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Screening report

Croatia

Chapter 24 – Justice, freedom and security

Date of screening meetings:

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Bilateral meeting: 21-23 February 2006

I. CHAPTER CONTENT

EU policies aim to maintain and further develop the Union as an area of freedom, security and justice. On issues such as border control, visas, external migration, asylum, police cooperation, the fight against organised crime and against terrorism, cooperation in the field of drugs, customs cooperation and judicial cooperation in criminal and civil matters, Member States need to be properly equipped to adequately implement the growing framework of common rules. Above all, this requires a strong and well-integrated administrative capacity within the law enforcement agencies and other relevant bodies, which must attain the necessary standards. A professional, reliable and efficient police organisation is of paramount importance. The most detailed part of the EU's policies on justice, freedom and security is the Schengen *acquis*, which entails the lifting of internal border controls in the EU. However, for the new Member States substantial parts of the Schengen *acquis* are implemented following a separate Council Decision to be taken after accession.

II. COUNTRY ALIGNMENT AND IMPLEMENTATION CAPACITY

This part summarises the information provided by Croatia and the discussion at the screening

Croatia indicated that it can accept the *acquis* regarding justice, freedom and security. Croatia indicated that it does not expect any difficulties to implement the *acquis* by accession.

II.a. Migration

The field of migration is primarily regulated by the Aliens Act (of 2004) and the accompanying implementing regulations, the Ordinance on the status of aliens, the Ordinance on travel documents for aliens, visas, border passes and rules for treatment of aliens and the Ordinance on issuing travel documents, visas and special identity cards to aliens.

The Aliens Act needs to be amended in a number of fields. With regard to legal migration this is for instance the case for:

- The rules for family reunification,
- Time limits for acquiring permanent residence,
- The duration of stay outside Croatia as a reason to termination of status.

With regard to labour migration it is foreseen to amend the Aliens Act in order to:

- Review the possibility of terminating the quota system,
- To condition the issuance of working permits on non-existence of domestic labour force,
- To impose time-limits on seasonal employment,
- To introduce working-permits for certain categories of persons who do not need them at present,
- To prescribe the competence of the Ministry of the Interior for controlling the work of the aliens.

In 2005 the number of working permits issued was 3,814 and of business permits 3,356. The most important countries of origin for nationals who receive working or business permits are Bosnia and Herzegovina and the former Yugoslav Republic of Macedonia.

With regard to illegal migration, amendments of Croatian legislation will be necessary as regards for instance:

- Practical procedures for deportation by air,
- Conditions for granting residence on humanitarian grounds,
- Definition of victims of human trafficking,
- Obligations of carriers,
- Penal framework,
- The definition of the term aiding illegal entry and transit and aiding illegal residence,
- Re-admission agreements.

In 2005 the registered number of illegal crossings of the state border was 5,406. This represents a considerable reduction compared to 2000 when it was 24,180.

Amendments of the Aliens Act are under preparation. A working group was formed under the responsibility of the Ministry of the Interior in April 2005 in order to draft a proposal for amendments. It is foreseen that such a proposal can be presented in the 4th quarter of 2006. On the basis of this proposal it is planned to hold seminars for migration officials during 2007.

Croatia has readmission agreements with 17 EU countries, with Bulgaria and Romania as well as with Bosnia and Herzegovina, Serbia and Montenegro, Albania and the former Yugoslav Republic of Macedonia. Croatia also has readmission agreements with Norway, Switzerland and Iceland. The most important are the agreements with the immediate neighbouring states. Further readmission agreements are under preparation with Moldova and Ukraine.

A proposal for a Migration Policy Strategy of the Republic of Croatia for 2006-2007 was forwarded to Parliament in December 2005. The Strategy evaluates the situation regarding migration into Croatia, indicates principles and objectives and defines the competent authorities. The proposal emphasises the alignment with acquis requirements and international standards and the adoption of an integration policy and outlines the initiatives that will need to be taken with regard to creation of new structures and approaches as well as international agreements and cooperation. The proposal does not specify time-limits for implementing the measures or the funds, equipment and human resources that will be needed.

Croatia participates as an observer in the Centre for Information, Discussion and Exchange on the Crossing of Frontiers and Immigration (CIREFI). In order to prepare for full participation in this cooperation Croatia will need to change its provisions relating to sharing information. This is foreseen for the end of 2006.

The field of immigration is primarily the responsibility of the Ministry of the Interior. Certain aspects are however covered by the Ministry of Justice and the Ministry of Foreign Affairs and European Integration.

The system of deportation and accommodation in reception centres needs to be further developed. Croatia has only one reception centre for aliens with capacity for 116 persons (in Jezevo near Zagreb). It is planned to increase the capacity for illegal migrants by building two further centres – one in the southern part of the country and one in the eastern part.

A system of training in the field of illegal migration is implemented at the Police Academy. Further development of these training courses is foreseen.

II.b. Asylum

Croatia is a party to the Geneva Convention and its Protocol Relating to the Status of Refugees. According to Croatia its legislation is partially in line with EU requirements. The basic rights of asylum seekers for assistance and protection are thus ensured.

The field of asylum is regulated by the Asylum Act as well as a number of Ordinances on forms, on accommodation and on financial assistance. According to Croatia, this legislation, although partially in line with the *acquis*, needs to be comprehensively adapted.

Amendments to the Asylum Act are foreseen for the 4th quarter of 2006 and will, according to Croatia, need to cover the following aspects:

- Subsidiary protection,
- Temporary protection,
- Acts of persecution,
- Reasons for exclusion,
- Guarantees for asylum seekers,
- Withdrawal of refugee status,
- Definition of “safe country of origin”,
- Vulnerable groups,
- Voluntary repatriation,
- Accelerated procedure,
- Procedures related to asylum seekers at the border,
- Integration of asylees (education, training, employment).

It is further necessary to amend provisions on personal and travel documents and on record keeping.

The Asylum Act lays down that if an asylum application is dismissed or rejected as manifestly unfounded, the time-limit for an appeal is 8 days (in some cases 15 days). The Commission for Processing Appeals by Asylum Seekers and Asylees is a second instance administrative body. It has to reach a decision within 2 months.

