



Croatia: the closing stages of EU accession

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Croatia has nearly finished the process of joining the EU: if all goes according to plan it will become the EU's 28th Member State on 1 July 2013.

The accession negotiations took just over ten years, encountering problems with a border dispute, corruption, refugee returns and war crimes prosecutions. With Croatia, the European Commission and the Member States were keen to avoid the conditional accession that led to post-accession monitoring of Bulgaria and Romania, and so introduced a detailed new negotiating 'chapter' on judiciary and fundamental rights.

The European Parliament approved Croatia's accession treaty on 1 December 2011. Croatia and all 27 EU Member States will sign it on 9 December. The treaty will then go through each state's domestic ratification processes: Croatia is likely to hold a referendum at the beginning of 2012, but no other Member State (including the UK) is expected to hold a referendum on Croatia's accession. The European Commission will continue to monitor Croatia's progress in certain key areas but the consequences of a negative report are not clear.

The signing of Croatia's accession treaty comes at a time when Croatia has just voted in a new government. In parliamentary elections on 4 December 2011 a centre-left led coalition defeated the centre-right party that had governed Croatia almost continuously since the country's 1991 independence. The new government will have to deal with a bleak economic situation and tackle the corruption that is still a major problem for Croatia.

Croatia may well be the last country to join the EU for some years.

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1 Accession process so far¹

Croatia applied to join the EU in February 2003 and finally completed negotiations in 2011. It is the second of the former Yugoslav states to have reached this stage, after Slovenia.



1.1 From independence to an SAA

Croatia’s 1991 declaration of independence had been followed by several years of war that ended with the 1995 Dayton peace agreement. Initial moves towards EU membership were delayed over EU concerns about three main issues: the authoritarian nature of the rule of Croatia’s President, Franjo Tuđman of the Croatian Democratic Union (HDZ); the right of return for refugees; and insufficient cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY).

After Tuđman’s death in 1999, a coalition led by the Social Democratic Party (SDP – formerly the League of Communists) came to power. The new government’s willingness to cooperate with international agencies on refugee returns and suspected war criminals greatly improved

¹ Main sources: [Europa World Plus](#); [FCO country profile](#); [European Commission enlargement pages](#)

the prospects for EU integration, and in October 2001 Croatia signed a Stabilisation and Association Agreement (SAA) with the EU.

1.2 Formal accession negotiations

In February 2003 Croatia applied to start the formal accession process, a request accepted in June 2004 after a satisfactory report from the ICTY on Croatia's cooperation. By now the HDZ was back in power, under Prime Minister Ivo Sanader, although with a centrist President. Accession talks were officially opened in October 2005.

Generally positive progress reports from the European Commission led to suggestions from the European Commission President that Croatia's accession talks might conclude in 2009, coinciding with Croatia's admission to NATO. However, a border dispute with Slovenia and the issue of state corruption slowed progress. Then Sanader, who had resigned as Prime Minister in July 2009, was arrested in Austria in December 2010 and extradited on corruption charges. His successor, Jadranka Kosor, signed an arbitration agreement with the Prime Minister of Slovenia in November 2009 to resolve the border dispute.

The process of opening and closing negotiating chapters then proceeded relatively smoothly.

1.3 Last hurdle: judiciary and fundamental rights

The last major hurdle was the new chapter 23 on judiciary and fundamental rights, introduced after Bulgaria and Romania's accession.

Chapter 23 had 31 'benchmarks' (compared with between three and six for most other chapters) covering judicial transparency, impartiality and efficiency; tackling corruption; protecting minority rights; resolving refugee return issues; protection of human rights; and full cooperation with the ICTY.² The European Commission and member states were particularly concerned that Croatia show tangible and sustainable reforms in these areas, to protect the credibility of the EU's enlargement process in the face of other political pressures to make progress.³ Croatia was the first country to have to meet these new requirements.

Despite much progress, the European Commission still has significant concerns on these issues. An interim report on chapter 23 in March 2011 highlighted particular areas where more work was needed: the appointment of judges and state prosecutors, impunity for domestic war crimes and getting court rulings on high-level corruption and public procurement cases.⁴ Croatia's October 2011 progress report again noted substantial progress but still called for "constant attention" on judicial reform, the issue of impunity to be "thoroughly addressed", further development of handling corruption cases effectively, and further improvement in protecting fundamental rights.⁵

1.4 Closing negotiations and signing the treaty

In June 2011 the European Commission recommended that the last four negotiating chapters – including chapter 23 on judiciary and fundamental rights – should be closed, but

