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Croatia's accession to the European Union : reflections in the light of assumptions relevant to international organizations

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CROATIA'S ACCESSION TO THE EUROPEAN UNION – REFLECTIONS IN THE LIGHT OF ASSUMPTIONS RELEVANT TO INTERNATIONAL ORGANIZATIONS[1]

ABSTRACT

Discussions on the methods of ratification did not undermine the existing policy on the admission of Croatia to the EU, and were merely the result of internal political disputes. Supporters of a position on the matter other than the government's positions emphasized that they are advocates of Croatia's accession to the EU, but the admission of a new country to the community altered, in their assessment, the strength and position of Poland in the EU and required ratification based of Art. 90 of the Constitution. After the rejection by the Sejm [the lower house of the Polish parliament] of the Law and Justice [PiS] draft resolution, which provided for the ratification of the accession treaty by a 2/3 majority vote, the government's ratification bill was passed.

Key words

European Union, Croatia, accession, international organisations

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1. By way of introduction – international organisations *in genere*

While analysing a scientifically weighty issue of the subjective aspect of the functioning of international organizations one cannot fail to mention the "organizational revolution"[2] to which they led in the twentieth century. They thus granted themselves the status of subjects of international law and undoubtedly became active and significant participants in international relations, constituting their "integral part."[3] Political transformations were accompanied by parallel legal solutions, causing the separation of the law of international organizations as an independent discipline,[4] and in psychological terms, the strengthening of the belief that "it is difficult to imagine regulating and monitoring the formation of many of today's problems without the existence of an organization."[5]

Therefore, taking as a basis the conviction of the importance and significance of international organizations in the modern world,[6] even though the claim may

[2] The term adopted after: J. Menkes, A. Wasilkowski, *Organizacje międzynarodowe. Wprowadzenie do systemu* [International Organisations. Introduction to the System], Warszawa 2004, pp. 36–56.

[3] M. Lachs, *Współczesne organizacje międzynarodowe i rozwój prawa międzynarodowego* [Modern International Organisations and the Development of International Law], "Państwo i Prawo" [State and Law] 1963, No. 12, p. 827.

[4] Such a view is supported by, to mention a few: N. Blokker, T. Heukels, *Historical and Origins and Institutional Challenges* [in:] *The European Union after Amsterdam. A Legal Analysis*, T. Heukels, N. Blokker, M. Brus (eds.), London–Boston 1998, p. 27.

[5] M. Lachs, op.cit., p. 827.

[6] To illustrate the above statement it suffice to cite the abundant literature, both in Polish and foreign languages. See for example: A. Górbiel, *International Organizations and Outer Space Activities*, Łódź 1984; T. Grzeszczyk, *Organizacje międzynarodowe* [International Organisations], Warszawa 1997; Z. Doliwa-Klepacki, *Encyklopedia organizacji międzynarodowych* [Encyclopaedia of International Organizations], Warszawa 1999; T. Łoś-Nowak, *Organizacje w stosunkach międzynarodowych. Istota. Mechanizmy działania. Zasięg* [Organisations in International Relations. Essence. Mechanisms. Scope], Wrocław 1999; E. Latoszek, M. Proczek, *Organizacje międzynarodowe. Założenia, cele, działalność* [International Organisations. Assumptions, Aims, Acticity], Warszawa 2001; P. Czubik, B. Kuźniak, *Organizacje międzynarodowe* [International Organisations], Warszawa 2002; J. Menkes, A. Wasilkowski, *Organizacje międzynarodowe. Wprowadzenie do systemu* [International Organisations. Introduction to the System], Warszawa 2004; Z.M. Klepacki, *The Organs of International Organizations*, Warszawa 1978; Ch. Shanks, H.K. Jacobson, J.H. Kaplan, *Interia and Change in the Constellation of International Governmental Organizations*, "I.O." 1996, No. 4, Vol. 50, pp. 593–627; P. Diehl, J. Reifschneider, P. Hensel, *United Nations Intervention and Recurring Conflict*, "I.O." 1996, No. 4, Vol. 50, pp. 683–700; A. Qureshi, *The World Trade Organization: Implementing*

be accused of truism, one need to share the view that countries have accepted the rise in the role of international organizations, increasingly treating them as an important factor in streamlining and accelerating, and in some cases even allowing, the creation of international legal standards.[7]

Therefore, countries, while ceasing to some extent to compete with international organizations which have the status of separate legal entities in relation to them, have started to join them, which was (and is) prompted by the standards contained in the framework of the so-called accession clauses constituting part of the statutes of international organizations, such as multilateral international agreements instituting them. It is a matter of fact that countries deciding to transfer part of their powers to international organizations want not only (still as sovereign entities) to have influence on constitutional, legal, or any other issues concerning their operation, but equally, on what the composition of the title of the organization will be.

