CROATIA: THE 28th MEMBER STATE OF THE EUROPEAN UNION

DAN VĂTĂMAN*

Abstract

In an enlarged European Union of 27 Member States, convinced that the successive enlargements have been a success both for the European Union and the Member States which acceded to it, thus contributing to stability, development and prosperity throughout Europe, the leaders of Member States considered that this process must continue, ensuring the success of future enlargement of the Union, for a better response to the many challenges they face. Croatia completed its negotiations on the European Union membership in June 2011 and the European Council has designated 1 July 2013 as the date of Croatia's accession to the European Union, provided that all the procedures required for full membership are completed by that date. Therefore, this study aims to analyze the progress made by Croatia in its preparations for accession to the European Union and if this country continues to meet the Copenhagen criteria and has the ability to take on the obligations of membership.

Keywords: Croatia's Accession to the European Union, enlargement, European integration, membership negotiations, Member State of European Union.

1. Introduction

After sixty years of evolution marked by successive waves of enlargement, the European Union today is a successful model based on values of respect for human dignity, freedom, democracy, equality, rule of law and respect for human rights, values were common to the Member States in a society characterized by pluralism, nondiscrimination, tolerance, justice, solidarity and equality between women and men. According to Article 49 TEU, any European State which respects these values and is committed to promoting them may apply to become a member of the Union. The conditions of admission and the adjustments to the Treaties on which the Union is founded, which such admission entails, shall be the subject of an agreement between the Member States and the applicant State and this agreement shall be submitted for ratification by all the contracting States in accordance with their respective constitutional requirements.

Nowadays when the European Union faces major challenges and significant global uncertainty and gains new momentum for economic, financial and political integration, enlargement policy continues to contribute to peace, security and prosperity on our continent. The current enlargement agenda covers the Western Balkans, Turkey and Iceland. The European Union has consistently proclaimed the inclusiveness of its policy towards the Western Balkans, with successive European Councils confirming that the future of the whole region lies within the European Union. The enlargement process is by its very nature inclusive and necessitates wide stakeholder participation. In the enlargement countries, broad political consensus and support of the population for the reforms required contributes significantly to the transformation necessary for progress on the European Union path.¹

Taking into account the progress made by Croatia on the path of European Union integration and the forthcoming accession of Croatia to the European Union on 1 July 2013, through this study we will try to highlight the efforts made by Croatia on the road to accession and analyze the commitments undertaken by Croatia in the accession negotiations. This approach is necessary because in the specialized literature there are few studies on this issue, given the relatively recent date

^{*} Senior Lecturer, PhD candidate, Faculty of Economics, Law and Administrative Sciences - "Gheorghe Cristea" University of Sciences and Arts, Bucharest, Romania; PhD candidate - Faculty of Law, "Titu Maiorescu" University, Bucharest, Romania (e-mail: danvataman@yahoo.com).

¹ Communication from the Commission to the European Parliament and the Council COM(2012) 600 final, Enlargement Strategy and Main Challenges 2012-2013, Brussels, 10.10.2012.

of signature of the Accession Treaty of Croatia to the European Union. Therefore we intend to answer to these issues based on our research on the most recent documents of the European institutions and the recent progress reported even officials from Croatia.

2. The first steps of Croatia to the European Union

The beginning of relations between Croatia and the European Union was marked by the signing of the Stabilisation and Association Agreement (S.A.A.) on 29 October 2001². Croatia was the second country to sign a Stabilisation and Association Agreement (S.A.A.) with the European Union and that agreement represented the first formal contractual step in institutionalising the relationship of Croatia with the European Union. The Stabilisation and Association Agreement (S.A.A.) provides the contractual framework for relations between the European Union and Croatia until the accession of the latter to the European Union and it covers areas such as: political dialogue; regional co-operation; the four freedoms, with the creation of a free trade area by 2007 for industrial products and most agricultural products; approximation of the legislation of Croatia to the European Union *acquis*, including precise rules in the fields such as competition, intellectual property rights and public procurement; wide-ranging co-operation in all areas of European Union policies, including in the area of justice, freedom and security³. From January 2002 until the entry into force of the Stabilisation and Association Agreement (S.A.A.), an Interim Agreement on trade and trade-related matters was applied⁴.