² See [European Scrutiny Committee, 1st Report, 21 September 2010, HC 428-I 2010-12, para 65.15](#)

³ European Commission, [Interim report from the Commission to the Council and the European Parliament on reforms in Croatia in the field of Judiciary and Fundamental Rights \(Negotiation Chapter 23\)](#), COM(2011) 110, 2 March 2011, p2

⁴ European Commission, [Interim report from the Commission to the Council and the European Parliament on reforms in Croatia in the field of Judiciary and Fundamental Rights \(Negotiation Chapter 23\)](#), COM(2011) 110, 2 March 2011

⁵ European Commission, [Croatia 2011 Progress Report](#), SEC(2011) 1200 final, 12 October 2011, pp45-53

proposed a two-year delay before Croatia actually joins the EU. The chapters were formally closed on 12 July 2011, and the proposed date for Croatia's accession to the EU is 1 July 2013.

The European Parliament approved [Croatia's accession treaty](#)⁶ on 1 December 2011. Croatia and all 27 EU Member States will sign it on 9 December in the margins of the European Council meeting. The treaty will then go through each state's domestic ratification processes.

2 Final stage: ratification

For any EU accession treaty to take effect, it has to be ratified by the accession state as well as by each of the existing EU Member States, according to their own domestic ratification processes.

There are several issues that complicate the ratification of Croatia's accession treaty. One is that the EU will continue monitoring Croatia even after the accession treaty has been signed. Another is that Croatia will hold a referendum. Ratification in the UK will require an Act of Parliament, but not a referendum. A further issue is that the EU has agreed to make other amendments to the EU Treaties at the time of the next accession treaty that have nothing to do with Croatia's accession.

2.1 Monitoring will continue until accession

Croatia's accession treaty says that it will enter into force on 1 July 2013 as long as Croatia and each EU Member State has ratified it. But it adds that during the two years between signing the treaty and accession the European Commission will continue to monitor and report on Croatia's implementation of its commitments.⁷ It is clear that Croatia is expected to do more work to embed its recent reforms and to implement any outstanding reform requirements.

The treaty mentions certain commitments in particular:

1. To continue to ensure effective implementation of its Judicial Reform Strategy and Action Plan.
2. To continue to strengthen the independence, accountability, impartiality and professionalism of the judiciary.
3. To continue to improve the efficiency of the judiciary.
4. To continue to improve the handling of domestic war crimes cases.
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.
6. To continue to improve its track record of strengthened prevention measures in the fight against corruption and conflict of interest.

⁶ [Accession Treaty: Treaty concerning the accession of the Republic of Croatia](#), 14409/11, 7 November 2011

⁷ [Act concerning the conditions of accession of the Republic of Croatia and the adjustments to the Treaty on European Union, the Treaty on the Functioning of the European Union and the Treaty Establishing the European Atomic Energy Community](#), 14409/11, 7 November 2011. See also European Council, [Conclusions – 23/24 June 2011](#), EUCO 23/1/11, REV 1; CO EUR 14; CONCL 4, 29 September 2011

7. To continue to strengthen the protection of minorities, including through effective implementation of the Constitutional Act on the Rights of National Minorities (CARNM).
8. To continue to address outstanding refugee return issues.
9. To continue to improve the protection of human rights.
10. To continue to cooperate fully with the International Criminal Tribunal for the former Yugoslavia.⁸

There are also specific requirements for Croatia to restructure its shipbuilding industry⁹ and steel sector.¹⁰

The implications of an unfavourable report on Croatia during this two-year period are not clear. Some Member States would like to be able to delay the 2013 accession date, or cancel it altogether, if problems are identified. But there is no explicit mention in the treaty of allowing a delay.¹¹ It simply allows the Council to “take all appropriate measures”:

The Council, acting by qualified majority on a proposal from the Commission, may take all appropriate measures if issues of concern are identified during the monitoring process. The measures shall be maintained no longer than strictly necessary and, in any case, shall be lifted by the Council, acting in accordance with the same procedure, when the relevant issues of concern have been effectively addressed.¹²

Unlike Bulgaria and Romania, monitoring will not continue after accession, but there are various “safeguard” and transitional provisions in the treaty which can apply for several years after accession.¹³

2.2 Croatia’s referendum

Croatia has decided to hold a referendum on the accession treaty. This is not a requirement under the constitution of Croatia, but both the House of Representatives and the President of the Republic have the power to call referendums in certain circumstances.¹⁴

The referendum will probably be held within a couple of months of signing the accession treaty. Recent opinion polls suggest that it is likely to be passed.¹⁵

No EU Member State is expected to hold a referendum on Croatia's accession.

