

THE DILEMMA OF GEOGRAPHICAL
ENLARGEMENT FROM THE PERSPECTIVE OF
A CENTRAL EASTERN EUROPEAN COUNTRY:
CROATIA



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Abstract

The link between diverse European national cultures and the bridge between old and new Member States can be seen in the concept of European integration. However, what are considered fundamental values in the European Union (EU), in the rest of Europe that is outside the EU, they are not perceived in the same way. Furthermore, candidate countries have chosen to resist these values precisely by emphasising traditions, legal culture and fundamental constitutional values which differ significantly from those of the EU because of their long wait in the European Union's lobby. The EU's conditionality policy initially crafted for Central and Eastern European countries (CEE) interested in joining the EU expanded to include the Western Balkan region. The lack of a monitoring mechanism after accession has led to very slow and limited progress in fundamental rights' protection and the adoption of the fundamental values set out in the Maastricht Treaty, although the implementation of international and European standards rights in Croatian legislation was the result of the pre-accession conditionality proposed by the Copenhagen Summit.

Keywords: geographical enlargement, conditionality policy, fundamental values, fundamental rights, rule of law

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1. Introduction

After the breakup of former Yugoslavia, the whole picture of the Western Balkans changed.¹ The consequences of the war and the very difficult economic and social situation led to the erosion of fundamental values and fundamental rights.² During the accession period, Croatia put a huge effort into fulfilling all the necessary conditions set by the European Council (EC) at the Copenhagen Summit in 1993 (the Copenhagen criteria)³ to join the European Union (EU), including the protection of human rights and the rule of law.⁴ Moreover, Article 2 of the Treaty on European Union (TEU), which entered into force in 1993, stipulates:

the Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.

The TEU emphasised the importance of upholding human rights in all EU Member States as a crucial aspect of establishing the rule of law within the EU. While the Copenhagen summit's pre-accession requirements led to the adoption of international and European standards for human rights in Croatian legislation, the absence of a monitoring mechanism following accession resulted in limited progress in safeguarding fundamental rights and values.⁵

The EU's conditionality policy was initially crafted for CEE countries interested in joining the EU. As time passed, the policy expanded to include the Western Balkan region.⁶ In addition to the original criteria for CEE nations, the Western Balkans must satisfy additional second-generation conditionality criteria. These new criteria include ensuring the sustained return of refugees, pursuing transitional justice, and promoting inter-ethnic reconciliation in a post-conflict setting. Despite expectations that Croatia would make progress in these crucial areas soon after joining the EU, these issues remain unresolved. Some of the most significant challenges involve national minorities, such as Serbs and Roma, as well as the return of Serb refugees and the resolution of their status. The Roma national minority faces social, educational⁷ and integration challenges, while the restitution of lost property is a concern for

1 Vasiljević, 2022, pp. 223–252.

2 Čepo, 2020.

3 The key criteria for accession were, 'that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights, and the respect for and protection of minorities.' European Council in Copenhagen, 1993, p. 12.

4 Screening report for Croatia, 2007.

5 Consolidated Version of the Treaty on the European Union, Official Journal C 326/13.

6 Schimmelfennig and Scholtz, 2010, pp. 443–460.

7 ECtHR, *Oršus v. Croatia*, Application no. 15766/03, Judgment 16.3.2010 [GC]

Serbs and Jews. When it comes to the issue of the rule of law, the situation becomes more complicated. The central hypothesis is that much more is needed to *ensure* that the *policy objective of conditionality in the field of fundamental values and fundamental rights* is reached.

This paper attempts to answer the following research questions: why did the negotiation process with the EU take so long for Croatia and what progress did Croatia make in the field of fundamental rights and fundamental values after 10 years of membership?

2. Geographical enlargement as a way to preserve European values

Thirty years after the Balkan wars and three years of war in Ukraine have shown that Europe needs peace and stability more than ever. The situation in the Western Balkans is still complicated because of the situation in Kosovo and the Republic of Srpska. The growing disappointment of people in the Western Balkan region, who have been waiting in the EU lobby for a long time, should encourage the EU to accelerate the enlargement process.