On 21 February 2003, Croatia formally applied to join the European Union. In April 2004, the European Commission issued a positive opinion on this application and recommended the opening of accession negotiations⁵. This recommendation was endorsed by the June 2004 European Council who decided that Croatia was a candidate country and that the accession process should be launched. The December 2004 European Council requested the Council to agree on a negotiating framework with a view to opening the accession negotiations with Croatia on 17 March 2005 provided that there is full cooperation with the International Criminal Tribunal for the former Yugoslavia (I.C.T.Y.). After a positive report by the then I.C.T.Y. Chief Prosecutor, the Council concluded that conditions for starting negotiations had been met and negotiations were officially launched on 3 October 2005⁶.

3. Accession negotiations between the European Union and Croatia

Following the results of the analytical comparison of Croatian legislation and the one of the European Union (so called screening), the negotiations between the European Union and Croatia as a candidate country started in 2005, where the candidate country first presented its negotiating position

² The Stabilisation and Association Process conditionality for the Western Balkan countries was defined by the Council on 31 May 1999 and includes cooperation with the International Criminal Tribunal for the Former Yugoslavia, and regional cooperation.

³ Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Croatia, of the other part - Official Journal L 26, 28/01/2005.

⁴ The Stabilisation and Association Agreement (S.A.A.) entered into force on 1 February 2005.

⁵ Communication from the Commission COM(2004)257 final, *Opinion on Croatia's Application for Membership of the European Union*, Brussels, 20.4.2004.

⁶ The text of conclusions which the EU ministerial council adopted at their session in Luxembourg, warmly welcomes "the report to the Croatia Task Force by the ICTY Chief Prosecutor that Croatia was now co-operating fully with the ICTY, as well as the clear commitment by the Croatian Prime Minister that full cooperation would be maintained until the last remaining indictee was in The Hague, and as long as required by the ICTY". The Council confirmed that "sustaining full co-operation with the ICTY would remain a requirement for progress throughout the accession process" – *Press Release - 2678th Council Meeting, General Affairs and External Relations, Luxembourg, 3 October 2005.*

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in which it specifies how it plans to adopt and implement the European Union acquis, in each 35 chapters of negotiations covering the whole range of European Union policies and rules ⁷.

Negotiating positions were adopted by the Croatian Government and submitted to the European Union, After that, the European Commission prepared the draft of European Union common negotiating position, which is finally adopted by a unanimous decision of the Council of Ministers. In its common position, the European Union set benchmarks which the candidate country had to meet before opening each chapter. After the opening benchmarks for individual chapters were met, the European Union and the candidate country discussed and negotiated at intergovernmental conferences which were held at the same time as everyday expert consultations between Croatia and the European Union. Once the preconditions for closing individual chapters were met (so called closing benchmarks), a negotiation chapter was considered to be provisionally closed.

The first chapter in Croatia's accession negotiations to European Union, Science & Research, was opened and temporarily closed on Monday, 12 June 2006, at the Intergovernmental Accession Conference held in Luxembourg between Croatia and the European Union.

After successful six-year process of negotiations, on 30 June 2011, the meeting of the Accession Conference with Croatia at Ministerial level closed negotiations on remaining four chapters thus closing the accession negotiations with Croatia, which allowed for the signature of the Accession Treaty. 8

4. Accession Treaty of the Republic of Croatia to the European Union

4.1. Signature of the Accession Treaty

In light of the decisions taken on 30 June 2011, the the European Commission has received a strong mandate to closely monitor Croatia's fulfilment of the commitments undertaken. In line with Article 49 of the Treaty on European Union, the European Commission gave its formal favourable opinion on Croatia's accession on 10 October 2011⁹.

After the Commission's favourable opinion, the European Parliament gave its consent to Croatia's European Union membership, in a vote on 1 December, with 564 votes in favour, 38 against and 32 abstentions¹⁰.

