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Anti-Corruption Policy in Croatia: a Benchmark for EU Accession

In 1998, the European Commission concluded in its evaluation of the central and east European countries' requests for EU membership in the context of the preparation for Agenda 2000 that the fight against political corruption in these countries needed to be upgraded. The Commission's report on the progress of each candidate country can be summed up as follows: "The efforts undertaken by candidate countries are not always adequate to the entity of the problem itself. Although some of these countries initiate new programmes for the control and prevention of corruption, it is too early for a judgment on the efficiency of such measures. A lack of determination can be seen in confronting this problem and in rooting out corruption in the greatest part of the candidate countries". Similar evaluations were repeated in subsequent reports on the progress of candidate countries from central and east Europe. Accordingly, it was concluded in 2001 that political corruption is a serious problem in five out of ten countries of that region: Bulgaria, the Czech Republic, Poland, Romania and Slovakia, and a constant problem in three more countries: Hungary, Lithuania and Latvia. The Commission refrained from expressing critical remarks only in the case of two countries – Estonia and Slovenia.

Up to 2002, only eight out of fifteen member states ratified the basic instrument that the EU had adopted against corruption, namely the EU Convention on the Safeguarding of Economic Interests of the European Communities. Some of the founding members of the European Community were rated as countries with a "high level of corruption" – Germany, France and, specifically, Italy. It was stated that some of the candidate countries were less corrupted than the three above-mentioned founding states of the EC (Estonia and Slovenia were indicated as a positive example).

Although the situation somewhat improved until the final EU accession of central and east European countries to the EU in 2004, as was stated in the yearly progress reports ('Country Progress Report'), in two cases 'systemic corruption' was detected. Such tough judgment requested the formulation of additional, clear and unambiguous criteria for dealing with the problem. This was the case with Romania and Bulgaria, which were accepted as EU members only in 2007, but with a suspensive clause incorporated in their accession treaties, enabling the EU to freeze at any moment the membership status of each of these two countries. Moreover, pre-accession monitoring was extended beyond the critical juncture of accession, paving the way for a new precedent in EU politics – the Cooperation and Verification Mechanism. This mechanism will, clearly, become operational in other cases during the next waves of enlargement, with a high probability of applying it to countries from the Western Balkans area.

Consequently, the EU was obliged to develop new tools for measuring and evaluating corruption in candidate countries beyond the Fifth Enlargement. Additional criteria were, thus, applied to countries pertaining to the second generation of European agreements, namely, countries whose relations with the EU and their eventual EU membership perspective were set by the Stabilisation and Accession Agreements – i.e. the Western Balkans countries. But since the EU agreed at the Thessaloniki summit in 2003 that the progress of each south-eastern applicant country will be judged on an individual basis, it was necessary to formulate and elaborate special criteria, tailored to each country and to its specific nature of corruption. Thus Croatia, which acquired candidate status in 2005, had to fulfil a new set of requests in addition to the Copenhagen and Madrid accession criteria (political, economic and legal accompanied by the administrative criteria) – requests imposed

by the Stabilisation and Association Agreement between the EU and Croatia signed in 2001. They included elimination of the consequences of war, full cooperation with the Hague Tribunal for Former Yugoslavia, prosecution of domestic war criminals, the return of refugees, establishment of regional cooperation, etc. At the opening of each of the 33 negotiation chapters (35 in all), Croatia received additional benchmarks, including, as a special benchmark in the fight against corruption, the urgent need to adopt an overall anti-corruption programme and strategy for combating corruption. This was necessary because Croatia was categorised among countries with a high, systemic corruption that requests very elaborated and constant measures to eradicate it in Croatian society and polity.