The EU forged unique ties with the CEE nations between 1989 and 1992. With the implementation of the Maastricht Treaty in 1993, this connection evolved into an enlargement commitment. The decision to start accession negotiations with all candidates simultaneously was taken by the Luxembourg Council, even though certain countries did not match the requirements outlined by the European Commission (EC) in its July 1997 Agenda 2000 report. When the CEECs first applied for membership, the EC acknowledged that it had a unique obligation towards them and responded with several association agreements that primarily focused on trade liberalisation, economic support, and political collaboration. According to the Copenhagen Criteria, Member States were required to adopt the EU fundamental values (democracy, human rights, and the rule of law) before their accession, at least since 1993. Candidate nations, like Croatia, were very active in harmonising laws and policies before admission (positive normativism); nevertheless, following entry, changes slowed down, the process stagnated, and the situation became worse. The integrity of the *acquis* principle was adhered to during the talks between the EU and the newly admitted Member States. This meant that the *acquis* would need to be properly applied by the new members. The EU, however, had more negotiating strength than the new members, therefore the negotiations were unbalanced. There was no realistic ability for the new members to threaten to leave to obtain a better deal. Thus, the talks were not real negotiations.

The process of transformation of society in the negotiation process of candidate countries about joining the European Union is called “Europeanisation”.⁸ Europeanisation involves giving up traditions for “common values” formulated by the EU political class. The Balkans’ ultimate goal is to become a part of Europe through formal EU membership. Europe is seen as a higher goal, a model for transforming neighbouring societies. Entry into the EU was considered, and it is still considered the only possible way, a way without an alternative. And as soon as there is no alternative, there is no freedom either, because freedom is a possible choice between at least two options.

As Jović precisely points out,

to achieve true subjectivity, candidate countries must accept the conditions set by the EU through a process of one-way influence. The negotiations on joining the Union are not a discussion between two equal parties, but rather the formulation of conditions by the EU – the party with power – and the satisfaction of those criteria by the candidate country – the party without power. The term “conditionality” plays a vital role in the Europeanisation process. The main aim of this process is to reduce the level of sovereignty of European countries in order to establish peace and security in post-Yugoslav countries. European politicians did not consider that many Europeans do not, in fact, share these values, as well as the fact that many outside Europe share them. Also, they concluded too optimistically that freedom and pluralism, individualism and peace are universal values, shared by all, or at least the vast majority, of people. Many of them prefer security, tradition, authoritarianism and nationalism, thus contrasting the idea that there are common values.⁹

While, according to some authors, ‘EU conditionality is most often identified with limited, discrete instances of influence’, others observe that, in some countries of the Western Balkans, ‘EU conditionality has effectively contributed to the consolidation of [...] detrimental governance patterns’. However, it certainly remains one of the most important mechanisms to achieve the (at least formal) alignment of candidate countries with the standards required for membership. One of the most important vectors of this alignment is approximation of legislation, aiming to ‘eliminate inconsistencies between national laws.’¹⁰

Since the conditions for membership are quite different from those that the nations that joined the Union during the last major round of enlargement in 2004 had to meet, they are not realistically established for all candidate states and are extremely high-level requirements. With the introduction of some recently developed criteria

8 Beširević, 2012, pp. 21–44.

9 Jović, 2018, pp. 359–394.

10 Ćemalović, 2020, 179–196.

known as “Copenhagen plus”, the EU has long exceeded the Copenhagen requirements for candidate countries, and has placed ever-present obstacles in their way. This was made clear at the time when Croatia’s membership process was on hold because of its lack of cooperation with the ICTY. The simplest way to understand why this process is so strongly tied to concerns about the post-Yugoslav wars is to look at the introduction of full-scope cooperation with the ICTY and the encouragement of regional cooperation as well as new and specific criteria for entering the EU.