Final approval was given by the General Affairs Council in its meeting held on 5 December 2011 in Brussels, when the Council adopted conclusions on enlargement and on the stabilisation and association process. With regards to Croatia, the Council concluded that Croatia has reached a high level of preparedness for membership and encourages Croatia to continue in its efforts in addressing all the issues identified therein, notably in the field of judiciary and fundamental rights, justice, freedom and security and competition policy. Consequently, the Council adopted a decision

⁷ The negotiation chapters are: Chapter 1: Free movement of goods; Chapter 2: Freedom of movement for workers; Chapter 3: Right of establishment and freedom to provide services; Chapter 4: Free movement of capital; Chapter 5: Public procurement; Chapter 6: Company law; Chapter 7: Intellectual property law; Chapter 8: Competition policy; Chapter 9: Financial services; Chapter 10: Information society and media; Chapter 11: Agriculture and rural development; Chapter 12: Food safety, veterinary and phytosanitary policy; Chapter 13: Fisheries; Chapter 14: Transport policy; Chapter 15: Energy; Chapter 16: Taxation; Chapter 17: Economic and monetary policy; Chapter 18: Statistics; Chapter 19: Social policy and employment; Chapter 20: Enterprise and industrial policy; Chapter 21: Trans-European networks; Chapter 22: Regional policy and coordination of structural instruments; Chapter 23: Judiciary and fundamental rights; Chapter 24: Justice, freedom and security; Chapter 25: Science and research; Chapter 26: Education and culture; Chapter 27: Environment; Chapter 28: Consumer and health protection; Chapter 29: Customs union; Chapter 30: External relations; Chapter 31: Foreign, security and defence policy; Chapter 32: Financial control; Chapter 33: Financial and budgetary provisions; Chapter 34 – Institutions; Chapter 35 - Other issues.

http://www.delhrv.ec.europa.eu – Official site of European Union.
Commission Opinion on the application for accession to the European Union by the Republic of Croatia COM(2011) 667 final, Brussels, 12.10.2011.

www.europarl.europa.eu/news/en/pressroom/content/20111201IPR32926/html/Croatia's-EU-accessiongreen-light-from-Parliament.

approving Croatia's admission to the European Union and the Treaty of Accession was scheduled to be signed in Brussels on 9 December 2011.

As agreed, the Treaty of Croatia's Accession to the European Union was signed in Brussels at a separate ceremony preceding the 9 December 2011 session of the European Council. The treaty was signed by President Ivo Josipovć and the then Prime Minister Jadranka Kosor on behalf of Croatia and by heads of states or governments of the European Union Member States¹¹.

The signing of the Treaty has marked the end of the lengthy process of preparations for the accession completed with the end of the six-year negotiations in June 2011, during this period Croatia has been asked not only to adopt new laws and regulations to comply with European Union standards, but also to implement them, thus proving the reforms has taken an irreversible course of action.

4.2. Content of the Accession Treaty of Croatia to the European Union

Accession Treaty of Croatia to the European Union contains only four articles which covers the following aspects:

- a) Article 1 provides that Croatia hereby becomes a member of the European Union and of the European Atomic Energy Community. Also, Croatia becomes a Party to the Treaty on European Union, the Treaty on the Functioning of the European Union and the Treaty establishing the European Atomic Energy Community as amended or supplemented. In addition, this article provides that the conditions of Croatia's dmission to the European Union are set out in the Act annexed to the Treaty, and the provisions of this Act are an integral part of the Treaty.
- b) Article 2 provides that the provisions concerning the rights and obligations of the Member States and the powers and jurisdiction of the institutions of the Union, as set out in the Treaties to which the Republic of Croatia becomes a Party, shall apply in respect of the Accession Treaty.
- c) Article 3 states that the Treaty shall be ratified by the High Contracting Parties in accordance with their respective constitutional requirements, and the instruments of ratification shall be deposited with the Government of the Italian Republic by 30 June 2013. In this case, the Treaty shall enter into force on 1 July 2013 provided that all the instruments of ratification have been deposited before that date.
- d) Article 4 stated that the Treaty was written in a single original in 24 languages (Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish) and the texts in each of these languages being equally authentic, shall be deposited in the archives of the Government of the Italian Republic, which will transmit a certified copy to each of the Governments of the other Signatory States.