From 2001 to 2005 Croatia received applications from 598 asylum seekers. The most important countries of origin are Bangladesh, Serbia and Montenegro, Turkey and India. Asylum has until now not been granted to any person.

At present, Croatia has one centre for the immediate reception of asylum seekers and one further centre for more long-term accommodation. It is planned to relocate the reception centre in order to improve reception and accommodation standards.

Croatia prepares for its participation in the Dublin and Eurodac system. Present Croatian legislation provides for fingerprinting and photographing of asylum seekers, but not in electronic form. There is no obligation to forward this information to other bodies.

The field of asylum is the responsibility of the Ministry of the Interior, in particular the Departments for Aliens and Asylum.

At present Croatia does not have an overall strategy for the asylum area. Certain aspects are covered by the proposal for a Migration Policy Strategy of the Republic of Croatia for 2006-2007 that was presented to Parliament in December 2005 (see further above). The proposal defines a number of improvements that will be necessary as regards asylum policy.

II.c. Visa policy

The visa regime of Croatia is regulated by the Aliens Act and the Regulation on the Visa Regime, the Ordinance on the Issuing of Travel Documents, Visas and Special Identity Cards, the Ordinance on Travel Documents for Aliens, Visas, Border Passes and the Mode of Proceeding with Aliens.

Croatia is in full compliance with the “positive list” under the Council Regulation listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement. Croatia is only partially aligned with the “negative list”, as the nationals from the following countries are not required to have visa: Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Turkey, Serbia and Montenegro (temporary suspension until end 2006) and the Russian Federation (in certain cases).

As stated in the Croatian National Programme for EU Accession (2003-2006), Croatia has decided not to enter into new arrangements on waiver of visa requirements with states on the “negative list”.

Croatia’s procedure for issuing visas will need to be adapted in order to bring them into compliance with the Common Consular Instructions on visas for the diplomatic missions and consular posts. This will for instance need to include:

- the establishment of a central authority competent for visa matters,
- the adaptation of visa types and features, the visa sticker, the visa validity period, the issuing procedure and the requirements for supporting documents (in particular, the travel insurance requirement must be introduced),
- conditions for visa application and denial,
- adaptation of visa fees,
- establishing a framework for local consular cooperation,
- fully adapt the conditions for issuing visas at border crossing points.

With regard to the EU requirements for a uniform format for visas, it is not possible for Croatian legislation to achieve full alignment before obtaining the detailed technical specifications that are secret. Croatian visas do not include an identity photo of the holder integrated in the visa sticker and no text is entered into the machine-readable area. Visas are not printed with jet-ink printers. Preparations to fully take over EU requirements are underway, also as regards the format for residence permits for third-country nationals and the formats for affixing the visa.

As regards the standards for security features and biometrics in passports and travel documents, Croatia fully complies with the minimum EU requirements applicable at the time of the screening.

An inter-ministerial working group is drafting amendments to the Aliens Act and the subordinate legislation with a view to submitting amendments by the end of 2006. This will include a legal framework for the establishment of an information system – the Croatian Visa Database.

With regard to the preparations for the Visa Information System, the diplomatic missions at present use the information network IKOS of the Ministry of Foreign Affairs and European Integration. 34 missions have access to this system, covering 77% of visa applications. It is planned to ensure access for all mission to IKOS by 3rd quarter of 2008.

Training courses are planned for consular officials to manage visa issues and in particular detect forged and falsified documents.

The average time for processing visa application is 10-15 working days. The applicant is notified orally about the refusal of an application. The official is not obliged to inform about the grounds for refusal. There is no possibility for appeal against refusal of visa application.

Visas can be issued at the border if there are humanitarian, serious professional or personal reasons for it. Humanitarian reasons may be: emergency need for medical help or an unpredicted event (illness, death etc.) regarding the members of the immediate family.

Croatia is in the process of drafting a strategy for complete alignment of Croatian visa regime which will contain planned alignment deadlines.

II.d. External borders and Schengen

External borders

The legal basis for the controls at the external borders is the State Protection Act, the Police Act, and the Aliens Act as well as other subordinate acts.

Croatia needs to continue aligning its legislation and border checking procedures to the acquis, including its recent developments, and to take the necessary practical measures to fully comply with the standards in the area of border management.

As to legislative measures, changes are ongoing both to the Aliens' Act and to the State Border Protection Act. Adoption is foreseen, respectively, by the end of 2006 and by the end of 2008.

Border control is exclusively the responsibility of the Ministry of the Interior and is performed by the Border Police. By way of exception, controls at certain border crossing points may be performed by customs officers; however, currently no border crossing point is manned only by the customs authorities. The Border Police is under-going a process of reorganisation. The aim is to increase its efficiency by increasing the number of border guards (currently, about 4400 officers are employed by the Border Police Directorate), enhance training efforts, improve coordination at all levels and ensure that resources are not taken from the border control activities for other police activities. In the coming years an appropriate number of vacant positions of the border police should be filled, according to actual requirements.. They will need adequate training which implies a need to reinforce current training capacity of the Police Academy.

The State authorities involved in border management include the Ministry of the Interior (in particular the Border Police Directorate), the Ministry of Finance (in particular the Customs Administration), the Ministry of Agriculture, Forestry and Water management (in particular the Phytosanitary and Veterinary Inspection), the Ministry of Health and Social Welfare (in particular the Department for Border Sanitary Inspection) and the State Inspectorate. In addition, the Navy assists the Police in tasks of border surveillance at the blue border; however, the Police maintain the command of all operations.

An inter-ministerial working group has been established to ensure the coordination between these services. The overall framework for the coordination is the Integrated Border Management Strategy (see also below under "Schengen acquis").

In relation to international police cooperation, several protocols/arrangements on border-crossing cooperation exist with Croatia's neighbours (with Slovenia, such an arrangement is in the implementation phase: with Hungary, it has been initiated, and with Bosnia-Herzegovina it has been drafted). These entail joint patrols at the common border, cross-border police cooperation, exchange of liaison officers and establishment of contact points.

