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COVER NOTE

from:	General Secretariat
to:	Working Party on Enlargement and Countries Negotiating Accession to the EU
Subject:	CROATIA - Agreed minutes of the EU-Croatia Subcommittee on Justice and Home Affairs (Brussels, 30 June 2005)

Delegations will find attached the above mentioned document¹ as received from the Commission services.

¹ The Secretariat received this document in English only.

SUBCOMMITTEE ON JUSTICE AND HOME AFFAIRS
European Union - Republic of Croatia
Stabilisation and Association Agreement
Brussels , 30 June 2005

AGREED MINUTES

The first meeting of the Sub-committee on Justice and Home Affairs under the Stabilisation and Association Agreement between Croatia and the European Union took place in Brussels on 30 June 2005. The Sub-committee was chaired by the Commission ([REDACTED]) and the Presidency ([REDACTED]). The head of the Croatian delegation was [REDACTED]. A list of participants is attached (Annex 1). Croatia provided comprehensive written materials in advance of the meeting .

1. Welcome and Opening

2. Adoption of Agenda

After words of welcome by both delegations, the agenda was adopted as agreed (Annex 2).

3. Judiciary

Croatia presented the current state of play of the judicial reform strategy. A draft has been completed and submitted to the government for discussion and adoption, which should take place in July. It was prepared by a working group made up of judicial professionals, with some assistance from CARDS experts. The package to be adopted will include the strategy, an action plan and financial evaluations. The strategy covers independence, efficiency and reliability of judges; education; IT and the planned rationalisation of the court network. The latter is a sensitive issue which will require further elaboration, but it is clear that there are too many courts at present.

Croatia noted that the biggest problem to be tackled is the backlog, both in terms of the number of cases and the duration of proceedings, and provided detailed information on the implementation of measures to reduce it, notably: the redistribution of cases, widening the competences of judicial advisors and temporary voluntary overtime work of judges. Other measures include giving authority for resolution of undisputed inheritance cases to public notaries, the evaluation of judges under Art. 52 of the Courts Act, reform of the Criminal Procedure Act, monitoring of court administration and the promotion of alternative dispute resolutions.

Progress has already been made in reducing the backlog, in particular as regards the number of land registry cases where the aim is to solve the problem entirely during 2006. Greater competence has been given to authorised court clerks, and digitalisation of the records is

ongoing. Next to be tackled will be enforcement cases, which are still on the rise. The reasons for this need to be analysed and tackled, and urgent measures need to be taken. The final draft of the amended Enforcement Act was before the parliament.

The need for ongoing training of judges and court personnel is recognised, including specialisation in IT and language skills and EC law. Regional Centres of the Judicial Academy have been established in Zagreb and Rijeka, and three more are to be set up. The number of employees of the Academy has been strengthened from 5 to 9. Computerisation of the court network is also seen as a high priority, and more funds have been allocated this year than ever before, including from the national budget, World Bank and CARDS funding.

The Commission welcomed Croatia's efforts towards reform of the judiciary, and emphasised that the establishment of an independent, reliable, transparent and efficient judicial system is of the utmost importance. The Commission acknowledged that a strategy and action plan for reform of the judiciary are under preparation, while stressing the importance of close consultation with stake holders, in particular the judiciary itself. The Commission also noted that the forthcoming strategy will need to set out a coherent and long term approach towards tackling systemic problems. The Commission welcomed the progress made in decreasing the Land Registry case backlog from 325,000 to 278,000 at present, but underlined the need for continued efforts to reduce the current total backlog of the Croatian judicial system from 1.6 million cases.

The Commission stressed that, in addition to the streamlining of the court network, development of court administration and improvement of procedural rules, reform efforts should also focus on investment in court premises and equipment, and took note of Croatia's endeavours as regards the computerisation of courts. The Commission supported Croatia's efforts in strengthening access to training for all judges, such as the establishment of the Judicial Academy in March 2004, but emphasised that further investments are needed to ensure its effectiveness.

In relation to the large proportion of execution cases, the Commission asked whether the judicial reform strategy includes plans for a small claims or summary procedure for debt enforcement, which could speed up the rate of decisions. The Commission also enquired about plans to establish an institute of professional bailiffs, and requested a summary in English of the amendments to the Enforcement Act (once adopted).

Finally, the Commission recalled that Croatia should step up efforts to ensure proper implementation of ongoing assistance projects in the field of judicial reform. The importance of impartiality of judgements was stressed, as well as the need to remove persistent ethnic bias in war crimes trials before lower level courts.