Despite the proactive external relations and conditionality policy, in the struggle to enhance the process of stabilisation in the Western Balkans, the lack of precise and consistent conditionality standards resulted in the systematic backsliding of the rule of law and fundamental rights after the accession of CEE countries to the EU.¹¹ The cases of Poland, Croatia and Hungary demonstrate how a lack of monitoring procedures may subsequently weaken or even jeopardise the rule of law’s status as an essential EU value. The candidate countries focused all their efforts on fulfilling the formal legal requirements for EU membership, thus limiting the practical applicability and effectiveness of these solutions. Undoubtedly, one of the causes is the public’s mistrust of institutions, particularly the court, as well as the absence of prompt and significant reforms. One of the reasons for the delay in the process of accession is distrust in the EU institutions as well as in the process of enlargement. All candidate countries have waited too long in the lobby and there is growing Euro-scepticism because they do not see the light at the end of the tunnel. The only way out is to accelerate the negotiation process with candidate countries and to speed up the closure of the negotiation chapters. Otherwise, the possible outcome of these super conditionality requirements is that this country will probably decide to opt out and form a new community of states for economic purposes. Something similar already exists in the form of a free trade zone. According to Jović, ‘the consequences of such Brussels politics will be twofold, one Europe is the EU, and the other Europe is outside the EU (“in and out” model)’. The political situation in the EU towards the enlargement process is influencing the implementation of European standards and values in national law not only in the candidate states who are in the process of adopting a key communicator but also in the new Member States which are struggling with the implementation of EU law because there is a significant resistance in adopting legal standards and legal methods of interpretation which rely more on legal formalism rather than legal realism and therefore in some of the cases the adopted legislation remains as black letter law. In other words, the process of implementation usually ends once the legislation is adopted but the application of the adopted legislation remains partial, incomplete or inconsistent. Instead of focusing on practical solutions, these countries often prioritise meeting the formal legal requirements for EU membership. As a result, the policies put in place may not be as effective as they could be in practice.

11 Pech and Kochenov, 2019, pp. 1–17.

3. The long and winding road to the EU

Why did the negotiation process with the EU take so long for Croatia? Obligations to protect human rights, especially the rights of minorities, Croatia took over by signing the Stabilisation and Association Agreement (SAA) with the EU and its Member States on 29 October 2001. With this agreement, Croatia received the status of a potential candidate (Rodin, 2001).¹² Croatia's obligation also stems from the resolution of the Council of Ministers of the Council of Europe from February 2002 on the application of the Framework Convention on the Protection of National Minorities,¹³ the Report of the EC on Stabilisation and Association from April 2002 and the Status Report of the Mission from June 2002.¹⁴ In the report of the EC on the process of stabilisation and accession in Croatia, it is possible to see the importance of meeting the political criteria, on the fulfilment of which depends the evaluation of the implementation of the entire process. Three main political conditions relate to the strengthening of democracy, rule of law, respect for human rights and protection of minorities, and regional cooperation. With the adoption of the new Constitutional Law, Croatia has made satisfactory progress regarding the rights of national minorities.¹⁵

When a country applies to join the EU, it must go through four consecutive stages: application, becoming a candidate, negotiation, and finally accession to the EU. Before a country can proceed to the next stage, it must gain unanimous approval from the European Commission, the European Council and EU leaders. In 1995, Austria, Finland, and Sweden became the fastest countries to join the EU, taking only 1 year and 11 months from the start of negotiations to accession. Portugal and Croatia waited the longest to join – 7 years and 2 months, and 7 years and 8 months, respectively. The negotiation process between Croatia and the EU was prolonged due to the specific war situation and the long transition process. The conditionality policy and a set of additional criteria also added to the delay in joining the EU. However, the EC was responsible for the assessment of the capacity to adopt and implement the EU *acquis communautaire*, which contains 23 chapters of EU legislation, covering all aspects of political, economic and social life. That was a long and winding process.

Article 36 of the Treaty of Accession of Croatia (2012) provided a special monitoring mechanism in the area of judiciary and fundamental rights (Annex VII), including the continued development of track records on judicial reform and efficiency, impartial handling of war crimes cases, and the fight against corruption.

12 Rodin, 2001, pp. 87–105.

13 Croatia ratified the Framework Convention on the Protection of National Minorities in October 1997 and submitted its first report in 1999. In April 2001, the Advisory Committee published a position that became the basis for the resolution of the Council of Ministers from 2002.

14 Adoption of the amended Constitutional Law on National Minorities was also a precondition for Croatia's accession to NATO.

15 Vasiljević, 2004, p. 243.

However, there have been no infringement cases against Croatia so far in this area.¹⁶ EU Member States have taken steps to protect judges and prosecutors, and their self-governing bodies, from external and internal influences. Despite this, some states continue to pose serious threats to judicial independence,¹⁷ and public mistrust of judges remains high.¹⁸ To prevent this situation from escalating, EU institutions have taken specific steps and measures.¹⁹ In 2016, the European Parliament adopted a Resolution on the EU Mechanism on Democracy, Rule of Law and Fundamental Rights,²⁰ which calls on the Commission to establish comprehensive monitoring of all EU Member States and institutions and an annual cycle of reporting and recommendations. This call was repeated in 2018.²¹ In addition, the European Parliament adopted resolutions on the rule of law in several Member States.²² For current Member States, it may be beneficial to create an evaluation system to track progress in these areas. Although the EC already produces annual reports on the rule of law, the fundamental rights agency also provides a supplemental report. However, it may be more effective to entrust this responsibility solely to the fundamental rights agency.