Local border traffic agreements currently exist with Slovenia, Serbia and Montenegro and with Bosnia and Herzegovina.

Schengen acquis

Croatia foresees to adopt a Schengen Action Plan by the end of 2006 that will take into account the requirements of the Schengen acquis including the development of the Schengen Information System II. The Ministry of the Interior will be responsible for adapting existing records and database systems in order to fulfil Schengen related requirements, for instance with regard to fixed time-limits for data retention, alignment of data content and to establish vehicle test centres with access to the data in the SIS regarding stolen vehicles and missing registration plates.

The preparations for the Schengen system must be seen in the context of the Border Police Development Strategy, which includes an Activity Plan for 2005-2009, strengthening of the Border Police efficiency and compliance with EU standards in border management. The Strategy covers initiatives in the field of legislation, border controls, technical equipment, IT structure, training and upgrading of the border police and financial aspects of the implementation of the strategy. The Integrated Border Management Strategy (see also above under "External borders") foresees enhanced cooperation between the authorities and services involved in border controls.

The Ministry of the Interior is in the process of implementing a project, "National Border Management Information System", which will prepare the national system of Croatia for inclusion in SIS II, as far as it is possible on the basis of the information available to Croatia.

II.e. Judicial co-operation in civil and criminal matters

Judicial co-operation in civil matters

The main body of Croatian legislation as regards judicial cooperation in civil matters are the Private International Law Act (PILA) and the Civil Procedures Act (CPA). According to Croatia, this legislation is not in line with EU requirements except to some degree as regards jurisdiction. It is foreseen to present a number of legislative measures before the end of 2006 that will address this situation.

The rules of PILA on jurisdiction in civil and commercial matters are only partly aligned with the acquis; those on recognition and enforcement of a foreign judgment are not at all aligned. However, as Council Regulation 44/2001 on jurisdiction and the recognition and enforcement of judgements in civil and commercial matters will apply directly from accession, Croatia does not need to modify the provisions of PILA in this regard.

Council Regulation 1348/2000 on the service in the Member States of judicial and extrajudicial documents and Council Regulation 1206/2001 on cooperation between the

courts of the Member States in the taking of evidence in civil and commercial matters will both also apply directly and therefore not require full alignment of the Croatian legislation prior to accession. The regulations presuppose, however, certain administrative structures, notably the designation of competent authorities. Croatia has recently acceded to the 1965 Hague Convention on the service of documents (which will come into force for it on 1 November 2006) and is currently preparing an act on international legal assistance which shall regulate in general the issue of service of documents and taking of evidence in a way which is also intended to provide for the necessary structures necessary to apply the above mentioned regulations. Further amendments to PILA, CPA and the Enforcement Act are envisaged in order to bring them into compliance with Regulation 805/2004 on the European Enforcement Order. As to the rules on the law applicable to contractual obligations (the future Rome I Regulation), Croatia intends to undertake a comprehensive amendment of the PILA to bring it into compliance with the *acquis*. As regards family law, Croatia is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction and intends to become a party to the relevant international conventions in this field.. It is not envisaged to align PILA with Regulation 2201/2003 since the regulation will be directly applicable.

On insolvency, many solutions of the Croatian legislation are similar to the Community *acquis*. Since Regulation 1347/2000 on insolvency proceedings will be directly applicable, Croatia does not intend to further align its autonomous international insolvency law with the Community *acquis*. Croatia further needs to amend its legislation with respect to access to justice (legal aid and compensation of crime victims) which it intends to cover in the Act on Free Legal Aid, Act on International Legal Assistance in Civil Matters and in additional legal acts.

Judicial co-operation in criminal matters

Judicial cooperation between the Republic of Croatia and other countries currently is based on the conventional approach to judicial cooperation. That means that principally the concept of mutual recognition is not legally recognised and accepted.

Croatia is a party to the Council of Europe Convention on Mutual Legal Assistance in Criminal Matters (1959) and to its Protocol of 1978. Moreover, Croatia has signed but not ratified the second additional protocol to the Convention (2001).

Extradition in Croatia is based on concluded international conventions, bilateral treaties and national law. Croatia has ratified the European Extradition Convention of 1957. Croatia is party to the Additional Protocols of 1975 and 1978 and to the European Convention of 1977 on the suppression of terrorism.

The Act of 2005 on Mutual Legal Assistance in Criminal Matters aligns Croatia's legislation on extradition with the rules for simplified extradition of the EU. It provides for the securing of evidence and confiscation of property as forms of mutual legal assistance in criminal matters. Croatia's legislation is not in compliance with the Framework Decision on the European Arrest Warrant. This is first of all the case as regards citizens of Croatia who cannot be extradited according to the Constitution (Art. 9(2)). Moreover, Croatian legislation is not in line with the abovementioned Framework Decision as regards the scope of the dual criminality principle, the executive involvement in and the procedures for extradition and the grounds for refusing surrender.

Croatia's cooperation in extradition matters with the United States is currently based on an old 1901 agreement concluded with the Kingdom of Serbia (on the mutual extradition of

fugitives from justice) which is applicable to Croatia under the rules of state succession. Croatia has expressed its intent to draft a new bilateral agreement in the context of the implementation of a future EU-US Agreement. There is no bilateral agreement on mutual legal assistance between Croatia and the United States. With Iceland and Norway bilateral agreements exist neither on extradition nor on mutual legal assistance, the basis of cooperation are the Council of Europe Agreements of 1957 and 1959.

Croatia has appointed three contact persons for cooperation with Eurojust. Croatia is in the process of preparing for cooperation with Eurojust. Croatia has ratified the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data. It is hoped that negotiations of a formal agreement with Eurojust can start in 2006. There is a need to determine the competent authority of Croatia for the cooperation with Eurojust and to establish the nature and the extent of the powers of the liaison magistrate including the access to the information contained in the criminal records.

In relation to the *acquis* on ne bis in idem, Croatia's relevant rules are found in the Criminal Code.