A discussion took place clarifying how the temporary redistribution of cases from overburdened courts takes place in practise and the legal basis for the broadening of competence of judicial advisors. Croatia explained the timeframes to be covered by the reform strategy (3 year, 5 year and 10 year priorities) and the monitoring mechanism which is foreseen (a task force will be set up to follow progress). A new planning unit is also foreseen to be set up in the Ministry of Justice to oversee implementation of the strategy. Croatia confirmed that the institution of voluntary overtime for judges was a temporary measure specifically targeted at dealing with the very oldest cases in the backlog, and that such overtime is paid.

The Commission requested further information about planned amendments to the State Judicial Council Act improving the selection procedure for judges, as well as the planned new Law on Trainee Judges.

4. Corruption

Croatia expressed a awareness of the importance of combating corruption at all levels and acknowledged the need for close international and regional cooperation in these fields. To this effect, Croatia cited the signing of bilateral agreements in fighting organised crime and corruption with Bosnia and Herzegovina and Serbia and Montenegro, as well as its proactive participation in a number of initiatives and projects. In terms of legislative alignment, Croatia confirmed that almost all international instruments to combat corruption and organised crime have now been ratified. The Act on USKOK has been amended and supplemented to enable the Office to work more effectively and strengthen its role in pre-investigation procedures, in particular data gathering from banks and other sources. The amendments have given USKOK the competence to prosecute all forms of economic crime and corruption and strengthened its organisational structure.

The Commission welcomed that Croatia has ratified the UN Convention against Corruption, and offered its help in implementing the Convention. The Commission noted that most corruption dealt with by the Croat authorities is of petty nature and encouraged greater efforts to detect and combat high-level corruption. The Commission also stressed the need for greater coordination between all actors and the need to make USKOK (Office for the Prevention of Corruption and Organised Crime) fully operational by strengthening staff, equipment and professional training. Croatia referred to the recent initiation of the CARDS 2002 project which aims to assist in further administrative capacity building through organisational improvements, human resources development and modernisation of IT.

The Commission stressed the need to focus on prevention and education as well as repression, and suggested that it may be useful to study the approaches adopted by some of the member states in this regard. It further provided information on a comprehensive new Corruption Action Plan produced by the Council in the framework of the Hague Programme, and the planned signature by the EU of the UN Convention on Corruption in September/October 2005. The Commission noted Croatia's progress in drafting a new Anti-corruption strategy, but stressed that the strategy must contain concrete benchmarks, designate responsible institutions and timetable for implementation. The Commission also questioned Croatia about plans for introducing legislation regulating financing of political parties. While the legal framework to combat corruption seems to be largely in place, legislation relating to the financing of political parties is missing. Also, further information was requested on the planned electoral reform to set up a permanent electoral supervisory body and disburden judges from this role. The question was also asked as to whether any measures would be taken to follow up the many accusations of bribery during the recent local elections. Finally, the Commission emphasised the need for Croatia to produce better statistics on prosecution and conviction rates.

5. Fundamental rights, including data protection.

Croatia informed about its legislation in the areas of discrimination, gender equality, protection of the rights of the child, persons with disabilities, aliens, asylum seekers and

patients rights. Croatia also referred to the agreements concluded in the area of religious freedoms. In the area of media, Croatia reported that the new Media Act had been adopted in 2004 following recommendations by the Council of Europe and OSCE experts, and the Penal Code was amended to introduce new provisions in relation to criminal offences committed in the public media. Furthermore, Croatia outlined the legal framework with regard to national minorities and the progress that has been achieved in this area, as well as steps being taken concerning the return of refugees and displaced persons, repossession of property, reconstruction, housing of former tenancy right holders and regional cooperation. An agreement with Serbia-Montenegro on the protection of national minorities had been ratified on the Croatian side. An Action Plan on Roma for 2005-15 had been adopted and efforts had been stepped up to protect Roma rights as regards health, education and property. The government is currently trying to regularise the situation where Roma communities have built their houses without proper building licences or ownership of the relevant land. The budget of the Council on Minorities increased by 5 % this year.

The Commission responded positively to Croatia's presentation of the state of play in fundamental rights. In terms of discrimination and gender equality, the Commission enquired about the state of play regarding the preparation of the national anti-discrimination strategy and the new national policy for the promotion of gender equality. Croatia replied that the National Strategy for the Suppression of all Forms of Discrimination is currently being drafted, and the national policy for the promotion of gender equality is also underway. The Commission stressed the need for adequate budgetary allocations for both strategies and the need to raise public awareness.