The 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 (provided in Article 1 paragraph 3 of the Treaty), contains 55 Articles distributed into 5 parts as follows: Part One – Principles; Part Two - Adjustments to the Treaties; Part Three - Permanent Provisions; Part Four - Temporary Provisions; Part Five - Provisions relating to the implementation of the Act.

Croatia's accession Treaty contains 9 annexes, each addressing a particular issue as follows: ANNEX I - List of conventions and protocols to which the Republic of Croatia accedes upon accession (referred to in Article 3(4) of the Act of Accession); ANNEX II - List of provisions of the Schengen acquis as integrated into the framework of the European Union and the acts building upon it or otherwise related to it, to be binding on, and applicable in, the Republic of Croatia as of accession (referred to in Article 4(1) of the Act of Accession); ANNEX III - List referred to in Article 15 of the Act of Accession: adaptations to acts adopted by the institutions; ANNEX IV - List referred to in Article 16 of the Act of Accession: other permanent provisions; ANNEX V - List

 $^{^{11}}$ The treaty was published in the Official Journal of the European Union L 112/10, 24.4.2012.

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referred to in Article 18 of the Act of Accession: transitional measures; ANNEX VI - Rural development (referred to in Article 35(2) of the Act of Accession); ANNEX VII - Specific commitments undertaken by the Republic of Croatia in the accession negotiations (referred to in Article 36(1), second subparagraph, of the Act of Accession); ANNEX VIII - Commitments undertaken by the Republic of Croatia on the restructuring of the Croatian shipbuilding industry (referred to in Article 36(1), third subparagraph, of the Act of Accession); ANNEX IX - Commitments undertaken by the Republic of Croatia on the restructuring of the steel sector (referred to in Article 36(1), third subparagraph, of the Act of Accession)

In addition, at the Treaty was attached a Protocol on certain arrangements concerning a possible one-off transfer of assigned amount units issued under the Kyoto Protocol to the United Nations Framework Convention on Climate Change to the Republic of Croatia, as well as the related compensation.

4.3. Ratification process of the Treaty of Croatia's Accession to the European Union

In accordance with Article 3 of the Accession Treaty, after signing the treaty must be ratified by each Member State of the European Union, this process must be completed by 30 June 2013, once the Treaty is ratified by all Member States, Croatia's membership in the Union will be formalised as of 1 July 2013.

So far, the Treaty of Croatia's Accession to the European Union has been ratified by most Member States of the European Union and there is belief that the ratification process will be completed by the due date. 12

With regard to ratification of Croatia's Accession Treaty by Romania, on 26 June 2012 took place a joint session of the Chamber of Deputies and the Senate, on this occasion was passed the law on ratification of accession of Croatia to the European Union with unanimity of the 378 MPs¹³. After that, Romanian President signs the ratification act on 29 June 2012¹⁴.

5. The progress made by Croatia in its preparations for accession

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

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

As a result, on 10 October 2012, the European Commission presented a report to the European Parliament and the Council on the main findings of the Comprehensive Monitoring Report on Croatia's state of preparedness for European Union membership¹⁵. The report assesses Croatia's

¹² This results from statements of the Irish Prime Minister Enda Kenny, who said that the completion of the ratification of Croatia's Accession Treaty with the European Union will be one of the priorities of Ireland's presidency of the Council of the European Union. Also, the Programme of the Irish Presidency of the Council of the European Union shows that: "In 2013 the Irish Presidency will continue to prioritise a credible enlargement policy based on the principle of conditionality. While the Presidency will work intensively to advance enlargement and support states as they prepare for membership, much will depend on the progress made by the states themselves. Firstly, the Presidency will oversee consideration of the final monitoring report on Croatia and looks forward to Croatia's accession to the EU on 1 July 2013" - http://www.eu2013.ie/ireland-and-the-presidency/about-the-presidency/programme-and-priorities/.

