

Croatia's point of view on the European perspectives of the Balkans

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I. Summary

Balkan countries have started developing modern state institutions from scratch or from a very low base but with one common perspective – European perspective. Due to the very bad economic situation in the biggest part of the region and previous involvement in the crises management but mostly due to the generally present desire of all these countries to join European Union, it was essential that European Union itself makes the right move.

In 1996 the EU adopted a Regional Approach to the countries of South-Eastern Europe as the first comprehensive strategy of the EU towards the troubled part of the South East Europe later enhanced with a Conditionality Strategy. In mid 1999 the Stabilization and Association Process (SAP) was introduced as support to the Western Balkan countries' development and preparations for future EU membership with a Stabilisation and Association Agreement as the most important part of it.

The June 2000 European Council in Santa Maria de Feira finally wrote a long awaited sentence: "All the countries concerned (Western Balkans) are potential candidates for EU membership". Zagreb summit and Thessaloniki summit enhanced already existing commitments.

Croatia successfully applied for the EU membership in February 2003, became a candidate country in June 2004 and started negotiations in October 2005 thus giving a positive example to others.

Simultaneously with enlargement the EU started another ambitious project – a Constitution for Europe. Unfortunately, the referenda in France and the Netherlands have failed and created enormous turmoil in the EU. One of the victims was the further enlargement to the Balkans.

EU enlargement is a historical project based on a vision of a united Europe and its global role. It has been at the heart of the EU's development over several decades. The very essence of European integration is to overcome the division of Europe and to contribute to the peaceful unification of the continent. Politically and economically it brought a lot of good things to the EU and transformed it into the biggest soft power in the world. Enlargement has increased the EU's weight in the world and made it a stronger international player and that is why it will continue.

Croatia is currently the most advanced country in the enlargement process and it remains committed and determined to make further efforts with the aim of fulfilling all the criteria and obligations by 2008 in order to become the 28th member of the EU before the end of the decade. At the same time, Croatia's past is the other countries' of the region future.

All other Balkan countries, that so wish, could follow. Croatia's example and experience is here for them. The situation in the EU has changed, euphoria is replaced with the enlargement fatigue, words like "rigorous" and "strict" are frequently used when it comes to the fulfilment of the criteria and negotiations. However, the real problems are within the Balkan countries. The European perspective, supported with European money, will help overcome existing problems and ensure better future for the citizens of Balkan countries – sooner or later.

II Introduction

The break up of the former Yugoslavia, accompanied by years of war and repression, has drawn a new, highly fragmented, political map of the South East Europe. War caused enormous economic and social problems. All of the countries have had to start developing modern state institutions from scratch or from a very low base. Albania, previously isolated from the rest of the world, embarked on its transition from an even lower base. Now, when this process is close to an end the Balkans is still politically and economically complex region but, unlike in the previous times, a region with perspective – European perspective.

The European Union, although slowly and sometimes clumsy, during the nineties decided to involve fully in the political developments in the region in order to help the stabilisation, to stimulate the cooperation and to guide the integration of the region into the European integration processes.

The Stabilisation and Association policy has been designed to help the Balkan countries transform that European aspirations into reality, and to establish a strategic framework for their relations with the EU. The Stabilisation and Association process (Sap) combines new contractual relationships (Stabilisation and Association Agreements) and an assistance programme (CARDS), which help each country to progress, at its own pace, towards the requirements of EU membership. The Thessaloniki European Council sent even a stronger message, opening new doors of cooperation and introducing the European Partnership as one of the means to intensify the Stabilisation and Association process. The draft European Partnership identifies short-term and medium-term priorities for action to support efforts to move closer to the European Union. It is a long-term EU commitment to the region but it demands strong and continuous commitment from the region as well.

However, there is the other side of this coin. The situation in the European Union became much more complex than it appeared to be ten or fifteen years ago. The Enlargement Euphoria that started after the fall of the Berlin Wall is replaced with the Enlargement Fatigue. European citizens are cautious, suspicious. They do not understand how is this enlarged union going to look and work in the end. They lost their enthusiasm for enlargement, they are calculating. And when citizens calculate, politicians calculate even more.

On the top of that, one of the most ambitious projects in the history of the EU, the so called Constitution, is in danger. Some think it is already dead. Without a new institutional arrangement, be it a Constitution or something else, further enlargement is even more complicated if not politically impossible.

Croatia is so far the only country participating in the Stabilisation and Association process (SAp) who negotiates the full membership with the EU. In order to get to this point, to become the leader as far as European integration is concerned, Croatia had to go through all the steps designed by the EU, fulfill numerous conditions, achieve many benchmarks, prepare and implement many reforms but, at the same time, gain a lot of experience. This experience gives a good base for assessment about the future European perspectives of this part of Europe.

II. EU Policy towards the Balkans – does it give enough European perspective

One can not speak about the European perspectives of the Balkans as they stand today, without looking back into the recent past of this part of Europe. Last ten or fifteen years tell a lot about the possible future developments. The violent dissolution of the SFRY prevented the Czechoslovakian scenario of velvet revolution but also the European perspective of that part of Europe for several years. Balkan countries, European Union and a wider international community had to deal first with stopping Serbian aggression, struggling with huge humanitarian demands, building peace, democracy and the basic rule of law in the region. It was only after the Dayton/Paris Peace Agreements that the attention could be turned to the questions of catching up with the integrative processes in Europe and (re-)establishing the regional cooperation. Due to the very bad economic situation in the biggest part of the region and previous involvement in the crises management but mostly due to the generally present desire of all these countries to join European Union, it was essential that European Union itself makes the right move.

1.Regional Approach

On 26 February 1996, the EU adopted a **Regional Approach** to the countries of South-Eastern Europe. That was the first comprehensive strategy of the EU towards the troubled part of the South East Europe with which the European Community has not yet adopted directives for the negotiation of association agreements or, more precisely, towards Federal Republic of Yugoslavia, Republic of Macedonia and Republic of Croatia. The approach was broad and it was meant to be a part of a gradual consolidation of peace. Although it was regional, in a sense that the same principles apply to all countries, and that the regional cooperation was one the main conditions for positive assessment of the country's performance, the individual approach was at the bottom of this concept. The envisaged agreements that were to be concluded between the EU and "each of the countries concerned" were bilateral agreements that had to take "account of the special nature of each country's individual situation". They had to be "carefully prepared through direct contacts between the European Union and the countries of the region" and "must be designed as a substantial incentive to political stability and as an instrument for economic development and cooperation between them, between those countries and their neighbours, and with the European Union".¹

Another important element was the rule that countries should among themselves undertake to adopt reciprocal measures, particularly regarding the free movement of goods and persons and the provision of services, and to develop projects of common interest. This was quite normal because many links between those countries were broken and re-establishing them was one of the principle goals of the EU at that time.