The Commission noted that although there is a constitutional obligation to provide legal aid, this is decided on an ad-hoc basis and only applies in criminal cases. Croatia confirmed that work on the Act on Free Legal Aid is underway, and the first draft has been completed. The future Act will provide free legal aid according to international law, European Commission directives, Council of Europe recommendations and European Court of Justice caselaw. The Commission encouraged Croatia to step up efforts to advance legal aid reform.

The Commission asked for an update on progress in the setting up of the Personal Data Protection Agency. Croatia informed that the Agency's Director and Deputy Director were appointed in April 2004 and following a decision by the Croatian Parliament, the Agency began work. Pursuant to the Act on Personal Data Protection (passed in 2003) the Director passed the Statute, which was ratified by the Croatian Parliament in June 2004. The Agency currently has 14 employees and its office is in Zagreb. The Commission welcomed this information, and stressed the importance of ensuring that the Data Protection Authority is fully operational. It particularly welcomed the recent ratification by Croatia of the Council of Europe Convention for the Protection of Individuals with Regards to Automatic Processing of Personal Data Convention, which is important for exchange of information with Europol. Finally, the Commission requested further information on the internal organisation and organigramme of the Agency, its website, its activities (whether any companies had already been fined for violations of the Act, and whether any decisions had been adopted on transfers of data outside Croatia). Further information was also requested on the practical application of the Act by the police.

6. Border Management, including visa

In the field of border management, Croatia presented to the Commission an overview of the subordinate legislation which was drafted following the adoption of the State Border Control Act in October 2003. Croatia informed of strategic documents relating to border management, namely the Border Police Development Strategy and the National Strategy for Integrated Border Management, and described the implementation of the new organisation-personnel concept of the border police on local and regional level currently underway. Croatia also set out the activities planned for training within border management for the period 2005-2006, and informed of the current state of play of the visa regime, as well as outlining the activities planned within the visa regime for 2005-2006.

The Commission noted the recent adoption of these multi-annual strategies and action plans on border management, but stressed that they will need to be implemented consistently and without delay. The Commission also informed Croatia that the next step will be to develop and implement a Schengen Action Plan. Croatia responded that work on this will begin in September 2006 and then elaborated under a Phare 2005 project.

The Commission pointed out that there is still need for further harmonisation of the legal framework with the *acquis*. Also, border checking procedures will need to be harmonised at national level and brought in line with EU rules and best practices. The Commission advised that an important step in this direction would be to foster further specialisation of the border police as a separate service in the Ministry of Interior, including at local level. The Commission also raised the fact that the State Secrets Act continues to somewhat hamper cooperation and assistance in this field due to reducing transparency and information flow between Croatian authorities and the Commission. Croatia responded that an interagency working group has made initiatives to amend the relevant article of the Act.

The Commission welcomed Croatia's plans for the training of border policemen, but stressed that Croatia must reinforce further its training capacity if between 4000 and 5000 border policemen are to be recruited and trained in the years to come, as planned, given the current training capacity of around 400 persons per year. Croatia responded that in addition to putting as many new recruits as possible through specialised border police training, there would also be some redeployment from within the police and/or other agencies such as customs.

In relation to the infrastructure and equipment at land and sea borders and at the BCPs, the Commission noted that upgrading work is urgently needed in order to ensure a high level of control and surveillance. Major investments are required and Croatia should carefully reflect on the priorities as it would seem that the investment will have to be spread over several years.

The Commission recognised that Croatian borders have a number of characteristics, which demand enhanced efforts to control them: the borderline with the neighbouring countries is not yet physically demarcated, high number of border crossing points, several of which for local border traffic, a long borderline and a high number of traffic communication lines crossing the borderline etc. The Commission encouraged Croatia to foster good neighbourly relations as well as further regional cooperation, including working to find mutually acceptable, definitive solutions to pending bilateral issues, in particular border issues with Slovenia, Serbia and Montenegro and Bosnia-Herzegovina.

Regarding the visa regime, the Commission acknowledged that Croatia's visa policy is broadly in line with the EU. However, there is an urgent need to deliver equipment to detect forged and falsified documents in diplomatic and consular missions. The Commission strongly encouraged Croatia to recruit and train staff in this respect.