With regard to the execution of foreign orders freezing property or evidence and on the execution of financial penalties, the relevant Croatian rules are found in the Act on International Legal Assistance in Criminal Matters. This Act applies mutual legal assistance rules ("MLA rules") to such measures. In order to align with the relevant *acquis* these MLA rules would have to be replaced by the EU rules which govern the application of the principle of mutual recognition to such measures.

Rules on environmental crimes are contained in the Criminal Code and the Maritime Code. The creation of a national contact point (Article 9 of the FD) is planned.

Regarding the Council Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings, Croatia has provisions on victim's status in the Criminal Procedure Act and in the Witness Protection Act. There are provisions on procedural rights (i.e. legal assistant, interrogation of a defendant, witness, expert-witness, to comment and clarify their statements, give other statements and make other motions and to inspect files and objects which are evidence etc.). There are also provisions on endangered witnesses and there is possibility to anonymous participation to the proceedings.

Croatia is a party to the Council of Europe Convention on the Transfer of Sentenced Persons (1983), but has not signed nor ratified the Additional Protocol to the Convention on the Transfer of Sentenced Persons (1997).

II.f. Police co-operation and fight against organised crime

Police co-operation

Croatia is a member of Interpol since 1992. On government level 22 international agreements have been concluded. Agreements are under preparation for 17 further countries.

An operational cooperation agreement was signed in January 2006 between the Republic of Croatia and Europol. The ratification procedure is still on-going. The cooperation agreement covers all areas of crime within the Europol mandate. It includes e.g. exchange of specialised knowledge, general situation reports, strategic analyses results, police investigation information. Croatia does not apply the Europol 4x4 system for evaluation of information and sources.

Croatia's bilateral and multilateral agreements on police cooperation provide for mutual exchange of liaison officer. There are currently 15 police liaison officers from foreign police agencies in Croatia. Croatia has a liaison officer in SECI Regional Centre in Bucharest and one with Interpol in Lyon. The operational cooperation agreement between the Republic of Croatia and Europol foresees the secondment of a liaison officer from Croatia to be placed in Europol. This has not yet been done.

The Act on the Office for Suppression of Corruption and Organised Crime (USKOK) provides for the possibility of joint investigative teams on the basis of international agreements.

The Criminal Procedure Act and the Act on USKOK define the obligations of the police related to cooperation with the State Attorney's Office and the USKOK as well as the competencies regarding orders, guidelines and supervision of police performance.

Croatian Police has had a Code of Ethics since 2001 that is binding for all police officers. It provides a set of principles on the conduct of the police based on international and domestic law and sets out the objectives of the police such as safeguarding the rule of law, conduct towards the citizens, and respect of confidentiality. An Ethics Commission is established to inquire on the ethics of more frequent police conduct. The Commission is appointed by the General Police Director.

External supervision of police performance is exercised by the parliamentary committees, non-governmental organisations and by the public.

Internal supervision is exercised by the Internal Supervision Department within the Office of the Minister of the Interior.

A National Plan of the Republic of Croatia for the fight against organised crime foresees operative police cooperation on international and regional level with particular regard to suppression of organised crime and money laundering. This cooperation is primarily carried out through Interpol, the SECI centre and within the framework of SEECF (South Eastern Europe Cooperation Process).

The tasks concerning security in connection with football matches are carried out by the Section for Securing Public Gatherings under the Police Administration. Croatia participates in the exchange of information with other countries concerning this issue. Communication is carried out through Interpol. Croatia's legislation in this respect is partially aligned. There is still a need to establish a state information police post for football.

Croatia is not a member of the European Network for the Protection of Public Figures but a special section in the Ministry of the Interior has been set up for this purpose. Croatia needs to appoint a contact person for exchange of information

DNA technology is in routine use for all types of crime since 1997 as well as in identification of human remains. The DNA database is operational since 2000. The DNA laboratory has been official member of ENFSI DNA working group since 1999. Exchange of DNA analysis results takes place since 2000. DNA profiles are available for Europol DNA database.

Croatia has two databases of stolen or lost travel documents available, a national police data information system and an IPSG STD database.

Exchange of encrypted data with other countries functions exclusively via the Interpol system. Croatia does at present not have the ability to exchange encrypted messages. The purchase of specialised equipment is foreseen in order to make this possible. When the operational co-operation agreement with Europol has been ratified it is foreseen to install equipment that will allow the establishment of direct communication.

It is planned to establish the SIRENE bureau within the Department for International Police Cooperation. The SIRENE bureau will be used in cooperation between the Criminal Police Directorate, the Border Police Directorate, the Immigration Department and the Customs Administration and it will contain the information on alerts in the Schengen Information System.

Fight against organised crime

Croatia is a party to the UN Convention against Trans-national Organised Crime, Protocol against the smuggling of migrants by land, sea and air, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, as well as the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition.

Over the past years, Croatia's Criminal Code and Criminal Procedure Act have been amended to define the terms of an organised group and criminal organisation in order to achieve full compliance with EU terminology. The mentioned amendments included provisions for temporary confiscation of proceeds of crime, as well as the obligation of forfeiture of proceeds of crime. The legal basis for an effective combat against organised crime was completed by the Witness Protection Act, the Act on Suppression of Money Laundering and the Act on Liability of Legal Persons for Criminal Offences.

Croatia considers that its legislation is fully aligned as regards the Joint Action to make it a criminal offence to participate in a criminal organisation in the Member States of the European Union as well as the Council Framework Decision combating fraud and counterfeiting of non-cash means of payment.

Croatian legislation needs further amendments to achieve full compliance with EU requirements for the fight against cyber crime. This in particular applies to such fields as: supervision and interception of internet communications, urgent data protection, cross-border access to data, urgent disclosure of traffic data, seizure of data for all criminal offences and creation of a system which is necessary for this purpose.

In 2004 Croatia adopted the National Plan for Combating Organised Crime. It determines a strategic approach for the combat against organised crime and corruption. Special emphasis is put on prevention and education, international and regional cooperation as well as inter-agency cooperation.