The next step was taken on 29 April 1997, when the General Affairs Council established a Conditionality Strategy i.e. political and economic conditions to be fulfilled by these countries, as the basis for a coherent and transparent policy towards the development of bilateral relations in the field of trade, financial assistance and economic cooperation, as well as of contractual relations. It was applicable to all those countries of the SEE which did not have an association agreement with the EU, namely: Albania, Bosnia and Herzegovina, Croatia, Macedonia and Yugoslavia. It is interesting to note that this Conditionality policy

¹ Conclusions of the General Affairs Council of 26 February 1996, part on Former Yugoslavia, par. 3.

was adopted under the title “Ex-Yugoslavia – Conclusions” although it was *expressis verbis* applicable also on Albania.

The basic concept was to write down a series of conditions that a country has to fulfill in order to achieve a certain level of relations with the EU. There were three levels: autonomous trade measures, participation in the PHARE program and Contractual relations. Apart from general conditions that were applicable to all countries, Bosnia and Herzegovina, Croatia and Yugoslavia had some additional conditions to fulfill, linked with their obligations arising from the peace agreements.

For Croatia it was of the utmost importance that again, the individual merits were very clearly stated as the basis of the concept.² On the top of that individual approach was guaranteed also when it comes to the regional cooperation.³

The monitoring mechanism was also established and the European Commission had to prepare a Conditionality Reports every six months to evaluate the compliance by the countries of the South-Eastern Europe with the Regional Approach and Conditionality Strategy. The First Conditionality Report of 3 October 1997, adopted at the GAC of 10 November 1997 was not very positive. On the basis of the EC’s Conditionality Report the GAC adopted Conclusions for Croatia. The assessment of Croatia’s performance was:

“Although there has been some progress, notably in cooperation with the International Criminal Tribunal, Croatia has not complied with all the obligations arising from the Dayton/Paris and Erdut Agreements. The efforts made to improve relations with neighbouring states should continue and the Croat authorities should ensure that refugees and displaced persons can actually return. In addition, the rule of law should be consolidated.”

On the basis of such an Assessment the operative conclusion was that only the renewal of the autonomous trade measures was possible.

About six months later the Second Conditionality Report was prepared by the EC and the Council updated its conclusions but this time result for Croatia was even worse because even the removal of the autonomous trade measures was seriously considered.

“Croatia has consistently stated its wish for integration into European structures (in particular inclusion in the PHARE programme and the negotiation of a cooperation agreement): the Council welcomes this. But Croatia has failed to translate this stated wish into progress in meeting EU conditionality criteria. Indeed indications so far in 1998 are that Croatia is moving away from EU criteria. Recent developments on ethnic reconciliation and refugee return have been in the wrong direction: at a time when fostering of confidence of the Serb minority is crucial for the regional return process. Unless recent trends are reversed, and there is a clear improvement in Croatian performance, the Council believes that the removal of Croatia from the autonomous trade preferences system should be seriously considered, at the latest by the next review in October.”⁴

² Une mise en oeuvre progressive des conditions conduira à une amélioration progressive des relations, sous réserve d'une évaluation politique et économique globale et permanente, au cours de laquelle chaque pays sera jugé individuellement. Conclusions of the GAC, 29 April 1997 – Autres decision, Ex-Yougoslavie.

³ Aucun pays ne sera tenu pour responsable de l'absence de volonté réciproque de la part de ses partenaires régionaux potentiels.

⁴ Conclusions of the GAC of 27 April 1998

The Third Conditionality Report came in October 1998 and the GAC Conclusions on Croatia were only slightly more optimistic. The autonomous trade measures were to stay but that was all.

“Progress in different areas has been realised but was uneven and there continues to be a discrepancy between statements of intent and their practical implementation. On democratisation and human rights, particularly concerning the media (especially TV) and electoral reform, little or no progress has been made. Problems also remain with respect to the treatment of minorities and the independence of the judiciary. The adoption of a refugee return programme last June and of a reconstruction plan in October was an encouraging sign, but the return process continues to be very slow, particularly regarding minority returns. The EU will continue to monitor progress, particularly on democratisation and refugee return, very closely. If developments so warrant, the EU will consider stepping up present levels of support. It notes Croatia's intention to convene a Conference on Reconstruction and Development. Concerning market economy reforms, inadequacies in banking supervision are a particular cause for concern. Croatia has made steps towards better cooperation with its neighbours, but it is still lagging behind in its obligations under the Dayton/Paris and Erdut Agreements.

For the time being, Croatia will continue to benefit from autonomous trade preferences. By contrast, the conditions for assistance under the PHARE programme have not yet been fulfilled and negotiations on a cooperation agreement would likewise be premature.”⁵

At the GAC of 21/22 June 1999 wording on Croatia was finally more promising. Possibility of opening the PHARE was mentioned and opening of TEMPUS and ETF. But the real breakthrough was mentioning of the possible opening of the negotiations on a Stabilization and Association Agreement and enhancing of contacts including a more structured framework like political dialogue and technical consultative task force.⁶

2. Stabilisation and Association Process

The mid 1999 was a turning point for relations between EU and the SEE countries on which the Regional Approach was applied. Based on the Communication by the Commission on the "Stabilisation and Association Process for the Countries of South Eastern Europe"⁷ a formulation of a comprehensive policy towards five SEE countries was adopted. This new process was based on the existing Regional Approach and Conditionality Strategy but strengthened and deepened thus reaffirming the European Union's resolve to take up the challenge and responsibility to contribute to the stability of the region.

The Stabilization and Association Process (SAP) supports the Western Balkan countries' development and preparations for future EU membership by combining three main instruments: the Stabilisation and Association Agreements, autonomous trade measures and substantial financial assistance.⁸

⁵ Conclusions of the GAC of 9 November 1998

⁶ Par. 17. „Opening of negotiations on a Stabilisation and Association Agreement with Croatia will be examined, on the basis of reports by the Commission, when the country has met the relevant conditions. In the context of bilateral relations, and the future opening of negotiations, communication and exchanges of views might be intensified, including in a more structured framework e.g. political dialogue and a technical consultative task force.“

⁷ COM(99)235 of 26.5.1999.

⁸ The EU's CARDS (**C**ommunity **A**ssistance for **R**econstruction, **D**evelopment and **S**tabilisation) programme brings a more strategic approach to assistance to the Stabilisation and Association Process countries. It underpins the objectives and mechanisms of the Stabilisation and Association Process. Overall EU financial grant assistance to the Western Balkans countries (including CARDS and macro-financial assistance) amounts to **over € 5 billion** (€5.117 billion) for the period 2000-2006.

The Stabilisation and Association Process is more than a bilateral process with each country. It has an important regional dimension and that dimension has two parts. One is to encourage the overall cooperation in the region, be it bilateral (solving open issues) or multilateral (participation in regional multilateral initiatives like a Stability Pact, South East European Cooperation Process, Adriatic-Ionian Initiative etc.). The other is to oblige them to create between themselves relations similar to those that exist between the EU member states.⁹ Again, for Croatia it was important that individual merits were the basis for assessment of each country performance in this respect as well.

Stabilisation and Association Agreements

With the Stabilisation and Association process the European Union introduced a new dimension into its relations with the region, namely the offer to the five countries - in return for compliance with the relevant conditions - of a tailor-made category of contractual relations: Stabilisation and Association Agreements (SAAs). These agreements are available for all the countries and provide a more advanced relationship. They take into account the specific and evolving situation of each country and will be gradually introduced in light of the ability of each country to meet reciprocal, contractual obligations, as well as of its effective contribution to regional cooperation. On the top of that the CARDS assistance program has been designed in order to help, technically and financially, the necessary reforms.