7. Asylum and Migration

Croatia outlined the level of harmonisation of the main asylum legislation, the Asylum Act. This Act regulates two types of protection: conventional protection and temporary protection. Subsidiary protection is not covered. Croatia also outlined the procedure followed when dealing with asylum applications, progress made since the implementation of the Act and planned activities. The Ministry of the Interior decides on asylum claims. A Government Commission acts as a second instance administrative body. There is no accelerated procedure. The Croatian Law Centre (an NGO) provides legal aid, paid for by UNHCR. An information and documentation centre has been established to gather information on countries of origin. There is a temporary reception centre for asylum seekers, but a permanent centre still remains to be established.

The Commission noted that although the legislative and administrative framework is largely in place, it is impossible to test its effectiveness given that there has not been one single recognised refugee in Croatia so far. It also noted its concern that there is still no permanent reception centre, despite CARDS funding having been made available for this purpose. It further requested details of the timetable for completion of alignment of the national asylum legislation with the *acquis*.

In the field of migration, Croatia provided the Commission with information on current regulations. 23 readmission agreements have been signed so far. The Commission encouraged Croatia to continue alignment of the migration legislation with the *acquis*, in particular as regards legal migration of third country nationals (family reunification, long term residence, students). It also noted that the procedure for removing illegal immigrants is lengthy and needs to be improved. In both the areas of asylum and migration, Croatia should make a thorough legal assessment and prioritise steps to be taken to ensure adequate implementation capacity. The Commission also stressed the need to adopt and implement an overall strategy on migration as well as an action plan, encompassing timeframes and budgetary implications. Croatia responded that the government has established an inter ministerial working group to work on the draft migration strategy, and that another working group has been established to prepare amendments to the Law on Foreigners, with the aim of further alignment of the Law on Foreigners with the *Acquis*, during the second half of 2006. Croatia also recalled that there are already some provisions in place for family reunification and long term residence under the existing legislation.

The Commission noted that training needs in both areas are also considerable, and that an overarching gap analysis for generic training needs across both departments should be made. Equipment also needs to be modernised, including technical support (computers with LAN access to the central data base) as well as longer term planning for the integration of systems that are compatible with VIS and Schengen systems. The Commission also encouraged Croatia to enhance the decision making process in the field of asylum and introduce the accelerated procedure.

8. Cooperation in Criminal Matters and the Fight against Organised Crime.

8.1 Functioning of the police, including international cooperation

The Commission welcomed the 26 agreements on police cooperation that Croatia has concluded with other countries, and acknowledged the several other agreements which are underway. The Commission also greeted the progress made in negotiations on the operational Europol agreement with Croatia, while noting that the next step will be approval by the Europol Management Board. The Commission also encouraged Croatia to designate a liaison officer at Europol in the framework of the agreement in order to facilitate the exchange of information.

The Commission stressed that a strategy for human resources in the police is needed and pointed out that, in particular, it is important to ensure that promotions are based on professional skills. The Commission referred to Croatia's intelligence analysis capacity and stated that it needs to be enhanced. Specifically, a national intelligence plan should be established and equipment in district and local police stations needs to be upgraded. Steps should be taken to include all other law enforcement agencies to deliver intelligence. Furthermore, analysts should be trained in making strategic analysis in order to put together reliable threat assessments in the field of organised crime. The Commission also asked about Croatia's plans to develop the scope for confiscating the assets/proceeds from crime.

Croatia responded that it was fully aware that the current human resources policy was not fully satisfactory and was also aware of the technical inadequacies of the IT systems, including the need to improve interoperability and information sharing between agencies. Work was currently ongoing in these areas.

8.2 Action oriented measures against organised crime

The Commission asked Croatia for an update on progress in implementation of the action oriented measures since the last meeting of JHA Ministers in Brussels in December 2004. In terms of legislative alignment, Croatia informed of the international treaties which it has ratified and the agreements signed with neighbouring countries with the view to enhancing international cooperation. The Act on Mutual Legal Assistance in criminal matters will enter into force in July 2005 and is partly harmonised with the *acquis*. The Commission welcomed the fact that Croatia has adopted a National Plan for the Fight against Organised Crime and amended numerous Acts to further align with international standards. Croatia acknowledged that further capacity building in the judiciary is needed and set out its plans to this effect, notably the upgrading of the technical infrastructure. Croatia also informed of the activities of its Anti-Money Laundering Office, the establishment of the Witness Protection Unit and successful completion of negotiations with Europol, developments which the Commission welcomed.