Despite negotiations started in 2005, it took Croatia around four years to negotiate the issues of collaboration with the International Criminal Tribunal for the former Yugoslavia (ICTY) and the Slovenian border situation. On 30 June 2011, the final day of the Hungarian presidency, Croatia concluded the negotiations.²³ Twenty years later, only Croatia successfully concluded all chapters in the accession process and became a member of the EU in July 2013 twelve years after signing the SAA, which entered into force in 2004.²⁴

16 Carević, 2021, pp. 279–305.

17 CJEU, C-286/12 Commission v. Hungary; C-411/17 Commission v. Poland.

18 Report of the Secretary General of the Council of Europe, 2023.

19 For example, the EC established the Cooperation and Verification Mechanism in the cases of Bulgaria and Romania, to assess and promote their progress in areas such as judicial reform, fight against corruption and organised crime. For the first time in the history of the EU, the new Member States were placed under a supervisory mechanism after accession.

20 European Parliament resolution of 25 October 2016 with recommendations to the Commission on the establishment of an EU mechanism on democracy, the rule of law and fundamental rights, 2015/2254 – INL, 2015.

21 European Parliament resolution of 14 November 2018 on the need for a comprehensive EU mechanism for the protection of democracy, the rule of law and fundamental rights, 2018/2886 – RSP, 2018.

22 'Establishing an EU mechanism on democracy, rule of law and fundamental rights'. Available at: <https://www.europarl.europa.eu/legislative-train/theme-area-of-justice-and-fundamental-rights/file-eu-mechanism-on-democracy-the-rule-of-law-and-fundamental-rights> (Accessed: 30 September 2020).

23 EU Monitor, 2011.

24 Ćemalović, 2020, 179–196.

4. A look back at Croatia's 10th anniversary in the EU

Although Croatia has been a full member of the European Union since 1 July 2013, the road towards EU membership was not completely concluded, but that was 'further proof of the transformative power of the EU's enlargement policy.'²⁵ First it took several years until all restrictions on the free movement of labour were lifted for Croatian citizens, and only at the beginning of 2023 did Croatia introduce the European common currency and became a member of the Schengen zone.

Full harmonisation with the EU *acquis communautaire* is the most advantageous result of the EU accession. Numerous anti-discrimination laws have been adopted as a result of Croatian legislation and policy on human rights being harmonised with EU norms. However, the establishment of a comprehensive legislative framework for the advancement of national minorities' rights and effective legal human rights protection took a long time in Croatia. The Enlargement Strategy and Main Challenges 2010-2011 was the primary strategic statement concerning the application of minority rights norms. In this paper, the Commission made reference to minorities in both social and security contexts:

the economic crisis has had a negative impact on social welfare in the enlargement countries. Vulnerable groups, including minorities, disadvantaged communities and people with disabilities, have been particularly affected.²⁶

The conditionality policy, in instances of ethnic minority protection, revealed different criteria applied in countries that declared independence after the break-up of former Yugoslavia.²⁷ Some authors believe that Slovenia's approach to ethnic minority protection was evaluated positively,²⁸

whereas Croatia had trouble meeting the minority rights demands due to its "preoccupation with nation" and its contested process of building a sovereign nation-state until the late 1990s.²⁹

When the two countries are compared it seems that conditionality policy was applied in Croatia in a stricter way than in Slovenia.³⁰

25 Lazowski, 2012, pp. 1–39.

26 Communication from the Commission to the European Parliament and the Council, 2010, p.7.

27 Bojinovic Fenko and Urlic, 2015, pp. 107–137.

28 Bučar, 1999, pp. 339–353.

29 Boduszyński, 2013, pp. 39–53.

30 The European Council, 2011, based on a proposal by the Commission, refers to monitoring up to accession as a 'necessary assurance to Croatia and the current Member States' and concludes the paragraph with a warning that it may otherwise, 'acting by qualified majority on a proposal from the Commission, take any appropriate measures', i.e. it may put a hold on the accession process. The same provision is included in the Croatian Accession Treaty to the EU (Title IV, Art. 36, point 1, Para 1 and point 2).