Through a Stabilisation and Association Agreement the EU creates a contractual relationship with each Western Balkans country. It is based on the gradual implementation of a free trade area and reforms designed to achieve the adoption of EU standards in some areas with the aim of moving closer to the EU. It also has a great political value because it envisages the establishment of several joint bodies for constant political and technical dialogue – Stabilization and Association Council, Stabilisation and Association Committee with its subcommittees and a Stabilization and Association Parliamentary Committee.

The aims of the Association through the SAA, according to the SAA between the EU and Croatia,¹⁰ are:

- to provide an appropriate framework for a political dialogue, allowing the development of close political relations between the Parties;
- to support the efforts of Croatia to develop its economic and international cooperation, also through the approximation of its legislation to that of the Community;
- to support the efforts of Croatia to complete the transition into a market economy, to promote harmonious economic relations and develop gradually a free trade area between the Community and Croatia;
- to foster regional cooperation in all the fields covered by this Agreement.

The Stabilisation and Association Agreements are very similar to the Europe Agreements in many aspects. The most important is that the next step, after the SAA has been concluded and partially implemented, the final phase of integration, candidacy and negotiations for a full membership, can start.

⁹ Idem, art. 11. – 14.

¹⁰ SAA between the Republic of Croatia and the European Communities and their Member States, art. 1.

The Stabilisation and Association Agreements are tailor-made but a common purpose is to achieve a formal association with the EU.

Santa Maria de Feira European Council

One year after the introduction of the SAp a situation in some countries of the region became more promising. Croatia was a front-runner because January 2000 elections brought a change of government and the policy of Croatia towards the EU. Instead of only verbally striving towards the EU the new government also changed the respective policies. This improvement was recognized in the March Operational conclusions of the EC.¹¹

The European Council in Santa Maria de Feira welcomed the report by the Secretary General/High Representative, and the Commission, on the Western Balkans. The principle conclusion of the Report was to strongly support those EU measures that would ensure the impact, coherence and visibility of the Union's policies in the Western Balkans. But the most important sentence in the Conclusions was: "All the countries concerned are potential candidates for EU membership".¹² For the first time the EU gave to the countries of the Western Balkans a full European perspective. It confirmed that its objective remains the fullest possible integration of the countries of the region into the political and economic mainstream of Europe through the Stabilisation and Association process, political dialogue, liberalisation of trade and cooperation in Justice and Home Affairs. The Union promised to support the Stabilisation and Association process through technical and economic assistance.

As far as Croatia was concerned the European Council in Santa Maria de Feira reiterated its support for democratic and economic reform in Croatia and looked forward to the early start of negotiations on a Stabilisation and Association Agreement. So the EU really reacted immediately after the political changes in Croatia and started preparations for negotiations of the SAA.

Zagreb Summit

¹¹ Communication from the Commission to the Council on operational conclusions - EU stabilisation and association process for countries of South-Eastern Europe Bosnia and Herzegovina, Croatia, Federal Republic of Yugoslavia, former Yugoslav Republic of Macedonia and Albania
/* COM/2000/0049 final */ 2 March 2000

“Croatia

Recent developments are encouraging and can be a turning point in Croatian politics.. Despite concerns regarding the electoral legislative framework and a biased State television, the recent elections were conducted in a calm and orderly manner and signalled a strong desire for change by the Croatian population. The new Croatian leadership has the opportunity to put Croatia on a fully democratic path and rapidly to prove its commitment to solving the outstanding political questions which have so far hampered a substantial development of EU - Croatia relations.

Croatia will continue to benefit from the autonomous trade preferences, which have been substantially improved with effect from 2000.

The new Government is encouraged to undertake the necessary steps in order to enable the European Community to broaden its assistance and prepare a report on the feasibility of the opening of negotiations for a Stabilisation and Association Agreement. Until then, political dialogue, and cooperation within the Consultative Task Force, will be useful instruments with which to encourage reform and follow developments.”

¹² Santa Maria de Feira European Council – 19/20 June 2000, Presidency Conclusions, D. Western Balkans

What turned out to be equally important from the political point of view, the European Council in Santa Maria de Feira welcomed the idea, proposed by France, of a summit meeting between the European Union and the countries of the Western Balkans which, although at different stages, have all advanced in their democratic evolution. The idea was to allow the countries of the region to be reassured, at the highest possible political level, of Europe's solidarity with them, and permit an examination of the means to accelerate the process of democratic and economic reform. The place for Summit was Zagreb.

It was the first time in the history of the European Union that the European Council met outside the EU territory, and for a good reason. Democracy was about to carry the day throughout the Balkans. The year began with democratic change in Croatia, following the presidential and legislative elections and it continued with the victory of democratic forces in the FRY in the elections of 24 September.¹³

The Zagreb Summit (24/11/2000) put the seal on the SAp, by gaining the region's agreement in a Final Declaration to a clear set of objectives and conditions.

The Summit underlined the connection between the progress in the countries of the region towards democracy, rule of law, regional reconciliation and cooperation on the one hand and the prospect of possible accession to the EU on the other hand.

It was underlined several times that rapprochement with the European Union will go hand in hand with process of developing regional cooperation.

The European Union confirmed its wish to contribute to the consolidation of democracy and to give its resolute support to the process of reconciliation and cooperation between the SAp countries and reaffirmed the European perspective of the countries participating in the stabilization and association process and their status as potential candidates for membership in accordance with the Feira conclusions.

If it was not completely clear before the Zagreb summit, the Final Declaration left no doubt that the Stabilization and Association process is at the heart of the Union's policy towards the five countries concerned and that individual approach is the fundamental principle.¹⁴

The prospect of accession was offered on the basis of the provision of the Treaty on European Union, respect for the criteria defined at the Copenhagen European Council in June 1993 and the progress made in implementing the stabilization and association agreements, in particular on regional cooperation.¹⁵ Generally speaking, prospect of accession for the SAp countries was not different from the prospects of accession of the ten, at that time, already negotiating countries.

3. Thessaloniki Summit and after

After the Zagreb Summit the rapprochement of the Balkans with the European Union went smoothly for two years. All the countries were making progress, some faster than others. Croatia has applied for the EU membership in February 2003. A general feeling emerged that more has to be done in order to give additional impetus to those countries that were lagging

¹³ Zagreb Summit Final Declaration, par. 1.

¹⁴ Zagreb Summit Final Declaration, par. 4.

¹⁵ Idem.

behind. The Greek Presidency in the first half of the 2003 was an excellent opportunity for reconfirmation and enhancement of the SAp because, according to the situation in the field, the time was ripe for a new step and because, traditionally, every Presidency takes special care for its neighbourhood and its region.

After intensive preparations that, for the first time, included the countries from the region, several documents were prepared with a list of new measures aimed at enhancement of the relations between the EU and the SAp countries. The European Council of 20 June 2003 endorsed „*The Thessaloniki agenda for the Western Balkans: Moving towards European Integration*“ which represents a new important step in the privileged relationship between the EU and the Western Balkans.