In the doctrine of the object, there is a fixed and uncontroversial view showing different types of international organizations on the basis that their nature, evaluated *prima facie* in terms of membership thereof. There is indeed a talk of closed organizations, conditionally open, and open (or, clarifying the latter context, unconditionally open as joining them is not restricted by a need to meet any conditions).

An important fact from the point of view of the subject of the outlined considerations is that, as mentioned, international organizations which countries join, have the status of government organizations. These of a non-governmental nature remain not only outside the scope of this analysis, but, above all, outside the public international law.[8] Speaking of the law of the former, one need to signal the differentiation of the acts of law that are a manifestation of law (statutes of the

International Trade Norm, Manchester 1998; P. Katzenstein, R. Keohane, S. Krasner, *International Organization and the Study of World Politics*, "I.O." 1998, No. 4, Vol. 52, pp. 645–685; P. Taylor, *International Organization in the Modern World: the Regional and the Global Process*, London 1999; L. Ziring, R. Riggs, J. Plano, *The United Nations: International Organization and World Politics*, South Melbourne 2000; R. Steinberg, *In the Shadow of Law or Power? Consensus – Based Bargaining and Outcomes in the GATT/WTO*, "I.O." 2002, No. 2, Vol. 56, pp. 297–337.

[7] A. Kowalski, *Rola organizacji wyspecjalizowanych w tworzeniu norm prawnomiędzynarodowych* [The Role of Organisations Specialising in Creating Legal-international Norms], "Sprawy Międzynarodowe" [International Matters] 1976, No. 5, p. 123.

[8] It results from the fact that they are not subjects of this law and often have the status of foundations, associations, etc. They are subject to legislation of particular countries.

organizations) and the application of law (such as, an organization's resolution on the adoption of a new member state).

These observations should be treated as having a *strictly* introductory nature. As noted at the beginning, the established research goal of this study will be to present the membership in international organizations; however, the considerations will be narrowed down to probably the currently potentially fastest growing international organization, which the European Union can be regarded as. The analyses will be carried out according to the *a maiori ad minus* scheme, therefore, after outlining EU's legal nature as an international organization open conditionally (taking into account the status of the Accession Treaty as a particular type of international agreements), the European Union policy on Croatia will be presented in relation to the planned expansion of its structures by this country and the stages of procedures in this matter.

2. Legal status of the European Union as an organization open conditionally

Not going into the analysis of the legal nature of the European Union, one can settle on a finding that the Treaty of Lisbon, signed on 13 December 2007,[9] giving it the *expressis verbis* status of an international organization, ended the on-going discussions on the matter.[10] This allows to base considerations of membership in its structures on assumptions specific to international organizations, without seeking to further justify this treatment.[11]

Therefore, in accordance with the above, the European Union falls into classifications assigned to conditionally open international organizations. This results from the analysis of the provisions of the Treaty of Lisbon, as well as the, previously in force, original version of the Maastricht Treaty of 7 February 1992.[12]

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[9] *OJ (EU) C 115/31*, 09.05.2008.

[10] See: E. Cała-Wacinkiewicz, *Charakter prawny Unii Europejskiej* [Legal Character of the European Union], Warszawa 2007.

[11] This statement only at first glance seems to lack a deeper context. We must remember, though, that in the subject doctrine we could encounter views (before the entry into force of the Treaty of Lisbon) deny the Union an organization status. Those who wanted to treat it as, e.g. a state, or an entity of a confederation type had to create additional categories to explain how to deal with the countries of the European Union.

[12] *OJ (EU) C 191*, 29.07.1992.

In accordance with Art. 49 of the new Treaty on European Union, which is part of the Lisbon Treaty, any European state which respects values (respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of minorities) and promises to support them may apply for membership in the Union. It notifies the European Parliament and national parliaments of this application. The Applicant State addresses its application to the Council, which acts unanimously after consulting the Commission and after receiving the assent of the European Parliament, granted by a majority vote of its members. The criteria agreed by the European Council are taken into account.

It should be noted at this point, which is important for countries that started to apply for admission to the European Union prior to the entry into force of the Treaty of Lisbon, that the original version of the cited Art. 49 contained in the former Treaty of Maastricht did not differ significantly from the cited one. This allowed for not interfering with the accession procedures by radical changes in the legislation. All the more, that the modification of provisions applied only to the requirement to inform the European Parliament and national parliaments of the accession application made by a state.