¹³ Law No. 86 of 29 June 2012, published in Romanian Official Gazette no. 436/30 June 2012.

¹⁴ Decree No. 431 of 29 June 2012, published in Romanian Official Gazette no. 436/30 June 2012.

¹⁵ 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/2012/0601 final - http://eur-lex.europa.eu.

state of preparedness on the basis of the political and economic criteria for membership and of the requirement to adopt and implement the European Union *acquis*, as laid down by the Copenhagen European Council in 1993.

As reflected in the report of the European Commission, Croatia continues to meet the **political criteria**, and in all areas covered by the political criteria (stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities) work has continued and results are becoming tangible. In the field of judiciary, efforts to strengthen the independence, accountability, impartiality and professionalism of the judiciary have continued. With regard to the fight against corruption, an adequate legal and institutional framework remains in place and a track record of implementation continues to be developed. Law enforcement bodies remain pro-active, especially on higher-level cases. Local level corruption needs attention, particularly in public procurement. With regard to human rights and the protection of minorities, human rights continue to be generally well respected, and protection of minorities has continued to improve, through the implementation of measures for the protection of minorities, including the Constitutional Act on the Rights of National Minorities. With regard to war crimes, Croatia continues to cooperate with the International Criminal Tribunal for the former Yugoslavia (ICTY) and to process war crimes cases, but efforts to address impunity for war crimes should be intensified, as the majority of crimes have yet to be successfully prosecuted.

As regards the **economic criteria**, the European Commission report shows that Croatia is a functioning market economy and vigorous implementation of urgently needed structural reforms should enable Croatia to cope with competitive pressures and market forces within the Union in the near term. Despite the fact that there is a large political consensus on the fundamentals of a market economy, structural reforms progressed slowly in some areas, not least with respect to privatisation and the restructuring of loss-making enterprises, and were almost non-existent in others. In the area of labour markets in particular, where already low levels of employment and participation declined further, reforms are still at a very early stage and need urgently to be stepped up. The investment climate continued to suffer from a heavy regulatory burden, lengthy procedures, uncertainties in the legal environment, unpredictability of administrative decisions, and a high number of non-tax fees. Social transfer payments, which represent a relatively high share of public budgets, remained not well-targeted. Considering the need to achieve medium-term fiscal sustainability, the budgetary process could be improved further. Enhancing the efficiency of public spending remains a key challenge.

Regarding the **ability to take on the obligations of membership** (one of the Copenhagen criteria), the European Commission said that Croatia has continued to make progress in adopting and implementing European Union legislation and is now completing its alignment with the *acquis*. Nevertheless, the Commission has identified a number of issues requiring continued attention. The Croatian authorities need to take all necessary measures to ensure that the country is fully prepared for membership by 1 July 2013, including with regard to the administrative capacity for the implementation of the *acquis*. In accordance with Article 36 of the Act of Accession, particular focus is given in this section to competition policy, judiciary and fundamental rights and freedom, justice and security.

However, in its report the European Commission has identified areas where further efforts are necessary and a limited number of issues where increased efforts are required. These issues relate in particular to: the preparations for future European Union structural funds in order to ensure their proper management; the restructuring of the Croatian shipbuilding industry; the strengthening of the rule of law through continued implementation of Croatia's commitments to further improve public administration, the justice system; preventing and fighting corruption effectively, as well as; the management of external borders. Without prejudice to the importance of addressing all issues underlined in the Comprehensive Monitoring Report, the Commission considers that particular

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attention should be paid by Croatia in the coming months in some areas such as: competition policy, judiciary and fundamental rights, and freedom security and justice.¹⁶