The EU – Western Balkans Summit Declaration of 21 June 2003 stated that its content shall be considered as the shared agenda, and that everybody is committed to its implementation. The countries of the region will focus their efforts on meeting the recommendations this agenda refers to. The EU reiterated its unequivocal support to the European perspective of the Western Balkan countries explicitly stating that the future of the Balkans is within the European Union. The ongoing enlargement and the signing of the Treaty of Athens in April 2003 should inspire and encourage the countries of the Western Balkans to follow the same successful path. Preparation for integration into European structures and ultimate membership into the European Union, through adoption of European standards, is now the big challenge ahead and the speed of movement ahead lies in the hands of the countries of the region.¹⁶

It was acknowledged that the Stabilisation and Association Process will remain the framework for the European course of the Western Balkan countries, all the way to their future accession. The process and the prospects it offers serve as the anchor for reform in the Western Balkans, in the same way the accession process has done in Central and Eastern Europe. Progress of each country towards the EU will depend on its own merits in meeting the Copenhagen criteria and the conditions set for in the SAp and confirmed in the final declaration of the November 2000 Zagreb summit. New additional instruments were introduced, of which the most far-reaching were the European Partnerships, inspired by the Accession Partnerships.

The Western Balkan countries welcomed the decisions by the EU to strengthen its Stabilisation and Association policy towards the region and to enrich it with elements from the experience of enlargement. They welcomed in particular the launching of the European Partnerships, as well as the decisions for enhanced co-operation in the areas of political dialogue and the Common Foreign and Security Policy, parliamentary co-operation, support for institution building, opening of Community programmes.¹⁷

In March 2004 the European Commission prepared the third Annual Report on the SAp¹⁸ in which it clearly stated that the European Union will ensure that the enlargement process does not raise new barriers, and that the Union remains inclusive and outward-looking. It also made clear that “The European Neighbourhood Policy does not apply to the Western Balkan countries since they have a membership perspective.”¹⁹ In addition to that the European

¹⁶ Thessaloniki Declaration, par. 2.

¹⁷ Thessaloniki Declaration, par. 4.

¹⁸ Stabilisation and Association Process for South Eastern Europe, Third Annual Report, COM(2004)202 final 30.03.2004

¹⁹ Idem, str. 5.

Commission declared that the same basic **entry requirements** apply to the countries of the Western Balkans as to other countries that aspire to join the Union, namely the political, economic and institutional criteria established by the Copenhagen European Council in 1993 and set out in Articles 6 and 49 of the EU Treaty. The countries must also meet the criteria specific to the Stabilisation and Association process (SAP) as set out in the Conclusions of the General Affairs Council in April 1997 and in accordance with the Commission Communication of May 1999 on the establishment of the SAP²⁰. These criteria include full co-operation with the International Criminal Tribunal for the former Yugoslavia (ICTY)²¹, respect for human and minority rights, the creation of real opportunities for refugees and internally displaced persons to return and a visible commitment to regional co-operation. Important principles established during the present enlargement process also apply to the countries of the Western Balkans: each country proceeds towards membership on its own merits and at its own speed.²²

The Brussels European Council in June 2004 concluded that Croatia is a candidate country with which accession negotiations will start in early 2005 and requested the Commission to prepare a pre-accession strategy for Croatia. The Commission considered that the reinforced pre-accession strategy for candidate countries decided by the European Council in Luxembourg in December 1997 should be extended to Croatia.

On 6 October 2004, the Commission adopted a Strategy paper on Progress in the Enlargement Process. Apart from dealing with Bulgaria's and Romania's progress towards accession, this Strategy paper contains elements of the pre-accession strategy for Croatia. It should be noted that the Commission in 2004 has not released a Regular Report on Croatia, because it published an Opinion on Croatia's Application for Membership of the European Union on the 20th of April 2004, in Croatia usually called simply - Avis.

It was again repeated that all Western Balkans countries have a perspective to become candidate countries. It was noted that the Republic of Macedonia has applied for membership, and upon Council's request, the Commission is preparing an Opinion on that application.

The French and Dutch referenda

The failed referenda in France and the Netherlands had an effect of an earthquake, or better to say two earthquakes, to the EU building. Suddenly everything seemed to be put in question, the future of enlargement in the first place. The negative reaction of the citizens of these two countries, that are among the founding member states, to the Constitution was explained by many as a NO to further enlargement. More elaborated analysis showed different causes but the damage was done.

European Commissioner for enlargement **Olli Rehn** insisted that enlargement of the EU should continue despite the Union's latest political crisis.²³ While a pause for reflection on the EU treaty was inevitable, the momentum for enlargement should continue based on the principles of consolidation, conditionality and communication.

²⁰ COM(1999) 235.

²¹ Cooperation with the ICTY is a legal obligation under UN Security Resolution 827 of 25 May 1999. It is also an obligation under the General Framework Agreement for Peace (the "Dayton/Paris Peace Agreement").

²² COM(2004)202 final, str. 5.

²³ The European Commissioner for Enlargement, Olli Rehn, addressed an EPC Breakfast Policy Briefing, 20 June 2005 organised in cooperation with the King Baudouin Foundation.

Two days after EU leaders concluded a summit in which they remained deadlocked over the Union's budget and put ratification of the EU's draft constitutional treaty on hold, the Commissioner admitted that it was "delicate" to speak following the "deep political hangover" of the past week, which had been a difficult week in European politics.

"There's no denying that the European Union is currently in a political crisis," he said, while a pause on the constitution was "inevitable", following the no votes in the Netherlands and France. He was glad that enlargement of the EU was a survivor of the summit and the referenda, "even though it was a close call." The European Council confirmed the conclusions of the June and December 2004 summits on enlargement and the western Balkans. It would be "irresponsible" to disrupt enlargement because of recent political setbacks. This was especially true for ensuring the EU's continued stabilising influence in the western Balkans, especially as the region entered a very difficult period of talks on Kosovo's future status.

"It is now up to every responsible politician to calm the overheated debate," said the Commissioner. It would be wrong to highlight enlargement as the decisive cause of the French no vote, when the sense of insecurity and social discontent stemming from high unemployment had played a much bigger role. The EU must therefore use this opportunity to focus on growth and jobs - notably through investment in innovation and economic reform - rather than make enlargement the scapegoat for the no votes.

"In reality, EU enlargement is a great success story." It had proven to be one of the most important instruments of European security. It reflected the essence of the EU as a civilian policy. By extending the area of peace, stability, democracy and the rule of the law, the EU had achieved far more through its gravitational pull than it could ever have done with a stick or a sword. To see the EU's power as an incentive for reform, one need only look at Spain and Portugal in the last 20 years, Poland and Estonia in the past ten years, or Croatia and Turkey in the last few years.²⁴

After the earthquake

In October and November 2005 the European Commission adopted a series of documents related to the enlargement of the European Union, the so called Enlargement Package.²⁵

In the "2005 Enlargement strategy paper"²⁶ the Western Balkans is described as a particular challenge for the EU. "Enlargement policy needs to demonstrate its power of transformation in a region where states are weak and societies divided. A convincing political perspective for eventual integration into the EU is crucial to keep their reforms on track. But it is equally clear that these countries can join only once they have met the criteria in full."²⁷

²⁴ According to the EPC Communication S034/05

²⁵ 2005 Comprehensive Monitoring Reports on Bulgaria's and Romania's preparations for EU accession, reports on Croatia and Turkey as well as on the other countries of the Western Balkans including an opinion on the application from the former Yugoslav Republic of Macedonia for EU membership. In addition, proposals for renewed partnerships were presented for all countries except Bulgaria and Romania. These proposals were amended and approved by the Council early 2006.