The analysis of the cited provisions shows, though in the simplest terms as resulting from the analysis of the Treaty matter[13] only, only those European countries which are based on the values set out in Art. 2 of the new European Union Treaty may belong to the European Union. The doctrine of the subject, in addition to those provisions, puts additional pressure on the conclusions of the Copenhagen European Council of 1993. This is where material prerequisites for applying for membership in the European Union result from, namely:

- Having the status of a country under international law, namely, of a European country;
- Having the status of a democratic state of the rule of law that respects the specific values;
- Adoption of the *acquis communautaire*,[14] in reference to which, at the time of negotiations, a review of the legislation of a candidate state (i.e. Screening) is carried out, which will be discussed later.

[13] M.M. Kenig-Witkowska rightly points to the fact that these regulations are economical in matters relating to the admission of new members. See this Author: *Prawo instytucjonalne Unii Europejskiej* [Institutional Law of the European Union], M.M. Kenig-Witkowska (ed.), Warszawa 2004, p. 45.

[14] Based on: Ibidem, p. 46.

It is also worth pointing out that the Treaty of Lisbon, earlier Treaty of Maastricht, being the Statute of the European Union, is in this sense an act of law. Its standards are therefore binding, determining thus the subjective scope of the functioning of the European Union. As already mentioned, for the countries affiliated with it, the granting of the status of a Member State of the European Union is an important matter (not only in a legal aspect, but also a political one). Hence, not only EU bodies, but national parliaments as well, are involved in the accession process. It also results in the fact that countries applying for membership must submit to the revision of legislation, which will be discussed on the example of Croatia.

3. Accession treaty as a specific type of international agreements

The acts of law, as mentioned above, are correlated with those acts of law that are executions of the statutory content. These include, among others, accession treaties,[15] which are multilateral international agreements under which a state joins an international organization.

This is confirmed by the provisions of Art. 49 of the new Treaty on European Union, according to which the conditions of admission and the consequent adjustments to the Treaties constituting the basis for the Union are the subject of an agreement between the Member States and the State applying for membership. This agreement is subject to ratification by all the contracting States in accordance with their respective constitutional requirements.

The purpose of the accession agreement will therefore not only be the establishment of the state's membership in an international organization, but also determining the conditions of the accession[16] and the changes that it entails (even in the structure of organs, the method of voting, the structure of the budget, etc.).

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[15] For this subject see: J. Barcz, *Prawne aspekty procesu rozszerzenia Unii Europejskiej, Traktat akcesyjny, Prawo Unii Europejskiej. Zagadnienia systemowe* [Legal Aspects of the EU Enlargement Process, Accession Treaty, European Union Law], J. Barcz (ed.), Warszawa 2003.

[16] The accession assumes "a state filing a formal application for membership in the organization, or the organization issuing an invitation for the state to join". See: J. Barcik, A. Wentkowska, *Prawo Unii Europejskiej z uwzględnieniem Traktatu z Lizbony* [The Law of the European Union Including the Treaty of Lisbon], Warszawa 2008, p. 13.

From the point of view of the subjective aspect of the organization's functioning, these agreements are one of the most important ones (if not the most important), because under these agreements the new state (a candidate state) is granted the rights and obligations arising from the membership of a particular organization and assigns a part of their competence to it. This entitles it to treat them as a special type of international agreements, whose weight and importance from the point of view of, for instance, the accession of Croatia to the European Union, will be discussed further below.

4. Determinants of EU policy towards Croatia

Contemporary geopolitical relations system in South-Eastern Europe is a consequence of the events that have been taking place in this part of the continent since the early nineties of the twentieth century. The decisions of the Croatian and Slovenian parliaments to declare independence and taking steps towards autonomy was the beginning of dismantling of the Socialist Federal Republic of Yugoslavia[17] and resulted in the creation, on the ruins of the Yugoslav federation, of presently sovereign states (Bosnia and Herzegovina, Croatia, Montenegro, the Former Yugoslav Republic of Macedonia, Serbia, Slovenia and Kosovo within the meaning of UN Security Council Resolution 1244 of 10 June 1999). The circumstances surrounding the process of disintegration of the Yugoslav federation related to several years of armed conflict and ethnic tensions continuing over the years required the international community to get involved and make efforts to strengthen security and stability in the region.