A separate State Attorney's Office was formed – the Office for the Suppression of Corruption and Organised Crime (USKOK). *Trafficking in human beings*

Trafficking in human beings is punishable under Article 175 of the Criminal Code with a maximum penalty of 10 years of prison, in case of trafficking of a child or a minor the maximum penalty is 15 years. The status of a victim is not conditioned on cooperation with judiciary and police bodies. The Ministry of the Interior can submit *ex officio* a criminal report against the perpetrator. Assistance to victims is regulated by the Protocol on Identification of Assistance to and Protection of Victims of Human Trafficking of the

National Referral Mechanism and by the Witness Protection Act if the victim decides to testify.. The Ministry of Health and Social Welfare is responsible for assistance to the victims.

II.g. Fight against terrorism

Croatia has adopted all 9 Conventions and 3 Protocols of the UN regarding the fight against terrorism as well the Council of Europe Convention on Combating Terrorism and the associated Protocol. These international acts have been implemented in Croatian legislation.

The Criminal Code of Croatia provides for definitions of terrorism, incrimination of joining a terror group, criminalisation of preparations for terrorist offences and financing of terrorist activities.

The Criminal Procedures Act provides the State Attorney's Office, police and courts with a procedural framework for discovering, investigating, conducting of proceedings and pronouncing of criminal legal sanctions in relation to terrorism. The Act provides for such measures as surveillance, technical recording of communication, entry into premises, and the use of undercover investigators.

If a concrete criminal offence with elements of terrorism has been committed the role of the co-ordinator of the criminal investigation is taken over by the competent state attorney. In his/her work the state attorney co-ordinates the work of all services involved in the criminal processing (police, Office for the Prevention of Money Laundering, security services etc.). The security services are obliged to inform the competent state attorney when they know that a terrorist act is being prepared.

An inter-ministerial working group for the suppression of terrorism was established in 2005. The working group is responsible for the promotion and coordination of the activities of the competent state bodies concerning the implementation of anti-terrorist measures and for reporting to the Government.

A National Security Strategy was adopted in 2002. It is directed against security threats such as terrorism and organised crime. It recommends measures such as efficient border controls, police and intelligence cooperation with neighbouring countries, regulation of the status of immigrants and asylum seekers, alignment of extradition procedures and links with relevant databases in other countries.

The Croatian security services may co-operate with foreign institutions with the approval of the Council for National Security on the basis of proposals from the Council for the Co-ordination of the Security Services.

The working group of the Government, the Crisis Staff, meets irregularly and carries out the co-ordination of activities among the different bodies of state administration in all types of crisis situations.

II.h. Fight against drugs

Croatia is party to the relevant international instruments, such as the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, UN Convention on Psychotropic Substances, and the UN Single Convention on Narcotic Drugs. The requirements provided by the said conventions have been implemented into (i.e. have been covered by) the Criminal Code, the Criminal Procedure Act and the Act on Combating Narcotic Drugs Abuse. . Croatia has launched an initiative to accede to the Agreement on

illicit traffic by sea, implementing Article 17 of the UN Convention against illicit traffic in narcotic drugs.

The Agreement on operational and strategic co-operation between the Republic of Croatia and the European Police Office (Europol) was signed in January 2006 but has not yet been ratified. A national Europol unit has been established within the International Police cooperation Department.

The prevention of narcotic drugs abuse and smuggling in the Republic of Croatia is regulated by the following acts: the Criminal Code, Article 173, the Criminal Procedure Act and the Act on Combating Narcotic Drugs Abuse (these being the most important acts).

According to Croatia, national legislation is harmonised with the requirements of the Council Framework Decision on minimum provisions on the constituent elements of criminal acts and penalties in the field of illicit drug trafficking.

A National Strategy for Combating Drugs Abuse was adopted by parliament in December 2005. Based on the EU Drugs Strategy (2005-2012) it emphasises the need for an integrated, multidisciplinary, global and balanced strategy in the field of drugs. On the basis of this strategy an Action Plan on Combating Drugs Abuse (2006-2009) was adopted in February 2006. It outlines objectives and methods as well as specific tasks.

The responsibility for the fight against drugs is with the Ministry of the Interior, the Ministry of Finance – Customs Administration, the Ministry of Health and Social Welfare, the Ministry of Science, Education and Sports, and other ministries. An important role is played by the Office for Combating of Corruption and Organised Crime (USKOK) that constitutes a separate State Attorney's office for combating organised crime, corruption, drugs and terrorism. In order to ensure co-ordination of the activities of the various involved Government bodies, a special Commission for Combating Narcotic Drugs Abuse has been established.

The Office for Combating Drugs Abuse functions as an expert service of the Government in charge of systematic monitoring and review of issues related to the national Strategy.

Croatia is preparing to set up a national contact point for the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA). Data related to all aspects of drugs has been collected and analysed for many years in Croatia. Croatia is preparing to establish a national network for monitoring drugs and drug dependence along the lines of the Council Decision on information exchange, risk assessment and control of new psychoactive substances. An official application for membership of EMCDDA was submitted in 2005.

The Forensic Centre conducts analyses of new psychotropic substances but the administrative and institutional capacity of this body needs to be strengthened. The National Strategy provides for the establishment of a system for rapid exchange of data on production, trade, use and risks of new psychoactive substances.

Along the lines of the Council Recommendation on the prevention and reduction of damage to health associated with drug dependence, Croatian legislation foresees programmes aiming at a reduction of drugs abuse. Programmes and measures are undertaken in order to reduce the demand for drugs such as education and information campaigns, prevention and outpatient treatment, social care, strengthening the role of the family, harm reduction, medical and psycho-social treatment etc. At the same time, measures are taken to reduce drug supply, such as combating smuggling and money laundering.

II.i. Customs co-operation

The field of customs administration is covered by the Customs Service Act, the Customs Tariff Act, the Customs Act and the Regulation on the Customs Act Implementation.

According to Croatia, its legislation is not completely aligned with the *acquis* in the field of customs cooperation in the framework of criminal matters. Issues that require further follow up concern the special forms of cooperation provided for by the Convention on mutual assistance and cooperation between customs administration (Naples II), in particular: hot pursuit, cross-border surveillance, controlled delivery, covert investigations and joint special investigation teams.