Political corruption as a pathological political phenomenon was recognised in Croatia only after the year 2000, even though research on corruption in transitional Croatia was already undertaken in 1994 and the first comprehensive analyses and studies on corruption appeared between 1999 and 2001 (Josip Kregar, *Corruption and Predatory Capitalism*, 1999; Damir Petričić, *Criminal in the Croatian Privatisation*, 2000; Davor Derenčinović, *The Myth about Corruption*, 2001). Measurement of the perception of corruption in Croatia according to the Transparency International criteria started in 1999 and Croatia was placed 74th on a list of 105 countries (the least corrupted country being placed first, and the most corrupted 105th). Undoubtedly, such ranking meant that corruption in Croatia was estimated to be very high, among countries that earned the appellation of countries of endemic corruption and on the way to the tougher qualification of 'systemic corruption'. Therefore, the perception of Croatia at the time (this was the period of the authoritarian nationalist regime led by President Franjo Tuđman) was undoubtedly very unfavourable as far as democratic control and efficiency of the fight against corruption were concerned. Since then, Croatia's ranking oscillated, reaching its peak in 2003 (in the last year of the Račan coalition, a centre-left government) as 51st on the scale, while in 2009 it fell back to the 66th place.

The specifics of corruption in Croatia

The situation in Croatia differed from the situation in other transition countries. The political and social development was highly polluted with the effects of the war and the authoritarian post-communist, nationalist regime established after the collapse of the Yugoslav model of self-managing socialism. Therefore, the causes of rampant corruption in Croatia could be connected to a series of circumstances. These causes are specific and make up the "peculiarity of the model", as I stated in a debate in the Journal *Political Thought* in 2005. They can be summarised in six major points:

First, the legacy of the 'old system' or as the *Justitia et Pax Commission* of the *Croatian Bishops' Conference* put it, the "communist mentality and traditional corruption culture". Yugoslav self-managing socialism, as a mild form of communism, with strong party control despite of a market economy, was functioning parallel with state dirigisme. It favoured some forms of petty corruption, or 'street-level corruption', also known in the theory of corruption as 'baksheesh' and 'shirini' corruption (baksheesh standing for 'tips', and shirini, a Persian word, standing for 'gift of convenience' or 'sign of attention'). Besides that, the non-functioning of the market economy and red-tape favoured shortcuts in order to obtain service from local and state bureaucracy. Political corruption was embodied in party nepotism and cronyism, since the 'cadre policy', i.e. the selection of officials at all levels was *domaine réservé* of the League of Communists. Exceptions in some elections were mere confirmations of the rule (due to the proliferation of all levels of voting in the so-called self-managing democratic process).

Second, corruption was induced by war itself: during the war, owing to the arms embargo imposed by the UN, it was difficult to purchase armaments for the defence and war procurement was, obviously, neither transparent nor democratic. Members of the new anti-communist political elite were involved in illicit arms trade, smuggling funds for the defence, with the result that a certain number of Croatian war veterans happened to accumulate

consistent fortunes. After the war, they became the first 'tycoons', among them many generals who already during the war had started to be implicated in illegal trade, even with the enemy, or embezzling money and funds for the defence. The most notorious example was general Vladimir Zagorec, a modest technician before the war, who was sentenced to prison for embezzling funds for the defence. Other generals or high-ranking officials accumulated consistent wealth and since it was done as an expression of the 'spoils system', their behaviour favoured the spread of corruption event at lower levels.

The third cause of political corruption was, obviously, the non-transparent process of privatisation of state-owned enterprises. These enterprises were not sold to offerers at the best price, but to politically suitable (politically fit) clients from the ruling political elite, followers of the nationalist party in power. Part of the state-owned properties was distributed among the war veterans, thus creating a privileged class, spreading the notion that belonging to the ruling elite can be a source of enrichment, incited by the example given from the top (purchase of socially-owned apartments at derisory prices, factories given away at derisory prices and with extremely advantageous loans, etc.).

The fourth cause lies in the new political culture of the 'nationalist revolution', i.e. the concept of the state itself. Introducing an ideological argument may seem strange, but the truth is that the entire war was fought not only to defend the country from Milošević and the Serbian aggression, but also to build a strong nationalist state as the embodiment of the Croatian national spirit. Obviously, such a state, as the ultimate ideal of the national and political ambitions, was not the post-modern state model and certainly not a state as an instrument for the well-being (and security) of its inhabitants, but the nineteenth-century model of the national state as a symbol of national power. Instead of the model of a modern service-provider state (servant to its citizens), the state that was inaugurated was the ultimate symbol of national strength and power. Such a concept of state, with its ideological burden, enabled the creation of a state apparatus that was beyond questionability.