[17] After 1945, Yugoslavia was a federal state composed of six republics: Serbia, Croatia, Slovenia, Macedonia, Montenegro and Bosnia and Herzegovina, and two autonomous provinces. In the years 1945–1991/1992 it existed in three constitutional forms – Democratic Federal Yugoslavia, Federal Republic of Yugoslavia and the Socialist Federal Republic of Yugoslavia. The state system of the republics was governed by Yugoslav constitutions (from the years 1946, 1953, 1963 and 1974) and republican constitutions. See: E. Mizerski, *Jugosłowiański system przedstawicielski* 1918–1990 [Yugoslav Representation System 1918–1990], Toruń 1999, pp. 64–143; J. Wojnicki, *Przeobrażenia ustrojowe państw postjugosłowiańskich (1990–2003)* [Structural Transformations of Post-Yugoslav Countries (1990–2003)], Pułtusk 2003, pp. 12–20; M.J. Zacharias, *Komunizm. Federacja. Nacjonalizmy. System władzy w Jugosławii 1943–1991. Powstanie – przekształcenia – rozkład*, [Communism. Federation. Nationalisms. The System of Power in Yugoslavia 1943–1991. Establishment – Transformations – Distribution] Warszawa 2004, p. 88 et seq.

The organization engaged in the area of the former Yugoslavia was the European Union.[18] Abstracting from evaluating the effectiveness of its efforts, especially in the early stages of the Yugoslav conflict, the organization's involvement was an important element of stability in the region. It should be stressed though that the EU's policy crystallized gradually, evolving under the influence of events in the former Yugoslavia. Determined by the following failures of international initiatives in the post-Yugoslav area,[19] EU activity within the time took the form of a multi-sector policy covering activities of a political, economic and military nature. The offer of support addressed to the countries of the area of the former Yugoslavia consisted of different types of instruments, including the prospect of integration perceived as a stimulating factor for the countries in the region to introduce the necessary and required reforms. The requirements set by the EU for all the countries were equal and only on their determination and will for cooperation did the rate of institutionalization of relations and, as a result, the pace of integration with the EU depend.

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[18] See: Ł. Bartkowiak, *Unia Europejska wobec Bałkanów Zachodnich i Turcji*. [European Union on the Western Balkans and Turkey], "Przegląd Zachodni" [Western Review] 2006, No. 4; A. Majchrzak, *Relacje Unii Europejskiej z państwami Bałkanów Zachodnich*. [EU Nations Relations with the Countries of the Western Balkans], "Zeszyty Naukowe AON" [AON Scientific Papers] 2012, No. 3, pp. 192–205; R. Zięba, *Unia Europejska jako aktor stosunków międzynarodowych* [European Union as an Actor of International Relations], Warszawa 2003, pp. 165–179.

[19] In Polish literature, the countries established as a result of the dissolution of the Yugoslav federation are most commonly called: after-Yugoslav or post-Yugoslav countries. Parallel to these there operate terms such as: countries of the old Yugoslavia or countries of the former Yugoslavia. As a result of Poland's accession to the EU and joining in the mechanisms of the EU's policy towards this part of the continent another notion became widespread: the Western Balkans. See: Prof. E. Bujwid-Kurek, *Państwa pojugosłowiańskie. Szkice politologiczne* [Post-Yugoslav Countries. Political Schetches], Kraków 2008; N. Lubik-Reczek, *Państwa postjugosłowiańskie wobec członkostwa w Unii Europejskiej i NATO* [Post-Yugoslav Countries on the Membership in the European Union and NATO], Toruń 2011; J. Wojnicki, *Przeobrażenia ustrojowe państw postjugosłowiańskich 1990–2003* [System Transformations of Post-Yugoslav Countires 1990–2003], Pułtusk 2003; A. Koseski, *W bałkańskim tyglu* [In the Balkan Melting Pot], Pułtusk 2002, p. 5; J. Wojnicki, *Proces instytucjonalizacji przemian ustrojowych w państwach postjugosłowiańskich* [The Institutionalisation Process of the System Transformations in the Post-Yugoslav Countries], Pułtusk 2007; S. Wojciechowski, *Integracja i dezintegracja Jugosławii na przełomie XX i XXI wieku* [Integration and Disintegration of Yugoslavia at the Turn of the 19th and 20th Centuries], Poznań 2002.

Not without reason was it concluded that only binding the states of the post-Yugoslav area with European cooperation structures will allow for the effective influence on the development of the situation in the region, especially the hindering of ethnic prejudice. It was widely recognized that EU membership will stimulate efforts for peace and security in the post-Yugoslav region, the strengthening of democratic procedures, the rule of law, the promotion and protection of human rights, economic development and regional cooperation. The prospect of accession, while acting as an incentive to implement EU's solutions, was assumed to allow for the stability in the region, which for years was a source of conflict and potential threats.