²⁶ COM (2005) 561 final, p.2.

²⁷ Idem.

On 27 January 2006 the European Commission adopted another piece of work on the Western Balkans, its communication “The Western Balkans on the road to the EU: consolidating stability and raising prosperity”.²⁸ Here it assesses progress made since the Thessaloniki Summit and sets out concrete measures and instruments to reinforce the EU policy for the Western Balkans. The general assessment of the Commission is that the Stabilisation and Association process, as enhanced by the Thessaloniki agenda, has proved itself as an effective policy framework for EU action in the Western Balkans. As part of the enlargement process, it will remain the framework for the European course of these countries all the way to their future accession. However, its implementation in a number of areas needs further work, in the light of recent experience and the challenges ahead.²⁹

At the informal meeting of the ministers of foreign affairs in Salzburg, 10-11 March 2006, under the Austrian Presidency, ministers of foreign affairs of the EU member states, acceding states, the candidate states and the potential candidate states adopted a Joint press statement in which they reaffirmed their full support for the Thessaloniki agenda as well as for the Stabilization and Association Process. The EU reconfirmed that the future of the Western Balkans lies in the European Union and all the participants agreed that progress towards the EU continues to depend on individual merits.

The latest EC’s document on enlargement is **the Enlargement Package 2006** made public on 8 November 2006.³⁰ It was impatiently awaited by all the SAP countries and Turkey because it was supposed to give some answers about future enlargement of the EU and evaluation of individual performances of all the countries included in the enlargement agenda.

EU enlargement is, according to this report, a historical project based on a vision of a united Europe and its global role. At the very beginning the Commission gave the overall assessment of the Enlargement policy. It says that enlargement has been at the heart of the EU’s development over several decades. The very essence of European integration is to overcome the division of Europe and to contribute to the peaceful unification of the continent. Politically, EU enlargement has helped respond to major changes such as the fall of dictatorships and the collapse of communism. It has consolidated democracy, human rights and stability across the continent. Enlargement reflects the EU’s essence as a soft power, which has achieved more through its gravitational pull than it could have achieved by other means. Economically, enlargement has helped to increase prosperity and competitiveness, enabling the enlarged Union to respond better to the challenges of globalisation. This has brought direct benefits for Europe as a whole. Enlargement has increased the EU’s weight in the world and made it a stronger international player.³¹

From the perspective of this work the most important findings are that the present enlargement agenda covers the countries of the Western Balkans and Turkey. This puts the Balkans on the safe side as far as the membership perspective is concerned. Immediately after that the Commission explains the main characteristics of the enlargement agenda:

- accession for some countries could be many years away
- the journey towards membership has value in itself

²⁸ COM (2006) 27 final

²⁹ Idem, p. 5.

³⁰ Communication from the Commission to the European Parliament and the Council “Enlargement Strategy and Main Challenges 2006 – 2007” Including annexed special report on the EU’s capacity to integrate new members, COM (2006) 649

³¹ Idem, p. 2.

- the journey involves many challenges
- the EU needs to remain engaged throughout the process
- the pre-accession strategy and negotiations with candidates and potential candidates should be pursued in a rigorous manner, fully respecting the agreed conditions
- rigorous conditionality is applied to all candidate and potential candidate countries
- any new steps in the accession process depend on each country's progress in making political and economic reforms
- it is necessary to keep the countries motivated to continue reforms
- each country advances on its own merits, depending on its success in meeting the requirements
- in particular, a country's satisfactory track-record in implementing its obligations under the Stabilisation and Association Agreements (including trade-related provisions) is an essential element for the EU to consider any membership application
- regional co-operation remains essential to long-term stability, economic development and reconciliation in the Western Balkans.
- the EU will provide financial support through the newly-established Instrument for Pre-Accession Assistance (almost 11,5 billion euros (together with Turkey) for the next seven years)
- this financial support will focus on priorities identified in the Accession Partnerships and European Partnerships (the Partnerships decided at the beginning of 2006 will be reviewed at the end of 2007).
- the EU also needs to increase transparency in the process.

The strategy underlines that carefully managed enlargement can extend and deepen European integration and that it is based on three main principles: consolidating existing commitments towards countries engaged in the process, applying fair and rigorous conditionality, and intensifying communication with the EU public on enlargement.

Consolidation of the EU enlargement agenda means that the Union is cautious about assuming any new commitments, but honours its existing commitments towards countries already in the enlargement process.

Rigorous but fair conditionality is applied to all candidate and potential candidate countries. Every step forward depends on each country's own progress in meeting the necessary conditions at each stage of the accession process. This approach helps to consolidate reforms and to prepare new Member States to fulfill their obligations upon accession.

For enlargement to be a success, the EU must ensure the support of its citizens. Member States need to take the lead in communicating effectively the enlargement process and in particular the benefits that it offers for EU citizens. Democratic legitimacy remains essential for the EU accession process.

The Commission is aware that EU's own institutions need to be reformed, in line with the European Council conclusions of June 2006. A new institutional settlement should have been reached by the time the next new member is likely to be ready to join the Union.

The EU's financing is another important issue for the future. The EU's ability to take in new members while maintaining the momentum of integration will be even more important in the future. The Commission's special report sets out an approach designed to ensure that the EU

retains its capacity to function effectively while pursuing an enlargement agenda which is designed to meet the challenges of the years ahead.

The Commission says that this paper outlines an approach to draw lessons from the fifth enlargement, to support countries on their way to membership, to foster public support for further enlargement, to address the enlargement challenges, and to ensure the EU's integration capacity. This is the basis for building a renewed consensus on enlargement.

On the basis of its analysis the Commission defined the conclusions about the 2007 prospects of the Balkans. Croatia will continue its negotiations with the EU at a good pace, Macedonia should advance the pace of reforms in key areas if progress is to be made towards the goal of moving ahead in the Accession process, read – opening of negotiations will have to wait the next report; Albania should give priority to implementation of the Interim Agreement; Bosnia and Herzegovina will complete the SAA negotiations; if the reforms will continue, Montenegro will conclude the SAA; Serbia needs to achieve the full cooperation with ICTY before the SAA can be concluded, in the meantime it should constructively approach the Kosovo negotiations; Kosovo³² is a special case, first the status question has to be resolved and then it can move forward in European integration process.

In brief: the enlargement continues, the conditionality will be rigorously monitored.

A word on the negotiations procedures

In the 2006 Enlargement Strategy the EC gave an overview of how the negotiations with Turkey and Croatia are conducted.³³ Obviously, one should read between the lines that the same approach will be applied for other countries when they come to that phase in their integration process.