Croatia is the first to experience this new accession reality where rapprochement is based on much stricter conditionality and benchmarking, particularly (but not only) in the area of judiciary and fundamental rights.

Before joining the EU, Croatia made good progress in respect of judiciary and fundamental rights, but it was necessary to accelerate judicial reform, the protection and enforcement of fundamental rights, particularly those of minorities and refugees, war crime impunity, and the fight against corruption.³¹ The EC declared in its Interim Report on Chapter 23 ‘Judiciary and fundamental rights,’ three months before the closure of negotiations that ‘further work remains to be done, in particular to establish convincing track records in the field of the judiciary and the fight against corruption, to address impunity for war crimes and to settle the outstanding refugee return issues’ and thus it ‘will continue to monitor Croatia’s progress closely and to further support Croatia /.../ to enable it to meet the benchmarks in this chapter’.³² Since the closing of Chapter 23, until now, enormous efforts have been made to reform the judicial system. Despite this, according to recent public opinion surveys, Croatia ranks first in the EU in terms of the number of judges, and lowest in terms of the perception of judicial independence, and this negative perception is continuously increasing.³³ The reasons for the negative perception of the judiciary in the public are to a large extent found in the large number of pending cases and lengthy trials, some of which last for decades, the individual decisions of some judges that deviate significantly from well-established judicial practice, the way certain judges are selected and a large number of cases of violation of the right to fair trial.³⁴ A lack of resources and administrative support continues to serve as an excuse for limited progress in judicial reform in the Member States that have one of the most massive judicial systems in the EU.

From the time of accession until the present, there has been a regression regarding the rule of law, which is evident in the following ways: difficulties in appointing judges; inconsistent case law from national courts; lack of transparency in the publication of court decisions; public mistrust of the judiciary; lengthy court trials and violations of Article 6 ECHR; an increase in lawsuits against journalists (SLAPP); difficulties in implementing the recommendations of independent equality bodies; and deficiencies in the free legal aid system. At the professional level, it is indisputable that even at the beginning of the third millennium, the degree of harmonisation of procedural rules and judicial action in comparison to current EU

31 Croatia 2010 Progress Report accompanying the Communication from the Commission to the European Parliament and the Council: Enlargement Strategy and Main Challenges 2010-2011, COM (2010) 660, Brussels 9 November 2010.

32 European Commission, 2011.

33 European Commission, 2023.

34 Ibid.

members was relatively low.³⁵ As Uzelac emphasised, ‘justice reform was faced with too many obstacles, especially in the CEE countries, where half a century of communist rule reduced courts, and even law itself, to mere instruments of political power.’ The European Commission’s Annual Rule of Law Reports continue to prioritise human rights protection (especially focusing on the rise in hate speech, and ongoing discrimination against Roma and Serbian national minorities).³⁶ However, the issue of the protection of human rights, especially of ethnic minorities, remained relevant to the extent that the new government with the current Prime Minister decided in 2017 to form a coalition with the largest party from the ranks of the Serbian national minority, which brought the Deputy Prime Minister for Human Rights and Social Activities. However, after the recent Croatian parliamentary elections held in May 2024, the new Government consists of the right-centred coalition, without representatives of the Serbian national minority. During the three weeks of negotiations on the composition of the new government, we witnessed an increase in radicalisation and intolerance towards the legitimately elected representatives of the Serbian national minority in Croatia.

According to the Human Rights House Report from 2022, the procedure for electing judges and the work of the State Judicial Council are still non-transparent. Apart from the ranking list of candidates, other evaluation data and explanations of decisions are not publicly available.

Such a method of selecting judges may cast a doubt on their impartiality, which falls within the scope of the violation of the right to a fair trial pursuant to Article 6 of the European Convention on Human Rights (ECHR).³⁷ The reasons for the limited publication of first-instance and second-instance verdicts are still unclear, especially since the decisions of county courts are only rarely published, while the judgments of municipal courts are not published on the Internet at all. Furthermore, if we focus on the right to a fair trial, violations of the right to a fair trial make up the largest number of judgments against Croatia for violation of the ECHR, including the right to a trial within a reasonable time (as much as 52%).³⁸ In 2022, the number of applications to the European Court of Human Rights (ECtHR) increased by 27%,³⁹ and the non-execution of these judgments remains a problem for years to come.