Today, despite the region's relatively lower level of conflict-proneness compared to the 90s of the twentieth century the fear for the future did not disappear, hence the strenuous international efforts to bind the countries of the post-Yugoslav region with the structures of European cooperation. As illustrated by reality, external pressure is the only effective way to intensify stabilization activities of a political, economic and social nature in the region. At the same time, however, in a part of the region, international pressure (economic, political, and military) is the only stabilizing agent of the situation, and its absence could mean a "return to the past", understood as a re-manifestation of the most negative occurrences motivated by cultural, ethnic and national differences, social issues, conflicting interests of stakeholders inside and outside of the individual countries (e.g, in Bosnia and Herzegovina, Macedonia or Kosovo). There is still a clash of two opposing tendencies in the region, one expressed in integration efforts,[20] and the second, in disintegration ones. While the process of integration is viewed in terms of a civilizational opportunity for the area, a solution to permanently eliminate threats to security and stability, the process of disintegration invokes the most tragic experiences of the Yugoslav conflict.

Ineffectiveness of the international policy towards the conflict in the former Yugoslavia region was determined by the formulation of the new long-term concepts for the area. The expression of the EU's efforts to actively engage in the process of strengthening security and expanding the peace zone in the former Yugoslavia was the adoption in June 1999 of the Stability Pact for South-Eastern

[20] Understood as aspirations for integration into NATO and the EU. It needs to be recalled that integration processes in this area may also have an "integration and expansive" context expressed in the already known concepts of building Greater Serbia and Greater Croatia or Greater Albania. See: N. Lubik-Reczek, *Państwa postjugosłowiańskie…*, op.cit., p. 19.

Europe, and then the initiation of the process of stabilization and association (Stabilization and Association Process – SAP).[21] For the countries of the region, including Croatia, it meant the prospect of accession to the European structures, subject to meeting certain requirements, subject to individual[22] assessment of the progress in the implementation of the conditions of integration.[23] Post-Yugoslav countries, committing to fulfil requirements imposed by the European community, took a series of actions in the following years that were supposed to, in effect, bring them closer to the membership in the EU structures. Taking into account the progress (or lack thereof), the pace of modernization and transformation of the socio-political and economic system in the subsequent years, the EU confirmed its willingness to intensify cooperation, pinpointing at the same time a catalogue of impact instruments and formulating requirements to be met by individual states. The obligation to fulfil the Copenhagen criteria[24] and further conditions formulated in the framework of the Stabilisation and Association Process had the assumption of overcoming the problems haunting

[21] *Bałkany Zachodnie a integracja europejska. Perspektyw i implikacje* [Western Balkans and European Integration], R. Sadowski, J. Musia (eds.), Warszawa 2008, pp. 8–15.

[22] In contrast to the existing regional approach already established in 1996, which related to support for the implementation of peace agreements of Dayton/ Paris and Erdut and the creation of a political stability and economic prosperity zone through: the establishment and maintenance of democracy and the rule of law, respect for minority rights and human rights, boosting economic growth. See: *Communication from the Commission to the Council and the European Parliament on the Stabilization and Association Process for Countries of South-Eastern Europe – Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia, Former Yugoslav Republic of Macedonia and Albania, COM/99/0235*.

[23] J. Wojnicki, *Dylematy integracyjne państw pojugosłowiańskich* [Integrational Dilemmas of Post-Yugoslav Countries] [in:] *Unia Europejska i Polska wobec dylematów integracyjnych na początku XXI wieku* [European Union and Poland on the Integrational Dilemmas at the Beginning of the 21st Century], M. Stolarczyk (ed.), Toruń 2006, pp. 329–330.

[24] The Copenhagen criteria were agreed upon at the European Council meeting in Copenhagen in June 1993. They deal with the stability of democratic institutions, the rule of law, respect for human rights, protection of minorities, functioning of market economy, readiness to meet EU's competition requirements, the ability to fulfil the obligations of membership, the adoption of the legal acquis of the European Union (the so called *acquis communautaire*). See: J. Ruszkowski, E. Górnicz, M. Zurek, *Leksykon integracji europejskiej* [Lexicon of European Integration], Warszawa 2002, p. 154.

the region.[25] The conditionality of the integration was to encourage the countries of the region to actively implement the necessary reforms of the political and economic nature, to take steps to improve relations in the region.

5. The process of Croatia's accession to the European Union – formal and legal and political conditions

According to the progress of negotiations with the EU, the post-Yugoslav countries can be divided into two categories. The first includes the candidate countries (Republic of Croatia, the Former Yugoslav Republic of Macedonia – FYROM, Montenegro, and Republic of Serbia) and the potential candidate countries (Bosnia and Herzegovina, Kosovo within the meaning of UN Security Council Resolution 1244).[26]

Currently, Croatia is closest to EU membership. For years, because of the degree of internal stability, the pace of modernization and democratization, it was assessed as a leader in the region, a country quickly and efficiently meeting the conditions of accession and adapting to EU guidelines. It was first to sign the SAA agreement – already in 2001 (Macedonia in 2004, Montenegro in 2007, Serbia in 2008 and – as the last – Bosnia and Herzegovina in 2008) and on 21 February 2003 it filed an application for accession to the EU.[27] Croatia was granted candidate status by the European Council in Dublin on 18 June 2004 as proof of the fulfilment of the 1993 Copenhagen political criteria of and the

[25] Ł. Bartkowiak, *Unia Europejska wobec Bałkanów Zachodnich i Turcji* [European Union on the Western Balkans and Turkey], "Przegląd Zachodni" [Western Review] 2006, No. 4.