⁸ [Act concerning the conditions of accession of the Republic of Croatia and the adjustments to the Treaty on European Union, the Treaty on the Functioning of the European Union and the Treaty Establishing the European Atomic Energy Community](#), 14409/11, 7 November 2011, Annex VII

⁹ *Ibid* Annex VIII

¹⁰ *Ibid* Annex IX

¹¹ “Dobrodošli na Hrvatska/A warm EU welcome to Croatia”, *Financial Times*, 30 June 2011

¹² [Act concerning the conditions of accession of the Republic of Croatia and the adjustments to the Treaty on European Union, the Treaty on the Functioning of the European Union and the Treaty Establishing the European Atomic Energy Community](#), 14409/11, 7 November 2011, Article 36

¹³ See European Commission, [Information on the Results of the EU Accession Negotiations with Croatia](#), November 2011. This document lists the transitional provisions for each negotiating chapter, and explains about the three safeguard clauses.

¹⁴ [Constitution of the Republic of Croatia](#), Art. 87

¹⁵ See for example “[Croatia tests water for EU referendum](#)”, *Euractiv* 27 July 2011; figures from opinion polls conducted by Ipsos Puls for Nova TV, CRO Demoskop, Henda for HRT, Mediana Fides for Jutanji List, collated at “[Next Croatian referendum](#)”, *Wikipedia* [accessed 7 December 2011]

2.3 Ratification in the UK

Croatia's accession treaty will have to be approved by an Act of Parliament in the UK under the *European Union Act 2011*. David Lidington, the Minister for Europe, said in a debate on Croatia's accession on 22 November 2011 that "It seems to me that Croatia knows that it must address thoroughly all the concerns of the member states if it is to secure that full ratification."¹⁶

Accession treaties do not in themselves trigger a UK referendum under the 2011 Act.¹⁷

The UK has long been supportive of EU enlargement.¹⁸ However, it shares the European Commission's concerns about ensuring that Croatia is not admitted before it has a track record of implementing reforms.¹⁹ The UK currently provides nearly £500,000 a year in bilateral assistance to Croatia, "carefully targeted in particular on some of the judicial and rule-of-law reforms where outstanding work is still needed".²⁰ This is in addition to the EU's pre-accession assistance to Croatia.

A particular concern for the UK is the impact of EU enlargement on the domestic labour market. Under the Croatian accession treaty, as with the last two EU accession treaties, there will be a seven-year transitional period during which the UK can choose whether or not to allow Croatians to work freely in the UK.²¹

2.4 Protocol amending the EU treaties

Croatia's accession treaty provided an opportunity to amend the EU treaties to accommodate the concerns of the Czech Republic and of Ireland over their ratification of the Treaty of Lisbon. The EU agreed that this would be done at the time of the next accession treaty.

The EU has agreed to allow the Czech Republic to join the UK and Poland's protocol to the EU Charter of Fundamental Rights, giving it the same opt-outs. Political commitment to this was part of the negotiations over the Czech President Václav Klaus signing the Lisbon Treaty in 2009.²² Member States agreed that this would happen at the time of the next accession treaty.²³

Ireland has secured guarantees that it can continue to operate its own tax policy, and on Irish authority over issues including neutrality, the right to life, family and education. As with the Czech Republic, these concessions were also agreed as part of the Lisbon Treaty negotiations in 2009, for inclusion in the next accession treaty.²⁴

¹⁶ [HC Deb 22 November 2011 c239](#)

¹⁷ See Oonagh Gay and Vaughne Miller, "European Union Bill: HC Bill 106 of 2010-11", House of Commons Library Research Paper 10/79, 2 December 2010, p36

¹⁸ See for example [HC Deb 22 November 2011 c233 ff](#)

¹⁹ See for example [House of Commons European Scrutiny Committee, Thirty-fourth Report, HC 428-xxx 2010-12, 22 June 2011, ch. 18](#)

²⁰ [HC Deb 22 November 2011 c241](#)

²¹ [Act concerning the conditions of accession of the Republic of Croatia and the adjustments to the Treaty on European Union, the Treaty on the Functioning of the European Union and the Treaty Establishing the European Atomic Energy Community, 14409/11, 7 November 2011, Annex V part 2, 'Free Movement of Persons'](#)

²² See Vaughne Miller, "[The Lisbon Treaty: ratification by the Czech Republic](#)", Commons Library Standard Note 5214, 9 November 2009

²³ See [Presidency Conclusions of the Brussels European Council \(29/30 October 2009\)](#), 15265/1/09 REV 1, 1 December 2009, Article 2 para 2

²⁴ "Ireland asks EU to amend treaties", *Financial Times*, 16 September 2011. See also "Croatia to sign accession treaty 'in early December'", *Euractiv*, 15 September 2011

These changes are not part of the accession treaty because the procedures for the adoption of these protocols have a different treaty base (Article 48 TEU) from the treaty base for the accession treaty (Article 49 TEU), meaning that they could not legally be incorporated into a single act.²⁵ However, they were to be contained in a protocol to be ratified in parallel with Croatia's accession treaty.