In addition, citizens largely express their dissatisfaction due to delays in the resolution of criminal charges, almost until the statute of limitations for initiating criminal proceedings has expired, and due to non-prosecution of criminal charges.⁴⁰

35 Uzelac, 2004, pp. 99–123.

36 European Commission, 2023.

37 ECtHR, *Parlov-Tkalčić v. Croatia*, Application No. 24810/06

38 Available at: <https://uredzastupnika.gov.hr/sudska-praksa/clanak-6-pravo-na-posteno-sudjenje/159?trazi=1&=&page=24> (Accessed: 10 October 2023).

39 ECtHR, *Camasso v. Croatia*, Application No. 15733/02 (2005); *Jeans v. Croatia*, Application No. 45190/07 (2011); *Starčević v. Croatia*, Application No. 80909/12 (2014); *Bilbija & Blažević v. Croatia*, Application No. 62870/13.

40 Ompudsperson for Human Rights, 2023.

The effectiveness of criminal proceedings should comply with the standards set out in a series of judgments of the ECtHR issued against the Republic of Croatia from 2005 to date. These standards include the conduct of effective investigations, while providing legal remedies against protracted proceedings and other irregularities in the work of state attorneys and investigating judges, and the court's obligation to conduct proceedings within a reasonable time. The problem of the inadequate prosecution of war crimes persists, which resulted in proceedings against Croatia before the ECtHR for violations of Article 2 and the ineffectiveness of war crimes investigations.⁴¹

The uneven judicial practice in similar court cases also contributes to the negative perception of justice, which calls into question legal certainty, which, among others, is also a guarantee of the right to a fair trial. Although EU law is part of the internal legal order, there is still a lack of awareness, especially among lower courts, of the need to harmonise court practice with the jurisprudence of the ECtHR and the Court of Justice of the EU (CJEU).⁴² Although the EC plays a significant role in the enlargement process, in recent years the CJEU has acted as the driving force of integration by shaping judicial standards that should ensure mutual trust and mutual recognition in the judicial cooperation among EU Member States.⁴³

According to the latest report of the EC for 2022, it is estimated that the Republic of Croatia

made significant progress in implementing the recommendation to reconsider the newly introduced periodic security checks of all judges and state attorneys conducted by the national security agency and instead ensure their integrity based on other existing mechanisms, taking into account the European standards of judicial independence and autonomy of state attorneys and the opinion of the Venice Commission.

Although the effective investigation of corruption at a high level continued, and the total number of indictments and verdicts increased, the length of the investigation, prosecution and judgment of corruption crimes remains an obstacle to the effectiveness of the anti-corruption system. According to the European Commission Rule of Law Report 2022,

41 ECtHR, *Jularić v. Croatia*, Application No. 20106/06; *Skendžić v. Croatia*, Application No. 16212/08; *Jelić v. Croatia*, Application No. 57856/1.

42 Vasiljević, 2020, pp. 89–124.

43 CJEU, C-64/16 *Associação Sindical dos Juízes Portugueses v. Tribunal de Contas* [2018] ECLI:EU:C:2018:117; Joined cases C-585/18, C-624/18 and C-625/18 *A.K. and Others v. Krajowa Rada Sadownictwa* [2019] ECLI:EU:C:2019:982; C-453/16 *PPU Openbaar Ministerie v. Halil Ibrahim Özçelik* [2016] ECLI:EU:C:2016:860; Joined Cases C-508/18 and C-82/19 *PPU Case Minister for Justice and Equality v OG and PI* [2019] ECLI:EU:C:2019:456; Joined cases C-566/19 *PPU* and C-626/19 *PPU JR and YC* [2019] ECLI:EU:C:2019:1077; C-509/18 *Minister for Justice and Equality v. PF* [2019] ECLI:EU:C:2019:457.

in order to increase the effectiveness of investigations and prosecution of perpetrators in corruption cases, it is necessary to continue structural work on the issue of elections and salaries of judges,⁴⁴ state attorneys⁴⁵ and court staff, taking into account European standards on resources and remuneration for the judicial system.⁴⁶

Public communication about the work of the judiciary could be improved, which was also recommended by the Ombudsperson for Human Rights.⁴⁷ Reforming the justice system and improving an individual's capacity to access justice go together with enforcing the rule of law. However, stagnation is observed, which is partly connected with the inefficiency of the judiciary and the continued distrust of citizens in the work of courts and institutions. By reforming the judicial system and restoring trust in institutions, Croatia could make progress in protecting fundamental rights and fundamental values and serve as a positive example for other Western Balkans countries waiting to join the EU.

