard to *taxation*, Croatia needs 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 date of accession.
- In the field of *social policy and employment*, attention must be given to further legislative alignment in the fields of anti-discrimination and equal opportunities. Structural weaknesses of the labour market as well as further capacity-building of social partners and further strengthening of administrative capacity across all areas must also be addressed.

- As regards *enterprise and industrial policy*, efforts are necessary to improve the business environment.
- In the field of *consumer and health protection*, continued efforts are needed in order to upgrade, restructure and licence facilities for handling blood, tissues and cells in accordance with the EU technical requirements.
- As regards *customs union*, Croatia needs to finalise the preparation and deployment of all the IT systems required for interconnectivity and interoperability with the EU customs systems.
- With regard to *external relations*, Croatia needs to ensure the alignment of its international agreements with the *acquis* by accession.
- In the field of *financial control*, continued efforts are needed in order to improve 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*, the coordination department needs to continue building up its capacity to coordinate the overall system of own resources efficiently after accession. The modernisation of the customs control strategy focusing more on post-clearance controls needs to be stepped up.

Croatia has achieved a generally good level of alignment also in the six remaining *acquis* chapters, but **increased efforts are needed in some domains**.

- With regard to *right of establishment and freedom to provide services*, preparations are on track. However, efforts need to be focused on the implementation of the Services Act.
- As for *agriculture and rural development*, attention must be given to further legislative alignment and strengthening of administrative capacity in the areas of direct payments and rural development.
- With regard to *food safety, veterinary and phytosanitary policy*, attention must be paid to the construction and equipment of border inspection posts in time and the upgrading of the establishments for the handling and processing of milk, meat, fish and animal by-products. Continued attention needs to be paid to the further strengthening of administrative capacity in this area.
- In the field of *fisheries*, attention must be given to further legislative alignment and implementation of the *acquis* in the areas of resources and fleet 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 as well as the completion of the satellite based vessel monitoring system. Continued attention needs to be paid to the further strengthening of administrative capacity, especially as regards the recruitment and training of fisheries inspectors.
- With regard to *regional policy and coordination of structural instruments*, further sustained efforts need to focus on effectively implementing the plans to increase administrative capacity for future cohesion policy implementation and to develop a mature project pipeline.

- With regard to *environment*, significant attention must be given to further legislative alignment and implementation in the areas of the horizontal *acquis* and climate change. Particular attention needs to be paid to the effective public participation and access to justice in environmental matters, and, in so far as climate change is concerned, to complete the legislative alignment and to ensure implementation, in particular for the EU Emissions Trading System.

Finally, the Commission calls on the Croatian authorities to accelerate work on the **translation and revision of the *acquis***, which must be completed before the date of accession in order to ensure legal certainty in the implementation of EU legislation.

3. CONCLUSIONS

Overall, Croatia's preparations for EU membership are on track. Croatia has reached a considerable degree of alignment with the *acquis*. Further progress has been achieved since the 2011 progress report and the last update of the monitoring tables in autumn 2011. Nevertheless the Commission has identified a limited number of issues requiring further efforts. The Croatian authorities need to take all necessary measures to ensure that the country is fully prepared for membership by 1 July 2013, in the interest of Croatia and the EU.

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

In accordance with that Article, the Commission will present a Comprehensive Monitoring Report to the European Parliament and the Council, as well as an update of the Monitoring Tables, in autumn 2012.