[26] A case of a special nature is Slovenia, which, on grounds of the membership in the former Yugoslavia is associated with the Balkans, but it does not belong to them, either geographically or from a historical and cultural point of view. Slovenia, in contrast to other former Yugoslav republics, was not absorbed into the long-standing conflict, and with the exception of a short 10-day war, soon began the process of political and economic transformation. It gained membership in the EU on the 1st May 2004 as the first of the former republics.

[27] In accordance with Art. 49 of the Treaty on European Union any European state which respects the principles set out in Art. 6, par. 1 of the TEU may apply for membership. Art. 6, par. 1 defines these rules, which include liberty, democracy, respect for human rights and fundamental freedoms and the rule of law, and which are shared by the Member States.

conditions of the Stabilisation and Association Process outlined in 1997 and the Stabilisation and Association Agreement.[28] A year later (3 October 2005) after the cessation of principal obstacles (originally the launch of accession negotiations was planned for March 2005, but for a long time the level of Croatia's cooperation with the International Criminal Tribunal for the former Yugoslavia was regarded unsatisfactory) it was decided to open accession negotiations.[29] The first phase of negotiations (screening) lasted about a year and was formally completed in October 2006. From February 2006, as following reports on the screening were published by the European Commission, the EU Council took decisions to open accession negotiations on individual chapters or conditioned their launch on Croatia's fulfilment of the preconditions. In the negotiation process the experience of previous enlargements of the EU were drawn upon and the whole negotiation matter was divided into 35 chapters. The parties adopted a general principle that the position taken in the area of negotiation could not prejudice the position in other areas, and that nothing could be considered as finally agreed upon until an overall agreement has been established.[30]

The opening of accession negotiations was read as a significant success of Croatia, which, despite the many difficulties accompanying the process of fulfilling the conditions of the EU, consistently sought to implement them, at the same time acting as a role model for other countries in the area. Several

[28] It was concluded that progress in negotiations will be measured by the Copenhagen criteria, taking into account stability of institutions guaranteeing democracy, the rule of law, fundamental rights and protection of minorities, the existence of a functioning market economy and capacity to cope with competitive pressure and market forces within the EU, the ability to assume obligations of the membership, including compliance with the aims of the political union, economic, monetary and administrative capacities to effectively use and implement of EU's legal acquis. With regard to the Stabilisation and Association Process the need for full cooperation with the International Criminal Tribunal for the former Yugoslavia was emphasized, as well as the country's involvement in establishing and maintaining good relations with the neighbouring countries and the development of regional cooperation. In addition, the implementation of obligations under the European Partnership adopted on 13 September 2004 was taken into account. See: M. Łakoma-Micker, *Proces akcesji Republiki Chorwacji do Unii Europejskiej* [The Process of Accession of the Republic of Croatia to the European Union], Wrocław 2011, pp. 57, 143–144.

[29] *Negotiating Framework*, Luxembourg, 3 October 2005, http://ec.europa.eu/enlargement/pdf/st20004_05_hr_framedoc_en.pdf [access: 22.12.2012].

[30] Print No. 460, The Sejm of the Republic of Poland, 7th Term of Office, Warsaw 2012.

years of monitoring of Croatia's progress, of the formulation and enforcement of the adaptation to EU requirements resulted in a positive recommendation of the European Commission, which, after 6 years, in June 2011 proposed the conclusion of the accession negotiations.[31] General consensus among Member States on the need for a speedy completion of Croatia's accession negotiations allowed for their finalisation still during the Hungarian Presidency. Reservations formulated by France, Germany, Great Britain (necessity of putting Croatia after the signing of the Accession Treaty under a monitoring system similar to a control and verification mechanism) and Slovenia (a number of open issues in the relations with Zagreb, even resulting in negotiations blocking in the past) were solved in the form of an agreement contained in the Common Position for individual chapters, including, among others, Chapter 35 – Other issues. Croatia needs to continue the process of reform in the country (including the three main areas – the judiciary, internal affairs, competition policy), especially in the area of Chapter 23 – Judiciary and fundamental rights, so that on the day of accession to the EU it is able to fulfil the obligations imposed on it as a member. For this purpose, until the time of accession, Croatia will be monitored in terms of the effectiveness of the preformed reforms. Croatia completed accession negotiations at the technical level on 30 June 2011.[32] The closing in mid-2011 of the last four chapters (8 – Competition policy, 23 – Judiciary and fundamental rights, 33 – Financial and budgetary provisions, 35 – Other issues) opened the way for the signing of, under Polish Presidency of the EU Council, on 9 December 2011, the Treaty of Accession[33] and announcing of the referendum on Croatia's accession.[34]