Commission emphasizes that the basis for negotiations are clear and rigorous negotiating frameworks agreed unanimously by the Council and that the pace of negotiations depends on the pace of reforms on the ground.

During the accession negotiations arrangements are established under which the candidate countries commit themselves to applying the whole body of EU legislation and policies, known as the *acquis*. Countries need to accept and implement the *acquis*, and to adhere to the political objectives of the Treaties. The negotiations allow the candidate countries and the EU to agree on measures that may be necessary to facilitate integration. Each country is judged on its own merits: the negotiations offer countries the opportunity to demonstrate their ability to complete the necessary reforms and meet all membership requirements.

The negotiations proceed in a structured manner. From 20 October 2005 till 18 October 2006, the “screening” process has brought together hundreds of experts from Croatia, Turkey and the Commission to explain the *acquis*, assess the countries’ level of alignment, and examine their plans for implementation.

³² Under UN Security Council Resolution 1244.

³³ COM (2006) 649, p. 5.

After a chapter has been screened, the Member States decide, upon a Commission recommendation, on whether the chapter can be opened for negotiations, or on the benchmarks to be met by the candidate country before negotiations can be opened. When opening negotiations, the Union tables its common position, including benchmarks that have to be met to provisionally close the chapter.

Benchmarks are a new tool introduced as a result of lessons learnt from the fifth enlargement. Their purpose is to improve the quality of the negotiations, by providing incentives for the candidate countries to undertake necessary reforms at an early stage. Benchmarks are measurable and linked to key elements of the *acquis* chapter. In general, opening benchmarks concern key preparatory steps for future alignment (such as strategies or action plans), and the fulfilment of contractual obligations that mirror *acquis* requirements. Closing benchmarks primarily concern legislative measures, administrative or judicial bodies, and a track record of implementation of the *acquis*. For chapters in the economic field, they also include the criterion of being a functioning market economy.

If a candidate country no longer fulfils the opening benchmarks in a chapter that is under negotiation, the Commission may propose that negotiations be suspended on that chapter. If a candidate country no longer fulfils the closing benchmarks in a chapter that has been provisionally closed, the Commission may propose to the Member States that accession negotiations on that chapter be re-opened.

The Union expects negotiating countries to comply with the political criteria and to work towards higher standards throughout the negotiations. The results of dialogue with the countries on their success in addressing issues under the political criteria will be fed into the negotiation process. The Commission will prepare the dialogue with Member States and report back to them in the relevant Council bodies. In addition, the current negotiating framework provides for a chapter on Judiciary and Fundamental Rights, under which the political issues are to be addressed. This permits progress in crucial areas to be kept under close scrutiny.

Current negotiating frameworks provide for accession negotiations to be suspended in case of serious and persistent breach of the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law. Increased attention to political reforms will improve the quality of the accession negotiations and stimulate the necessary reforms in the candidate countries.

Henceforth, the results of dialogue with the countries on their economic reform will also be fed into the negotiation process. The Commission will prepare the dialogue with Member States and report back to them in the relevant Council bodies. This dialogue focuses on the fulfilment of economic criteria and on convergence with the EU economies. It is essential that, before accession, acceding countries are functioning market economies able to compete on the internal market. Pre-accession assistance will be focused more precisely to help meeting this objective.

4. Croatian road towards the EU membership

A short overview of the last fifteen years would be helpful for better understanding today's relations between EU and Croatia.³⁴

Croatia declared independence on 25 June 1991. This was suspended for three months and confirmed on 8 October 1991 (by Parliament's decision on the abrogation of the state-legal ties with the former SFRY). An armed aggression from Serbia and Yugoslav Peoples Army and rebellion by the local Serbs broke out even before and parts of the country were occupied by the local Serb rebels and Yugoslav People's Army (JNA) resulting in enormous human sufferings and material damage. In May 1992 Croatia was admitted to the United Nations. In May and August 1995, Operations "Flash" and "Storm" enabled Croatian authorities to take control of all occupied territories with the exception of Croatian Danube Region (Eastern Slavonia) which remained under UN protection. Croatia became party to the Dayton/Paris Peace Agreement of December 1995 which recognises the international borders of Bosnia and Herzegovina and confirms the right of all refugees to return to their homes. The Erdut Agreement of November 1995 provided for the peaceful reintegration of Eastern Slavonia into Croatia which was completed in January 1998.

The EU recognised the Republic of Croatia as a sovereign State in January 1992. However, during this most difficult part of its short recent history progress in areas such as democratisation, respect of human rights, including minority rights, and the rule of law, known also as the Copenhagen political criteria was, in the eyes of the EU, insufficient to justify an upgrading of relations of Croatia with the EU.

The parliamentary elections in January 2000 and the election of Stjepan Mesic as President of the Republic in February 2000 marked a turning point in relations between the EU and Croatia. The new Croatian leadership immediately showed determination to entrench democratic values and principles and made rapid and significant progress on the main political outstanding questions, notably the respect of human rights, including minority rights, democratisation of the media, full compliance with the Dayton/Erdut Agreements, cooperation with ICTY and improved relations with neighbouring countries.

The European Union responded swiftly. In May 2000, the Commission adopted a "Feasibility Report"³⁵ proposing the opening of negotiations for a "Stabilisation and Association Agreement (SAA)". Since November 2000 Croatia benefits from the autonomous trade measures granted unilaterally by the European Union to the countries of the Stabilisation and Association Process. The Stabilisation and Association Agreement was initialled on 14 May 2001 and signed on 29 October 2001 at the same time as the Interim Agreement and Declaration on the Political dialogue. The Interim Agreement has been applied provisionally from 1 January 2002 and is in force since 1 March 2002.

The ratification process of the Stabilisation and Association Agreement has been completed later than expected, due to unexpected delays in some countries caused by some bilateral issues. It entered into force on 1 May 2004 and thus became the legal framework for relations with the European Union for the entire period prior to a future accession. It provides a framework for political dialogue and enhanced regional cooperation, promotes the expansion of trade and economic relations between the parties and establishes a basis for Community technical and financial assistance. The institutional framework of the SAA provides a

³⁴ This short overview is largely based on the EC's "Opinion on Croatia's Application for Membership of the EU", COM (2004) 257 final.

³⁵ COM (2000) 311 of 24 May 2000

mechanism for implementation, management and monitoring all areas of relations. Subcommittees will examine questions at technical level. The Stabilisation and Association Committee will provide for discussions at senior officials level and is aimed at finding solutions to problems arising under the SAA. The Stabilisation and Association Council will examine the overall status of and perspective for relations and provides the opportunity to review Croatia's progress in the Stabilisation and Association Process.³⁶

Croatia presented its application for EU membership on 21 February 2003 and in April 2003 the Council asked the Commission to prepare an opinion on this application. On 20 April 2004 the Commission published its Opinion on Croatia's Application for Membership of the European Union. In this Opinion, the Commission concluded that Croatia was a functioning democracy, with stable institutions guaranteeing the rule of law and no major problems regarding the respect of fundamental rights. It was also said that Croatia's cooperation with ICTY had improved significantly in the past months. Nevertheless, it was concluded that Croatia needed to make additional efforts in the field of minority rights, refugee returns, judiciary reform, regional co-operation and the fight against corruption and that Croatia needed to maintain full cooperation with ICTY and take all necessary steps to ensure that the remaining indicted was located and transferred to The Hague.