Croatia's accession treaty does not contain any provisions relating to the eurozone crisis.

3 Outlook

3.1 New centre-left government

In Croatia's parliamentary elections on 4 December 2011, a centre-left led coalition defeated the centre-right party that had governed the country almost continuously since the country's 1991 independence.

The SDP-led 'Kukuriku' coalition won 80 of the 151 seats in Croatia's parliament, the Sabor. The new Prime Minister will be the SDP's president, Zoran Milanovic. The other parties in the coalition are the Pensioners Party, the Croatian Peoples Party and a regional party, the Istrian democratic Assembly.²⁶

The HDZ and its coalition partners the Croatian Civic Party, HGS, and the Democratic Centre, DC, gained 47 seats.

The election was preceded by months of anti-government demonstrations. The demonstrations had largely been about official corruption, with the then governing party, the CDU, being a particular target.

Both the SDP and the HDZ are in favour of EU accession.

3.2 Bleak economic prospects²⁷

The eurozone crisis has certainly taken the sheen off the enlargement project generally; whether it has diminished the attractiveness of EU membership for Croatia is more debatable. Opinion polls in recent months show a fairly consistent proportion of people in favour of membership (56%-62%), a figure that has, if anything, risen since the onset of the crisis.²⁸

Clearly, aspiration to EU membership is not motivated by economic factors alone; but in order to reap the trade and investment benefits in full, Croatia will have to enact further reforms: although 62% of its exports go to the EU, growth has been among the slowest in eastern Europe because of a narrow export base and weak competitiveness. The country also suffers from high unemployment (13.7%), weak growth prospects, and debt difficulties of its own: debt owed to foreign creditors exceeded 100% GDP in 2010.²⁹

²⁵ [European Parliament resolution of 1 December 2011 on the application of Croatia to become a member of the European Union \(2011/2191\(INI\)\)](#)

²⁶ "Croatia's Kukuriku Coalition Ousts HDZ", *Balkan Insight*, 5 December 2011

²⁷ By Gavin Thompson, Economic Policy and Statistics Section

²⁸ Figures from opinion polls conducted by Ipsos Puls for Nova TV, CRO Demoskop, Henda for HRT, Mediana Fides for Jutanji List, collated at "[Next Croatian referendum](#)", *Wikipedia* [accessed 7 December 2011]

²⁹ [IMF \(2011\) Article IV Assessment – Croatia](#)

3.3 Continuing issues over corruption

Although the HDZ government had started to take meaningful steps against corruption after Ivo Sanader's resignation, corruption remains a serious problem in Croatia. It was a major issue in the December 2011 elections, and popular anger over corruption was evident in the protests that preceded the elections. Both main parties pledged to fight corruption in their election campaigns.

Sanader's trial on charges of corruption has begun in Zagreb. The former prime minister pleaded not guilty and dismissed the charges against him as a "fabrication". He is alleged to have received over £400,000 for arranging a loan from the Austrian Hypo Bank in 1995.³⁰

Croatia's office for fighting organised crime, USKOK, has reportedly begun an investigation into the HDZ party. The allegations concern money collected for parliamentary elections campaigns during the 2003 and 2007 elections and for the presidential election campaign in 2005, when the HDZ's current leader, Jadranka Kosor, was its presidential candidate.³¹

3.4 Last accession for a decade?

No other country is in line for joining the EU in the next few years.

Perhaps the closest candidate country is Iceland, which because it is a member of the European Economic Area already complies with a large part of the EU's laws and policies. But fishing rights, compensation for debts incurred during the financial crisis, and waning popular support for accession in Iceland threaten progress on negotiations.

Turkey's accession negotiations have largely ground to a halt, with progress blocked by the Cyprus issue.

The other countries of the Western Balkans are still far from ready to meet the requirements for joining the EU.

³⁰ ["Croatia ex-PM Ivo Sanader denies corruption at trial"](#), *BBC news online*, 3 November 2011

³¹ ["HDZ Probed Over Campaign Money Ahead of Elections"](#), 27 October 2011