Articles 13-33 of the Act on Customs Service lay down the specific control procedures, such as definition of the acts that may be carried out by authorised customs officers.

In 2003 Croatia passed a Decision to accept and publish the Arusha Declaration on the integrity of the customs service. Steps have been taken to simplify customs procedures and lay down the right to appeal against customs decisions. The revised Arusha Declaration has not been accepted and published.

The responsibility for this field is with the Customs Administration that is an administrative organisation within the Ministry of Finance. The Customs Administration currently employs 3068 customs officers. The customs information system of Croatia is fully computerised and supported by an integrated database. The system supports the basic functions of the customs service as well as fiscal collection of customs and tax duties and control.

A training programme has been developed for authorised customs officers, covering the competences of the officers as well as firearms handling and martial arts. The programme is conducted in cooperation with the Ministry of the Interior. A Customs Training Centre has been established in line with EU requirements.

II.j. Counterfeiting of the euro

Croatia is party to the International Convention for the Suppression of counterfeiting Currency since 1991.

The Criminal Code of Croatia envisages all the forms of criminal offences specified in Council Framework Decision on increasing criminal protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro. The sanctions for criminal offences foreseen in the Criminal Code are in line with the Framework Decision.

Recognition and enforcement of foreign court decisions is regulated by the Criminal Procedure Act and the Act on International Legal Assistance in Criminal matters. They comply with the EU requirements regarding recognition and enforcement of foreign court decisions related to counterfeiting of money.

III. ASSESSMENT OF THE DEGREE OF ALIGNMENT AND IMPLEMENTING CAPACITY

Croatia has taken concrete steps in most fields within the chapter of justice, freedom and security to prepare for the transposition of the *acquis*. Croatia has made a detailed analysis of remaining gaps, which makes clear that a substantial amount of work remains in all parts of the chapter. Important efforts still need to be made in order to ensure the necessary

administrative and enforcement capacity. This is in particular the case as regards the controls at the external borders.

III.a. Migration

Croatian legislation is only to a limited degree in compliance with EU requirements and will need to be comprehensively amended in order for Croatia to be fully prepared for EU accession. The gaps analysis presented by Croatia during the bilateral screening gives a thorough and detailed analysis of the many fields that require adaptation.

In its pre-accession preparations in the field of migration, Croatia will need to ensure the transposition of the EU acquis in the fields of legal migration and labour migration as well as illegal migration.

The on-going preparations for a proposal for amendments of the Aliens Act to be presented in the 4th quarter 2006 must be followed closely.

Beside the field of legal transposition, a number of important practical issues also need to be addressed such as the procedures for reception and deportation and the capacity of reception centres. Training of staff at all levels will need to be further developed.

The detailed analysis made by the Croatian authorities makes it clear that the need for legislative amendments is broad and requires a comprehensive strategy for legislative transposition and implementation. The proposal for a Migration Policy Strategy that is presently pending on adoption by Parliament will be an important instrument in this process. It is important that this plan be passed soon and that an action plan be developed that sets precise deadlines for implementing the necessary measures and gives a clear outline of the funds, equipment and human resources that might be needed.

III.b. Asylum

Croatian legislation guarantees the basic rights of asylum seekers as guaranteed by the Geneva Convention and its Protocol.

Substantial amendments of Croatian legislation are necessary in order to achieve full compliance with EU requirements. The detailed and thorough analysis presented by the Croatian authorities includes an identification of remaining gaps and the need for further amendments. This analysis provides a solid basis for the further work.

Croatia will need to improve the conditions for reception and accommodation in the asylum centres and ensure that the procedures in place at the borders guarantee access to the asylum procedure to all third country nationals wishing to apply for international protection.

Croatia needs to make the necessary preparation for its participation in the Dublin and Eurodac system, both in terms of investment in equipment and in upgrading of staff.

III.c. Visa policy

Croatia will need to make substantial amendments of its legislation as regards the procedures for issuing visas. Croatia has made a detailed analysis of the gaps that need to be addressed in order to achieve full compliance. On this basis, Croatia expects to submit draft amendments of the Aliens Act by the end of 2006.

Croatia is at present in compliance with the “positive list” regarding visa requirements for third country nationals. Croatia is only partially aligned with the “negative list” as nationals from the following countries are not required to have visa: Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Turkey, Serbia and Montenegro (temporary suspension until end 2006) and the Russian Federation (in certain cases). The maintenance of visa freedom for other countries in the region has a positive effect on regional integration and stability. Croatia must however ensure compliance with EU requirements in this regard on the day of accession at the latest.

With regard to EU requirements for a uniform format for visas, Croatia has made certain steps towards compliance. Full alignment, comprising to the secret part of the technical specifications, can however not be achieved before Croatia becomes a Member State. New *acquis* is under preparation as regards standards for security and biometrics in residence permits. The requirement to introduce biometric identifiers in passports and travel documents will be applicable as of August 2006. Croatia will need to follow closely these developments before it takes further steps in this direction. Biometric identifiers will need to be introduced into passports and travel documents by the time of accession at the latest.

Croatia will need to continue the preparations for the Visa Information System and to ensure the access of all diplomatic missions to the relevant information network.

III.d. External borders and Schengen

External borders

Croatia's long external border represents a particular challenge. Croatia will need to continue the implementation of the Integrated Border Management Strategy in order to increase the efficiency of external border controls. On the basis of this strategy, Croatia needs to adopt an updated Integrated Border Management Action Plan with concrete actions for both the land border and the blue border with targets, realistic deadlines, responsible authorities and an estimated budget for each of the actions requiring important investments. This plan should cover issues related to enhancing inter-agency co-operation, legislative alignment and institution building and should include increasing the number of border guards, enhancing training efforts and improving coordination between the involved services.

With regard to infrastructure and equipment, appropriate facilities to carry out border checks and surveillance tasks are needed in all types of borders in order to ensure equivalent high level of control.