44 'Croatia is facing a growing lack of public trust in the judiciary and was at the bottom on the last two European Commission reviews of rule of law in Member States. The two first attempts to elect the Supreme Court president failed because of a disagreement between Prime Minister Andrej Plenković and President Zoran Milanović, who has the role of confirming the election.' The new president of the Croatian Supreme Court was finally elected on 18 October 2021. Trkanjec, 2021.

45 On 8 February 2024, the Croatian Parliament elected Ivan Turudić as the new Attorney General on Wednesday, further deepening the divisions in the already deeply polarised Croatian political scene. Milovan, 2024.

46 European Commission, 2022.

47 Ombudsperson for Human Rights, 2023.

References

Bibliography

- Beširević, N. (2012) 'Demokratizacija i europeizacija kao teorijski okviri instrumenata uvjetovanosti u politici proširenja Europske unije', *Političke perspektive*, 2(1), pp. 21–44.
- Boduszyński, M.P. (2013) 'The Trials and Triumphs of Europeanization in Croatia: The Unbearable Weight of Structure and State-Building?' In Elbasani, A. (ed.) *European Integration and Transformation in the Western Balkans; Europeanization or Business as Usual*. Oxon and New York: Routledge, pp. 39–53.
- Boduszyński, M.P. (2013) 'The Trials and Triumphs of Europeanization in Croatia: The Unbearable Weight of Structure and State-Building?' In Elbasani, A. (ed.) *European Integration and Transformation in the Western Balkans; Europeanization or Business as Usual*. Oxon and New York: Routledge, pp. 39–53.
- Bojinovic Fenko, A., Urlic, A. (2015) 'Political Criteria vs. Political Conditionality: Comparative analysis of Slovenian and Croatian European Union accession processes', *CIRR*, 21(72), pp. 107–137 [Online]. Available at: <https://doi.org/10.1515/cirr-2015-0004> (Accessed: 10 October 2023).
- Bučar, B. (1999) 'The Issue of the Rule of Law in the EU Enlargement Process: Aspects of Slovenian-Italian Relations' in Benedek, W., Isak, H., Kicker, R. (eds) *Development and Developing International and European Law: Essays in Honour of Konrad Ginther on the Occasion of his 65th Birthday*. Frankfurt am Main: Peter Lang, pp. 339–353.
- Carević, M. (2021) 'Caught on the Radar of the European Commission: Croatian Experiences with the Infringement Procedure', *Croatian Yearbook of European Law & Policy*, 17(1), pp. 279–305 [Online]. Available at: <https://doi.org/10.3935/cyelp.17.2021.460> (Accessed: 10 October 2023).
- Ćemalović, U. (2020) 'One Step Forward, Two Steps Back: The EU and the Western Balkans After the Adoption of the New Enlargement Methodology and the Conclusions of the Zagreb Summit', *Croatian Yearbook of European Law & Policy*, 16(1), pp. 179–196 [Online]. Available at: <https://doi.org/10.3935/cyelp.16.2020.372> (Accessed: 10 October 2023).
- Čepo, D. (2020), *European Values & Challenges of EU Membership: Croatia in Comparative Perspective*, Centar za demokraciju i pravo Miko Tripalo.
- EU Monitor (2011) 'EU and Croatia have concluded the accession negotiations' [Online]. Available at: <https://www.eumonitor.eu/9353000/1/j9vvik7m1c3gyxp/viqms6nej5y2> (Accessed: 10 October 2023).
- Jović, D. (2018) 'Europa izvan Europske unije? Nove dileme pri definiranju europskog identiteta' *Revija za sociologiju* 48(3), pp. 359–394.
- Milovan, A. (2024) 'Parliament elects Turudić as new chief prosecutor, opposition, and NGOs predict democratic erosion', *Euractiv* [Online]. Available at: <https://www.euractiv.com/section/politics/news/parliament-elects-turudic-as-new-chief-prosecutor-opposition-and-ngos-predict-democratic-erosion/> (Accessed: 10 October 2023).
- Ompudsperson for Human Rights (2023) 'Annual report for 2022' [Online]. Available at: https://www.sabor.hr/sites/default/files/uploads/sabor/2023-04-03/151118/IZVJ_PUCKA_PRAVOBRANITELJICA_2022.pdf (Accessed: 10 October 2023).