8.3 Money laundering

Croatia informed that most of its legislation had recently been harmonised with the *acquis*, notably with the widening of the scope of reporting entities to include lawyers, notaries, accountants and insurance companies. The Financial Intelligence Unit (FIU) had signed two MoUs on money laundering, with the Securities Commission and the institute for the

supervision of insurance companies. Further MoUs will be signed, including with the national bank. As of 2006 it will not be possible to open bearer pass books in kunas, following amendments to the Civil Obligations Act. Very good cooperation with FIUs in other countries was reported, in particular within the region, which is important given that the neighbouring countries' activities have a knock-on effect. MoUs are in place with the FIUs of Bosnia-Herzegovina and Albania and underway with Serbia and Montenegro. Administrative capacity is being strengthened by the employment of two further analysts by the end of the year and improvements to the IT system. Intensive training on case management has taken place with Dutch and US partners.

The Commission commended Croatia on the work done so far by the FIU, but stressed the importance of further developing its analysis capacity. The Commission also noted that Croatian legislation provides for the seizure of proceeds from crime. The Commission encouraged the Government to adopt and implement the draft amendments under discussion that would extend the scope of the law in this area. The Commission also impressed the need for coordination among relevant enforcement bodies. It noted concern that there appear to be so few statistics on convictions, seizures and freezings of assets, and that this reflects negatively on the effectiveness of enforcement in Croatia. Finally, the Commission provided information on the recently agreed Third anti-money laundering Directive.

8.4 Trafficking in human beings

The Commission asked about the main points of action in the national action plan and about the state of play of its implementation. In response, Croatia informed that the Government adopted the National Programme for Suppressing Human Trafficking for the period from 2005-2008 and the Operational Plan for Suppressing Human Trafficking for the year 2005. Croatia also informed that the National Plan for Suppressing the Trafficking of Children is being prepared, for the period from July 2005 to December 2007.

The Commission stressed three elements of importance in this field: prevention, protection of witnesses and effective prosecution. It also mentioned the need for public bodies involved in the fight against trafficking to have close cooperation with civil society and NGOs. The Commission also enquired about the number of arrests, convictions and the length of sentences in cases of trafficking of human beings. Croatia agreed to provide the Commission with this information.

Croatia responded with information about the equipment of a safe shelter to receive trafficking victims, training for people involved directly and indirectly in dealing with the victims and international cooperation efforts. In 2004, there were 19 victims of trafficking in Croatia (17 women and 2 men), mainly from South East Europe. 21 proceedings were raised against traffickers and 3 final verdicts were handed down. NGOs are very active in this field, as regards identification of victims, offering initial help after identification, and participation of members on the national committee for the prevention of trafficking.

9. Fight against terrorism

In the fight against terrorism, the Commission welcomed the adoption of a joint statement on combating terrorism at the meeting of the Stabilisation and Association Council on 26 April.

The Commission stressed that it attaches great importance to the international dimension of the fight against terrorism, and remarked that this agreement is a good step towards increasing our cooperation in the fight against terrorism.

10. Drug prevention, demand and supply reduction

The Commission opened this section by describing the EU acquis on drugs and recent developments in the Council, including the new EU Drugs Strategy and Action Plan on Drugs from 2005 onwards. Croatia informed that it has drafted a National Strategy and Action Plan for 2005 for combating abuse of narcotic drugs. The Commission welcomed this development but suggested that Croatia needs to make increased efforts to develop and implement a national drugs strategy in line with the EU Drugs Strategy and Action Plan on Drugs. To this effect, the Commission stated that national drugs strategies should be prepared in consultation with relevant ministries and institutions and should clearly set out objectives, expected results and indicators of performance.

The Commission enquired about recent developments as regards seizure of drugs, and Croatia agreed to provide this information in follow-up correspondence with the Commission.

The Commission welcomed the Croatian wish to participate in the work of the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA). The Commission explained that it has started preparing for this, with the first step being to get a mandate from Member States in order to start negotiations. On the Croatian side, the Commission advised that the Office for Combating Narcotic Drug Abuse needs to prepare itself for its future role as National Focal Point for cooperation with the EMCDDA. Croatia stated that a series of meetings with the leading and operational staff of all relevant institutions had been held in view of this, and their work shall be a basis for multi-disciplinary activities of the future National Focal Point.

11. Other business

There was no other business.