Croatia will need to adapt its legislation and to take the necessary practical measures to fully implement the *acquis*. Legislative alignment is needed, *inter alia*, in the following areas:

- control of maritime traffic;- checks on specific categories of persons (e.g., diplomats),
- stamping of travel documents,
- separation of lanes at border crossing points, in particular at airports (EU/EEA/CH – NON EU/EEA/CH),
- appeal rights in case of refusal of entry,
- communication of passengers data (APIS).

In relation to local border traffic agreements with neighbouring third countries, developments of the EU *acquis* should be attentively followed and compliance with it ensured at the latest upon accession.

Schengen acquis

As was the case in recent EU enlargements, it must be expected that Croatia will not join the Schengen cooperation on the day of its EU accession but only at a later stage when all necessary preparations have been completed. It must therefore be considered as understandable and acceptable that Croatia's preparations for entering the Schengen cooperation are at a very early stage.

It is however important that Croatia already during the pre-accession period elaborates a Schengen Action Plan that can serve as a comprehensive framework for the preparations and ensure that an overall strategy can be followed both as regards legislative alignment, institutional adaptations, upgrading of staff, effective enforcement and infrastructure investments. Croatia's plan to adopt a Schengen Action Plan by the end of 2006 must therefore be welcomed. In each of the relevant policy areas it should cover the objective, the state of play, the national action needed, the timetable for adoption, financial implications, organisation and human resources involved.

At this stage of the accession process it would be premature to install SIS II compatible systems since these systems will not be operational at the day of Croatia's accession to the EU but only at the time when Croatia fully enters the Schengen cooperation and internal border controls are lifted. Croatia should however already during the pre-accession period develop its strategy for putting in place national large scale IT systems and information networks for police and immigration purposes, in particular at the border. These systems can be upgraded to be compatible with SIS II at a later stage. The Schengen Action Plan will be an important instrument in this.

III.e. Judicial co-operation in civil and criminal matters

Judicial co-operation in civil matters

As it is clear from the detailed analysis presented by the Croatian authorities, Croatian legislation is at present not aligned with the acquis in the field of judicial cooperation in civil matters. However, most of the acquis in this area consists of regulations which will apply directly and do not require modification of Croatian law. The Croatian authorities appear to have a clear comprehension of the acquis in this field and of the areas where an alignment of its relevant legislation is necessary. The transposition of the acquis nevertheless represents a challenge and a detailed action plan with indication of clear deadlines needs to be elaborated.

It needs to be ensured that the administrative bodies necessary for the correct implementation of the acquis are established and given the necessary staff and other resources.

Judicial co-operation in criminal matters

Judicial cooperation between the Republic of Croatia and other countries currently is based on the conventional approach to judicial cooperation and the concept of mutual recognition is not legally recognised and accepted. The principle of mutual recognition implies direct contacts between judicial authorities, which means that judges/prosecutors have to be aware of judicial cooperation instruments and as far as possible to be able to speak foreign languages, which would require judicial training. These issues are dealt with in detail under Chapter 23, but are also relevant for this chapter.

Croatia needs to sign and ratify the European Convention on the International Validity of Criminal Judgments (1970) and ratify the European Convention on the Transfer of Proceedings in Criminal Matters (1972).

The Act on International Legal Assistance in Criminal Matters (AILAC) contains provisions which are partially aligned with the *acquis*. However, legislation is not in alignment with respect of joint investigation teams, undercover investigators, cross-border monitoring and controlled deliveries.

As Croatia is already a party to the European Convention on Mutual Assistance in Criminal Matters and has signed and ratified the additional Protocol, Croatia should be encouraged to ratify the second additional protocol to the Convention (2001) which it already signed in 2004.

MLA 2000 Convention of European Union has been taken up by the Council of Europe in the second additional protocol to the European Convention on Mutual Assistance in Criminal Matters and thereof on joint investigation teams. Croatia's legislation is not in alignment with the *acquis* as concerns joint investigation teams.

Croatia's legislation regarding judicial co-operation in criminal matters will need to be further amended, in particular as regards the implementation of the Framework Decision on the European Arrest Warrant. An amendment of Croatia's Constitution will be necessary to allow surrender of Croatian citizens. Croatia further needs to align its legislation so as to remove the control of dual criminality principle for the list of 32 categories of offences, to ban the executive involvement in the procedures for deciding on surrender and to abandon grounds for refusal not foreseen in the aforementioned Framework Decision such as those based on the merits of the case or the fiscal or political nature of the offence..

Croatia has expressed its intent to draft a new bilateral agreement in the context of the implementation of a future EU-US Agreement. There is no bilateral agreement on mutual legal assistance between Croatian and the United States. With Iceland and Norway bilateral agreements exist neither on extradition nor on mutual legal assistance, the basis of cooperation are the Council of Europe Agreements of 1957 and 1959.

On *ne bis in idem*, Croatia would have to make amendments within its internal legal order in order to fully align with the relevant *acquis*, which is contained in Articles 54-58 of the Convention Implementing the Schengen Agreement ("CISA"). In particular, the exceptions to the application of the rule as regards foreign judgments go beyond what is allowed by Article 55 of CISA. As stated by the Croatian authorities, every offence which has been committed in the territory of Croatia can be retried in Croatia irrespective of a foreign judgment. This exception to *ne bis in idem* applies even if the offence was partly committed in Croatia and partly in a foreign State which already delivered a judgment. In contrast, in Article 55 of the CISA an exception to the application of *ne bis in idem* on grounds of territoriality is not allowed if the offence has been committed partly in the foreign State where a final judgment has already been delivered and partly in the Member State which has to take into account that foreign judgment.

Further changes would have to be made in order to properly align with the Framework Decision on the execution in the EU of orders freezing property and evidence and the Framework Decision on the application of mutual recognition of financial penalties, both of which apply the principle of mutual recognition of judicial decisions. To this end, the Croatian legal order should allow for direct involvement between judicial authorities, allow

the direct execution of foreign decisions without the need for the exequatur procedure, abolish dual criminality when necessary and limit the grounds of refusal.