At its meeting on 11 December 2012, the Council welcomed the communication from the Commission of 10 October 2012 on the Enlargement Strategy and Main Challenges 2012-2013, as well as the comprehensive monitoring report on Croatia's state of preparedness for European Union membership and the accompanying monitoring tables, and takes note of the findings therein. The Council has assessed thoroughly the monitoring report and tables, and notes with satisfaction that Croatia has continued to make progress in adopting and implementing European Union legislation, is completing its alignment with the acquis, and has achieved substantial results in a number of areas. It is essential that Croatia sharpens its focus on the ten key issues highlighted by the Commission, in the fields of competition policy, judiciary and fundamental rights, and justice, freedom and security. At the same time, the Council notes that there are also a number of commitments undertaken by Croatia during accession negotiations in these and other chapters, where further or increased efforts are required from Croatia. In line with Article 36 of the Accession Treaty and with relevant European Council conclusions and Council conclusions, the Council reiterates the importance it attaches to close monitoring of Croatia's fulfilment of all its commitments undertaken in the accession negotiations, including those which must be fulfilled before accession. In this regard, the Council endorses the specific recommendations in the Commission's report and urges Croatia to address without delay the concerns highlighted in order to ensure that its preparations are successfully completed, and that this can be reflected in the Commission's final monitoring report on Croatia's preparations to be presented in 2013, in line with the provisions of the Accession Treaty. Bearing in mind the importance of good neighbourly relations and the implementation of legally binding international agreements, the Council encourages Croatia to continue addressing all outstanding bilateral and regional issues, including succession issues, building on progress achieved so far. Further efforts are needed to tackle impunity for war crimes through impartial handling of outstanding cases and through continued full cooperation with the International Criminal Tribunal for the former Yugoslavia¹⁷.

Also, 18-month program of the Council (1 January 2013 - 30 June 2014) shows that monitoring of Croatia's fulfilment of all commitments undertaken in the accession negotiations will continue until Croatia becomes a full Member. Pending the successful conclusion of procedures for ratification of the Accession Treaty, Croatia will become the 28th Member State of the EU on 1 July 2013¹⁸.

6. Conclusions

After 40 years since the first enlargement of the European Communities (accession of the Denmark, Ireland and United Kingdom) the enlargement policy remains a priority for the European Union.

However, there are some who wonder why we continue the process of European Union enlargement? Especially in the context of the recent global financial crisis, the difficulties currently facing the euro area and instability in certain areas of our neighbourhood. Do not already have enough problems without taking additional charge of European Union integration of new members?

On these legitimate concerns of European citizens we can argue that in the year 2013, at a time when the European Union faces major challenges and significant global uncertainty and gains new momentum for economic, financial and political integration, enlargement policy continues to contribute to peace, security and prosperity on our continent.

¹⁶ COM(2012) 601 final.

¹⁷ General Affairs Council meeting, Brussels, 11 December 2012 - http://www.consilium.europa.eu.

¹⁸ http://www.eu2013.ie/media/eupresidency/content/documents/Trio-Programme.pdf.

In addition, we believe that the extension serves both the interests of the Union and those countries wishing to join, thereby contributing to stability, development and prosperity throughout Europe, for this reason we believe that the enlargement process should continue, but not in any conditions. In this respect, the countries involved in the accession process should adopt political and economic reforms, the aim being to bring these countries up to European standards in all areas covered by the European treaties, which would support the European Union in achieving their goals in a number of key areas for economic recovery and sustainable growth, such as energy, transport, environment and efforts to tackle climate change.

In the last decade, Western Balkan countries have made substantial progress in terms of stability and regional cooperation, however, a number of problems stemming from conflicts in the region remain unresolved and affect both the internal workings of states and the relations between them. Therefore, the European Union is working with parties in the region to overcome these problems, with the conviction that lasting reconciliation requires efforts at all levels (of government, the judiciary and civil society), reconciliation is linked also to solving problems related to poverty and social exclusion.

Accession of Croatia to the European Union on 1 July 2013 will be an event with a significant resonance both for Croatia and for the whole region, specifically illustrating vocation of Western Balkan countries belong to the European family gathered through constant effort and decided to achieve democratic reforms and alignment to the principles and values underlying the European project. However, the accession of Croatia to the European Union will encourage other states who want to join the European Union to continue the reforms required to make their European journey, thus contributing to strengthening democracy and stability throughout the region.

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

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