Croatia was regarded as a functioning market economy which should be able to cope with competitive pressure and market forces within the Union in the medium term, provided that it continues implementing its reform programme to remove remaining weaknesses.³⁷

In the light of these considerations, the Commission recommended that negotiations for accession to the European Union should be opened with Croatia. The European Council of 17 and 18 June 2004 subsequently decided that Croatia was a candidate country.³⁸ The European Council also concluded, under a special heading *Implications of Croatia's status for other countries of the Western Balkans* that the achievement of candidate status by Croatia should be an encouragement to the other countries of the Western Balkans to pursue their reforms.³⁹

The European Council of 16/17 December 2004 decided that accession negotiations would be opened on 17 March 2005 provided that there was full cooperation with the UN International Criminal Tribunal for the former Yugoslavia in The Hague (ICTY).⁴⁰ However, in the

³⁶ Opinion on Croatia's Application for Membership of the EU, p. 6.

³⁷ This is only part of the opinion which is considered important for this paper.

³⁸ 33. The European Council welcomes the Commission Opinion on Croatia's application for EU membership and the recommendation that accession negotiations should be opened. The European Council considered the application on the basis of the Opinion and noted that Croatia meets the political criteria set by the Copenhagen European Council in 1993 and the Stabilisation and Association Process conditionalities established by the Council in 1997. It decided that Croatia is a candidate country for membership and that the accession process should be launched.

³⁹ Par. 39. The European Council emphasises that the achievement of candidate status by Croatia should be an encouragement to the other countries of the Western Balkans to pursue their reforms. It reaffirms its commitment to the full implementation of the Thessaloniki agenda, which makes clear that the future of the Western Balkans rests within the European Union. The advance of the individual countries of the region towards European integration will proceed in parallel with the regional approach, which remains an essential element of EU policy. The European Council urges Croatia to continue to make a strong contribution to the development of closer regional cooperation.

⁴⁰ It invited the Commission to present to the Council a proposal for a framework for negotiations with Croatia, taking full account of the experience of the fifth enlargement. It requested the Council to agree on that framework with a view to opening the accession negotiations on 17 March 2005 provided that there is full cooperation with ICTY.

absence of confirmation of full cooperation from the ICTY Chief Prosecutor Carla del Ponte, the Council on 16 March 2005 decided to postpone the opening of accession negotiations. As an important, positive signal to Croatia, the EU nevertheless adopted a negotiating framework for Croatia so that once the outstanding condition was met, the EU would be ready to start negotiations.

A disappointment of the Croatian public was immense. Croatian citizens felt this decision as unjust and the support for the EU fell to the lowest levels ever, only around 35% of Croatian citizens supported EU membership at that time. The Government responded to the criticism from the ICTY with an Action plan for the full cooperation with the ICTY which, finally, gave positive results.

Following a positive assessment on 3 October 2005 from the ICTY Chief Prosecutor that cooperation was now full, EU-Croatia relations entered a new phase. The very same day the Council decided to open accession negotiations with Croatia.⁴¹ The Council also agreed that less than full cooperation with ICTY at any stage would affect the overall progress of negotiations and could create grounds for their suspension.

At the end of the cumbersome period of trying to start negotiations for a full membership one can conclude that the whole period between the application for membership and the beginning of negotiations was marked with constant struggle of the Croatian authorities to prove their full cooperation with the ICTY. That was the most difficult condition it had to fulfill, not because it did not want to cooperate but because the proof was almost impossible to be proved. Croatia found itself in a very complicated situation because it had to prove its full cooperation with the ICTY with an evidence of a negative fact - that one indictee was out of the reach of the Croatian authorities. It was extremely difficult but finally, the comprehensive Action plan and intensive activities in the field, on the one hand, and daily contacts and cooperation with the ICTY and Chief Prosecutor, on the other hand, led to a positive decision.

The other important characteristic of Croatia's way towards the EU is a consensus of all parliamentary parties that the membership in the European Union is a national priority. A resolution adopted in December 2002 by all political parties in the Croatian parliament defined Croatia's accession to the EU as a strategic national goal and asked the Government to submit an application for EU membership. The cross-party consensus on the political goal of EU membership was also maintained after the change of Government following the November 2003 parliamentary elections. Membership of the European Union and NATO, relations with neighbours, developing economic diplomacy, and changing Croatia's international image are the five priorities of the foreign policy announced by actual Government.

According to the Commission, in 2006 Croatia has continued to make progress in terms of the political, economic and *acquis* criteria and implementation of its Stabilisation and Association Agreement. The main challenge in 2007 will be to build on the progress made, and to accelerate the pace of reforms, notably in the key areas of judicial and public administration reform, the fight against corruption and economic reform. Croatia needs to maintain the momentum towards EU integration through rigorous implementation of its obligations, for

⁴¹ "The Council concluded that Croatia had met the outstanding condition for the start of accession negotiations, and that negotiations should therefore begin as soon as possible." General Affairs Council conclusions, 3 October 2005.

example in the areas of state aid and real estate. Croatia should continue its programme of legislative alignment and further enhance its administrative capacity.

Good neighbourly relations and regional cooperation remain key and priority should be given to finding solutions to outstanding bilateral issues, especially on border demarcation. Minority rights and refugee return will need continued close attention.⁴²

5. Membership negotiations between the Republic of Croatia and the EU

The negotiations between the Republic of Croatia and the EU officially started on 3 October 2005 whereas the real date was 4 October 2005. Due to the last minute uncertainties about the final decision for Turkey the midnight had passed before the negotiations started. The Council decided to „stop the clock” and history will teach future generations that 3 October 2005 Turkey and Croatia have started negotiations.

During the last thirteen months Croatian negotiators had the opportunity to experience how the negotiating principles described in the 2006 Enlargement strategy really work in practice.

Compared with the 2004 enlargement, the overall atmosphere and context in which the accession negotiations of Croatia and Turkey are being conducted have been altered politically, technically and procedurally.

Politically – the negotiations now take place in a different political atmosphere within the EU. The discussion on the future of the Constitutional Treaty, absorption capacity of the EU and future borders of the EU dominate today's political agenda in the EU. On the top of that there is a question of enlargement fatigue and obvious doubts about the quality of negotiations with some of the new member states.

Technically - the volume and substance, i.e. the *acquis communautaire*, evolved over the years. Hence Croatia does not only have to negotiate on the greater volume of legislation but has to do it with increased number of Member States. The methodology and the approach to accession negotiations have become increasingly rigorous, more complex and demanding for both the EU and Croatia.

Procedurally – new procedural mechanisms, some not yet completely defined, apply.

The first stage of the negotiations, the so-called “screening”, started on 20 October 2005 and was successfully concluded on 18 October 2006. It brought together experts from Croatia and from the Commission. On the Croatian side more than 2000 experts were involved in various ways in this exercise which significantly increased the awareness of different parts of Croatian society of what negotiations are about.