Croatia will need to continue the preparations for its participation in Eurojust

Rules on environmental crimes are contained in the Criminal Code and the Maritime Code. Their content is in its majority already in line with the Framework Decision 2005/667/JHA on ship-source pollution, however, certain provisions (e.g. on the amount of financial penalties) require modification. The creation of a national contact point (Article 9 of the FD) is planned.

Regarding the status of victims in the criminal proceedings, Croatian law is not aligned with this Framework decision regarding notification of the injured party that the perpetrator has been released after serving the sentence, acquiring of testimonies by means of devices for picture and sound transmission (video and phone conferences), establishing of a service for assistance to victims of criminal offences and education of the professional staff.

Croatia is a party to the Council of Europe Convention on the Transfer of Sentenced Persons (1983), but as it has not signed nor ratified the Additional Protocol to the Convention (1997). Croatia should do so.

III.f. Police co-operation and fight against organised crime

Police co-operation

Police cooperation between Croatia and the EU needs to be further developed to ensure full participation as foreseen by EU requirements. Croatia needs to elaborate an action plan to ensure that the remaining initiatives are taken in due time before accession to transpose the full acquis incumbent on law enforcement authorities, including the relevant parts of the Schengen acquis.

The agreement on cooperation between Croatia and Europol needs to be ratified by the Croatian Parliament. The necessary steps must be taken for the secondment of a Croatian liaison officer to Europol. Preparations must be made to take over the Europol 4x4 system for evaluation of information and sources.

It should be noted that the issue of money-laundering is covered in detail by chapter 4, Free Movement of Capital,

Fight against organised crime

Croatia is at an advanced stage in the alignment with EU requirements as regards the criminal offence of participation in criminal organisations, the combating of fraud and counterfeiting of non-cash means of payments as well as the trafficking of human beings. Further efforts are necessary as regards the legislation against cyber crime and the combating of child pornography on the internet. The detailed gaps analysis by the Croatian authorities can be used as a good basis for these efforts.

The implementation of the National Plan for Combating Organised Crime will need to be followed closely. It is of particular importance that the administrative and enforcement capacity is developed within the Office for Combating Corruption and Organised Crime (USKOK) and the General Police Directorate.

III.g. Fight against terrorism

Croatia is at an advanced stage in taking into its legislation the definitions of crimes related to terrorism as required in the acquis.

Nevertheless, there is need for further compliance with the Framework Decision on combating terrorism, especially regarding the definition of terrorism as such. At the moment, the Croatian Law distinguishes between international and counter-state terrorism, while the Framework Decision does not make this difference. Besides, the last concept of "counter-state terrorism" does not correspond to Article 1 of the Framework Decision. Concerning the definition of international terrorism, some adjustments are still required in order to cover all cases foreseen in Article 1(1) letters (a) to (i) of the Framework Decision.

The further implementation of the National Security Strategy in relation to the fight against terrorism will need to be followed closely. An issue of particular importance is the possibility of the establishment of a national co-ordination arrangement for the day to day exchange of information, involving all law enforcement bodies and security services involved in countering terrorism.

Direct cooperation and information exchange with EU instances should be increased. In this context, Croatia should align its legislation with Council Decision 2005/671/JHA on the exchange of information and co-operation concerning terrorist offences. Co-operation and information exchange with Member States should be optimised.

Consideration should be given to making the occasional working group of the Government, the Crisis Staff, a more permanent working group. Croatia needs to adopt an action plan on combating terrorism. Such a plan should address alignment of Croatian law with evolving EU acquis in this area. The plan could also be a useful tool for a more permanent working group, as suggested above, in following the Croatian approach to the fight against terrorism and assuring that they are in line with the EU Counter-Terrorism Strategy.

Croatia is encouraged to ratify the 13th International Convention for the Suppression of Acts of Nuclear Terrorism and the Convention of the Council of Europe on the Prevention of Terrorism as soon as possible.

III.h. Fight against drugs

Croatia is party to the relevant international instruments regarding the fight against drugs. Croatia should continue the work to accede Agreement on illicit traffic by sea, implementing Article 17 of the UN Convention against illicit traffic in narcotic drugs.

Croatia has made substantial progress towards aligning its legislation as regards the constituent elements of criminal acts and penalties in the field of illicit drug trafficking.

The National Strategy for Combating Drugs Abuse is an important instrument for strengthening and co-ordinating the efforts in the fight against drugs abuse. In particular, the co-ordination of the many government bodies involved represents a substantial challenge. It must be ensured that the necessary financial and staff resources are made available to the responsible authorities.

The preparations for Croatia's participation in the EMCDDA need to be continued including, in particular, the establishment of a national Focal Point for the Reitox network. Further development of a national network for monitoring developments and trends on new psychoactive substances needs to be continued.

III.i. Customs co-operation

Croatia will need to continue the adaptation of its legislation in the field of customs co-operation in criminal matters in order to be ready to accede by the date of accession to the Convention on Mutual Assistance and Co-operation between the Member States (Naples II) and the Convention on the use of Information Technology for customs purposes (CIS), which have been drawn up by the Council in accordance with Title VI of the EU treaty.

The required number of customs officers will need to be assessed, in particular for the prevention and the fight against crime, such as illicit drug trafficking. A comprehensive training programme in relation to the prevention, detection, and prosecution of infringements of customs provisions will need to be put in place in order to ensure that all relevant staff is familiar with EU requirements in the field of mutual assistance and cooperation in criminal matters.

The computer systems of the customs administration of Croatia represent a good basis for the preparation of the customs services for the requirements of EU membership. The needs for further developments of the computer system in relation to the fight against crime must be analysed in detail.

The preparations for accession in the field of customs co-operation are closely related to chapter 29 “Customs union”.

III.j. Counterfeiting of the euro

Based on available information, Croatia has a high degree of alignment as regards the definitions of specified criminal offences as well as criminal penalties and sanctions. Subject to confirmation on the basis of thorough examination of the legal text, the Croatian legislation seems to be generally in line with the requirements of the *acquis* as regards the protection of the euro with criminal penalties.