[31] One of the critical points in the negotiations was the problem of public administration, the judiciary, corruption, and cooperation with the International Criminal Tribunal for the former Yugoslavia, the rights of national minorities, the issue of the return of refugees to the territory of Croatia, stereotyping of minorities in the media, relations with Slovenia. See: M. Łakoma-Micker, *Proces akcesji…*, op.cit., pp. 154–189.

[32] Print no 460, The Sejm of the Republic of Poland, 7th Term of Office, Warsaw 2012.

[33] *OJ (EU) L 112, V 55*, 24.06.2012.

[34] In a referendum conducted on 22 January 2012 66% of voters voted for the accession, against it – 33%. The turnout was 43.6%. See: *Mało entuzjastyczne „tak" dla członkostwa w UE* [Little Enthusiastic "yes" for the EU Membership], http://www.osw.waw.pl/pl/publikacje/best/2012–01–25/chorwacja-malo-entuzjastyczne-tak-dla-czlonkostwa-w-ue [access: 22.12.2012].

The signing of the Treaty is Croatia's penultimate step on the road to the EU. Subsequently, its ratification by all Member States is necessary. Only this little, and so much at the same time, so that another state of the former Yugoslavia, after Slovenia, may accede in mid-2013, as planned, to the integrating Europe. The opportunity to meet this deadline depends on the course of the ratification procedure, which, indeed, in most countries takes place without any major problems and is not associated with any threat to the accession of Croatia. At the same time, however, some European countries abstain from the ratification, treating the ratification procedure as a specific instrument which indicates that Croatia is still expected to conduct reforms; including those associated with the need to intensify efforts to fight corruption or the problem of border management.[35] As published in the October 2012 report, the European Commission confirmed that Croatia made significant progress in adjusting its legislation with the *acquis communautaire* and gradually fulfilled commitments adopted in the negotiation process; however, it should, as signalled, continue to pursue the process of reform in the country (it refers to the three major areas under Chapter 23, Chapter 24 and Chapter 8 – the judiciary, internal affairs, competition policy), especially in the area of Chapter 23 – Judiciary and fundamental rights, so that on the day of accession to the EU it is able to fulfil the obligations imposed on it as a member.[36] In the report on the implementation of the EU Guidelines conclusions given stated that although Croatia fulfilled the political criteria, further efforts are needed in order for the country to be able to meet commitments adopted in the negotiating process and to become the 28th Member State of the EU in mid-2013.

The tasks indicated in the European Commission's report include, for instance, signing the agreement for the privatization of the Brodosplit shipyard and taking the necessary decisions in order to complete the restructuring of Croatian shipbuilding industry, the implementation of measures aimed at increasing the efficiency of the Croatian judiciary and reducing the number of long-pending cases, the introduction of new enforcement law in order to effectively enforce

[35] *Słowenia opóźni wejście Chorwacji do UE?* [Will Slovenia Delay Croatia's Entry to the EU?], http://www.euractiv.pl/rozszerzenie/artykul/sowenia-oponi-wejcie-chorwacji-do-ue-004051 [access: 22.12.2012].

[36] *Communication from The Commission to The European Parliament and The Council on the Main Findings of the Comprehensive Monitoring Report on Croatia's state of Preparedness for EU membership, COM(2012) 601 Final*, http://ec.europa.eu/enlargement/pdf/key_documents/2012/package/hr_analytical_2012_en.pdf [access: 22.12.2012].

court's decisions and reduce the number of cases in which those decisions have not been made, as well as the establishment and enabling of the operation of the new Committee on Conflicts of Interests and the adoption of a new law on access to information in order to create a legal and administrative framework for access to information. EU also calls on Croatia for the final adoption of legislation that will enable the implementation of the Law on Police, completion of border crossings in the Neum corridor, reaching the number of border guards set for the year 2012, refining and adoption of the migrant strategy with a clear definition of activities undertaken for the integration of the most vulnerable migrant groups and acceleration of translations and verification thereof of the acquis communautaire.[37]