The overall quality and dynamics of the screening exercise was satisfactory. It represented an important tool for preparing the substantive negotiations and has proven to be helpful in better understanding the *acquis* and detecting incompatibilities that Croatia needs to overcome before accession. It has also been an opportunity to present to the EU Croatia's achievements and continuous progress in individual chapters of the *acquis*. During the screening process,

⁴² COM (2006) 649

the cooperation with the Commission's services has been fruitful and has provided Croatian experts with an outstanding assistance and support. Croatia has been commended for the professional and sound preparation as well as the high level of dedication, expertise and knowledge of the *acquis* in the screening meetings.

The next phase, preparation of the screening reports and discussion of the screening reports for individual chapters in the Council had been taking somewhat more time than initially envisaged, but this has now changed and the process has gained momentum. Till now 16 screening reports have been presented to the Council (3 are currently being debated in the Council), making up almost half of all the screened chapters. Others are in the pipeline, and in coming months we expect further screening reports.

Croatia had been invited to submit its negotiating positions to the Accession Conference for 7 chapters (Science and Research, Education and Culture, Customs union, Right of establishment and freedom to provide services, Intellectual property law, Economic and monetary policy and Enterprise and industry), and it have submitted all of them.

Very poor record has been registered with opening and provisionally closing the chapters. So far only two easy chapters (Science and Research and Education and Culture) have been opened and provisionally closed at the IGCs in June and December 2006.

The reason for that can also be found in the newly defined mechanism of benchmarks.⁴³ Croatia has so far received benchmarks for the opening of negotiations with respect to 6 chapters - Public procurement, Competition, Social policy and employment, Justice, freedom and security, Free movement of capital and Free movement of goods. Process of discussions on benchmarks in the Council Working group proved to be relatively unstructured. There are no clear guidelines on when, why and how benchmarks should be defined and introduced and how are they to be checked. Because of that the process is slower than it should be. Benchmarks should be a valuable mechanism and a useful tool in guiding Croatia in fulfilling the requirements and conducting comprehensive reform processes. Accordingly, benchmarking could be beneficial in double degree: (i) as an impetus for reforms in Croatia, and (ii) as a proof of Croatia's preparedness for the membership at the end of the negotiating process. However, it is highly important that benchmarks are tailor-made, precise and well substantiated, unencumbered with bilateral considerations which are not part of the *acquis* and set in full conformity with the principle of individual approach.

One can not say that that was the case so far. Special problems occurred in relation to the political criteria. Although Chapter 23 Judiciary and Fundamental Rights, as a new chapter, was constructed to deal, among other things, with the political criteria, some member states expressed the view that political criteria could be dealt with in a horizontal way, through different chapters. Without consensus on that question several chapters can not be opened and the decision is still unknown.

Nevertheless, Croatian Government is already undertaking substantial measures and engaging its administrative capacities with a view to presenting the implementation of benchmarks to

⁴³ It is interesting to note that although the first proposal from the Commission was not including the opening benchmarks, the final Negotiating Framework did. "... , the Council, acting by unanimity on a proposal by the Commission, will lay down benchmarks for the provisional closure and, where appropriate, for the opening of each chapter." See par. 26 of the Negotiating framework for Croatia.

the EU. In that regard, the expertise and assistance of the European Commission and cooperation on an issue-specific basis with EU Member States is very important.

The opinion of the Commission is that the Accession negotiations with Croatia have started well. Croatia has taken important steps following the screening exercise in many fields to adapt its legislation. It is in the process of developing the necessary administrative capacity. Building on this progress, and provided that Croatia addresses the challenges discussed above, negotiations can be expected to continue at a good pace.⁴⁴

IV. Conclusions

When one looks through all the facts and developments that were presented and briefly analysed in this work, it is really difficult to understand why would anyone put in question the European perspective of the Balkans countries. A history of the EU policies towards Balkans and Balkan countries since 1996 is the history of ever stronger commitment of the EU towards the Balkan countries and of ever stronger instruments used to underpin this commitment. And *vice versa*, it is a history of ever stronger commitment of more and more Balkan countries to democracy, the rule of law, human and minority rights, or simply, to the Copenhagen criteria which are at the heart of the European project. The EU enlargement brings political, economic and cultural benefits to the EU and to the acceding countries respectively. In general, it is a “positive-sum” game. Recent reports and studies indicate that the last enlargement has been very successful. In the last fifteen years, Central European countries have transformed their economies, public sectors, societies, ensuring increased prosperity for their citizens in a secure framework. The magnetism of EU membership has brought long-term stability and long lost unity to the European continent. Is all that going to be jeopardized because of the future accession of Croatia, Macedonia, Albania, Bosnia and Herzegovina, Montenegro, Serbia and, how knows, may be Kosovo? No, of course not.

So, the question concerning the accession of the Balkan countries into the EU is not “if”, the question is “when”.

The example of Croatia shows that country progresses towards the final goal in accordance with its own merits, with progress it makes in meeting the well known criteria and conditions for membership. This is not to say that some unexpected problems and (un)justified obstacles causing delays may not occur. They may and they do. The reasons for that are different. It is enough to remind that there are 25, soon 27, countries with all their differences and specificities that have to agree with every word in the negotiating positions for candidate countries. However, there is a strong political commitment of the EU towards Balkan countries and their European future. History proves that EU fulfills its commitments.

Currently there is a real problem of institutional lacuna and an overall enlargement fatigue, but it is not insurmountable. Legal problems can and will be solved. There are different ways to do that. After all, in all previous enlargements before this last wave, institutional questions

⁴⁴ Ibidem.

were dealt with in negotiations and Accession Treaties. This could be the case with Croatia as well, and with other countries afterwards.⁴⁵

Public opinion in the EU is another problem, but when one looks to figures, they are not that bad. Croatian accession is supported by the majority of population in all the EU member states except in Luxembourg, where it is only few percentages below 50%. In a few years time European citizens will learn more about Croatia and will become more favourable towards its accession.

The real “problem” lies within the candidate and potential candidate countries. There is an enormous work to be done. There are years of intensive and extensive efforts to be invested in shaping and implementing changes to our societies and not everyone in our societies will be happy with these changes. The citizens must know what are the costs and the benefits of that process. Based on previous enlargements there is no doubt that in economical terms one could rightly claim that the benefits of enlargement outweigh the costs. Speaking in political terms the ratio is certainly even more positive.

“Rigorous” and “strict” are frequently repeated new key words in the Enlargement Strategy 2006. One may not like them but they are our reality.

Croatia has invested a lot of efforts into its European project and has progressed accordingly. Hence, from the Croatia’s point of view the European perspective of the Balkan countries is very real and very demanding at the same time. Based on that, the best recommendation for other countries from the region is: Follow Croatia, learn from its mistakes and achievements because Croatia’s past is your future.

⁴⁵ Interestingly enough, Commissioner O.Rehn, only two days after the June 2005 European Council said: “The negotiations with Croatia also provided a “fallback” position concerning the limitations of the Nice Treaty, in which the size of the Commission was not specified. The accession treaty with Croatia should provide a way to solve the institutional puzzle so that the EU can keep functioning as it continues to enlarge.” EPC S034/05