- Pech L., Kochenov, D. (2019) Strengthening the Rule of Law within the European Union: Diagnoses, Recommendations and What to Avoid, Policy Brief, *RECONNECT – Reconciling Europe with its Citizens through Democracy and Rule of Law* [Online]. Available at: <https://reconnect-europe.eu/wp-content/uploads/2019/06/RECONNECT-policy-brief-Pech-Kochenov-2019June-publish.pdf> (Accessed: 10 October 2023).
- Report of the Secretary General of the Council of Europe (2023) 'State of Democracy, Human Rights and the Rule of Law' [Online]. Available at: <https://rm.coe.int/secretary-general-report-2023/1680ab2226> (Accessed: 10 October 2023).
- Richter, S., Wunsch, N. (2020) 'Money, Power, Glory: The Linkages between EU Conditionality and State Capture in the Western Balkans', *Journal of European Public Policy* 27(41), pp. 41–62 [Online]. Available at: <https://doi.org/10.1080/13501763.2019.1578815> (Accessed: 10 October 2023).
- Rodin, S. (2001) 'Requirements of EU Membership and Legal Reform in Croatia,' *Politička misao: Croatian political science review* 38(5), pp. 87–105.
- Schimmelfennig, F., Scholtz, H. (2010) 'Legacies and Leverage: EU Political Conditionality and Democracy Promotion in Historical Perspective', *Europe-Asia Studies*, 62(3), pp. 443–460.
- Screening report for Croatia (2007) 'Chapter 23 – Judiciary and Fundamental Rights', 27 June 2007 [Online]. Available at: https://neighbourhood-enlargement.ec.europa.eu/system/files/2018-12/screening_report_23_hr_internet_en.pdf (Accessed: 10 October 2023).
- Uzelac, A. (2004) 'Rule of Law and the Judicial System: court delays as a barrier to accession' in K. Ott (ed.) *Croatian Accession to the European Union: Institutional Challenges*. Zagreb: Institute for Public Finance, pp. 99–123.
- Vasiljević, S. (2004) 'The legal aspects of the protection of minorities in the process of stabilization and association', in K. Ott (ed.) *Croatian Accession to the European Union: Institutional Challenges*. Zagreb: Institute for Public Finance.
- Vasiljević, S. (2020) 'Temeljna prava i vladavina prava u Europskoj uniji: izazovi prije i nakon pridruživanja', in Bačić, A. (ed.) *Pravo i politika EU: stara pitanja, novi odgovori*, Zagreb: Hrvatska akademija znanosti i umjetnosti (HAZU), pp. 89–124.
- Vasiljević, S. (2022) 'EU Minority Conditionality and the Rule of Law: The Case of Croatia', in Krešić, M., Banović, D., Sampedro, A. Carrio, A. (eds.) *Ethnic Diversity, Plural Democracy and Human Dignity*. Cham: Springer, pp. 223–252.
- Zucconi, M. (2020) *EU Influence Beyond Conditionality: Turkey Plus/Minus the EU*. London: Palgrave Macmillan.

Legal sources

- COM (2010a) 'Communication from the Commission to the European Parliament and the Council', *Enlargement Strategy and Main Challenges 2010-2011*, Brussels. 09 November 2010.
- COM (2010b) 'Croatia 2010 Progress Report accompanying the Communication from the Commission to the European Parliament and the Council', *Enlargement Strategy and Main Challenges 2010-2011*, Brussels, 09 November 2010.
- European Commission (2011) '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, 02 March 2011.
- European Commission (2022) 'Rule of law report 2022– the rule of law situation in the European Union'.
- European Commission (2023) 'Rule of Law Report 2023: Country Chapter Abstracts and Recommendations'.

European Council in Copenhagen (1993) 'Conclusions of the presidency', Copenhagen, SN 180/93.

INL (2015) 'European Parliament resolution of 25 October 2016 with recommendations to the Commission on the establishment of an EU mechanism on democracy, the rule of law and fundamental rights', 2015/2254.

RSP (2019) 'European Parliament resolution of 14 November 2018 on the need for a comprehensive EU mechanism for the protection of democracy, the rule of law and fundamental rights, 2018/2886.