The European Commission has reiterated the date of admission of Croatia to the EU, but at the same time announced that up until that time it will monitor the implementation of commitments undertaken by Croatia during the accession negotiations. In the spring of 2013 it will publish a separate monitoring report on Croatia's readiness for membership. It is worth noting that the European Commission's report resulted in an increase or strengthening of the already existing scepticism in some European countries. Critical comments were formulated in the Bundestag – the lower house of the German parliament – on whose forum it was emphasized that Croatia should be able to enter the EU on 1 July 2013 only if the next report of the European Commission on its preparations for membership is positive.[38] At the end of 2012 Croatia's accession treaty had not yet been ratified by the UK, France, Germany, Belgium, Holland, Denmark and Slovenia. Ratification procedure is being finalized in the United Kingdom, France and Belgium; other countries are waiting for the European Commission spring report on Croatia's fulfilment of EU requirements for the judiciary.[39]

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[37] *Chorwacja: 10 zadań do wykonania przed wstąpieniem do UE* [Croatia: 10 Tasks to Complete Before Accession to the EU], http://balkanistyka.org/wp/chorwacja-10-zadan-do-wykonaniu-przed-wstapieniem-do-ue/ [access: 22.12.2012].

[38] *Niemiecki sceptycyzm ws. przyjęcia Chorwacji do UE* [German Scepticism on the Admission of Croatia to the EU], http://www.rp.pl/artykul/944915.html [access: 22.12.2012].

[39] *Finlandia ratyfikowała chorwacki Traktat Akcesyjny* [Finland Ratifies the Croatian Accession Treaty], http://www.studium.uw.edu.pl/?post/15196 [access: 22.12.2012].

Poland was among the advocates of EU's enlargement with the Balkans and declarations made and various projects to support Croatia in this area confirm this. Some confusing signals came from Poland at the end of Croatian road to the European Union. Detrimental to the image of Poland as a promoter of the EU enlargement policy and Croatia's EU membership, they appeared at the time of the treaty ratification process in the Polish parliament.[40] Discussions on the methods of ratification did not undermine the existing policy on the admission of Croatia to the EU, and were merely the result of internal political disputes. Supporters of a position on the matter other than the government's positions emphasized that they are advocates of Croatia's accession to the EU, but the admission of a new country to the community altered, in their assessment, the strength and position of Poland in the EU and required ratification based of Art. 90 of the Constitution. After the rejection by the Sejm [the lower house of the Polish parliament] of the Law and Justice [PiS] draft resolution, which provided for the ratification of the accession treaty by a 2/3 majority vote, the government's ratification bill was passed.[41] During the vote, among 438 deputies present and voting, with one abstention, 437 voted in favour of ratifying the Act. Controversy on the method of the vote formed part of the on-going political conflict in Poland and was an example of the instrumental use of the parliamentary forum

[40] Law and Justice [Prawo i Sprawiedliwość] postulated the ratification of the Accession Treaty of Croatia on the basis of Article 90 of the Constitution of the Republic of Poland, that is with a 2/3 vote majority. The government and the Civil Platform [PO] were in favour of the ratification on the basis of Art. 89, that is a simple vote majority. Ultimately, the government's solution was pushed through and the Sejm, at the 14 September 2012 meeting passed a draft law on the ratification of the Treaty between the Kingdom of Belgium, Republic of Bulgaria, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland (Member States of the European Union) and the Republic of Croatia concerning the accession of the Republic of Croatia to the European Union.

[41] *Stenographic Report of the 21st Session of the Sejm of the Republic of Poland of 14 September 2012*, Warszawa 2012, pp. 377–389.

to launch personal political agendas regardless of consequences, in this case in the international arena.[42] While the actions could not prevent the process of accession of Croatia and were not aimed at that, it certainly did not serve the building of the image of Poland as a credible, cohesive and responsible country.[43]

[42] A few months earlier already, the idea of using the ratification of the accession treaty with Croatia to "blackmail". The first to write about it on his blog was Ludwik Dorn of Solidary Poland [Solidarna Polska]. He proposed blocking Croatia's accession to the EU which, in his opinion, would harm Donald Tusk, advocate and supporter of cooperation with Germany. He explained that when Croatia's accession to the EU will be vetoed in Poland, Germany, as a promoter of Croatia's entry to the EU, will not want to support Donald Tusk in his career in the European institutions. Law and Justice [PiS] politicians did not accept this offer, but tried themselves to push their own projects alongside the ratification of. See: *Dorn do Kaczyńskiego: Zablokujmy wejście Chorwacji do UE – zaszkodzimy Tuskowi* [Dorn to Kaczynski: Let's Block Croatia's Entry to the EU – We Will Harm Tusk], http://wiadomosci.gazeta.pl/wiadomosci/1,114884,11786916,Dorn_do_Kaczynskiego__Zablokujmy_wejscie_Chorwacji.html [access: 22.12.2012].

[43] President Bronislaw Komorowski ratified the Accession Treaty with Croatia on19 December 2012.