The fifth cause can be derived directly from the fourth, i.e. from the concept of state. A massive bureaucracy was created founded on the spoils system. The public administration, ostentatiously called 'state administration', was filled with party acolytes and followers: two thirds of the 65.000 employees in the administration at the central level were selected without public competitions, solely on the base of their loyalty to the nationalist elite that ruled from 1990 to 2000 (with the brief intermezzo of a national-unity war government from August 1991 to May 1992) and again from 2003 to the present. Obviously, such an administration is not inclined towards any reform or rationalisation of the bureaucratic apparatus. Moreover, it does not serve the public, but the state as the imaginary embodiment of the 'national will', 'national spirit' and the 'thousand-year-long historical aspiration and goal of the Croatian nation'. The fifth cause can thus be termed hyper-bureaucratisation, i.e. inflation of state officialdom where people get their job not because of a rational need for administering the state, but rather as a prize for their political loyalty, thus nurturing the representativeness of the state and its symbols – among which bureaucracy is one of the most important.

The sixth cause is a logical result of such a concept, namely hyper-normativism that is derived from a power-centred state, which is not a service-provider to the public. Hyper-normativism is embodied in numerous and detailed laws regulating all aspect of social and political life, albeit the main legal acts regulating and punishing corruption are lacking: and here we speak about the lack of a basic legal document on the conflict of interest, of political campaigns and party financing, of a comprehensive anti-corruption legislature – all of these passed in 2011 only as part of EU conditionality, not on the initiative of society itself (despite the continuous efforts made by the opposition, which were hindered by the governing majority).

Dialogue on political corruption

Only after the collapse of the nationalist government and the death of Franjo Tudjman was it possible to open a dialogue on political corruption in Croatian society. In 2002, the Croatian parliament passed the first National Programme for Combating Corruption, proposed by the centre-left coalition led by Prime Minister Ivica Račan. The first specialised body enabled to fight corruption, USKOK (Office for Combating Corruption and Organised Crime), was established in 2001. But after the return of the Croatian Democratic Union (HDZ) to power in November 2003, the political initiative on countering corruption went into stagnation and Croatia was again on its way down on the international scale of corruption perception (Corruption Perception Index – CPI), but also according to other indicators: the yearly reports of the international non-governmental organisation Freedom House, the Global Governance Index, the Index of Democracy of the Swedish Institute for Democracy and The Economist Intelligence Unit (UK).

The political discourse on corruption was reinvigorated in 2006 when Croatia initiated the negotiation process regarding its EU accession. One of the additional criteria for fulfilling the membership requirements was the benchmark requesting the elaboration of an anti-corruption strategy, since political corruption was marked as a serious problem that could hamper the harmonisation of the Croatian legal and political system with the European legal and political acquis. Consequently, Croatia was compelled to formulate its own anti-corruption strategy as one of the preconditions for starting the accession negotiations. The National Programme for the Fight against Corruption was thus adopted by the Croatian Parliament in the spring of 2006.

One year later, the European Commission issued its Screening Report stating that, despite the fact that the National Anti-corruption Programme was applied, corruption still represented a serious problem in Croatia and significantly influenced various aspects of social life. The general attitude of the authorities in Croatia was labelled as reactive instead of being proactive. The general toleration of 'petty corruption' – bribery – is a cause for concern, and corruption is sustained by the lack of good administration, transparency and accountability in public administration, as well as the lack of ethical codes and codes of conduct in both the public and private sectors.

This opinion from the 2007 Screening Report was later repeated in the European Commission Progress Report of the same year. It is stated therein that the implementation of the anti-corruption programme has not proceeded past the initial stage. According to the standpoint of the European Commission, a complete implementation of the programme was urgently necessary, as well as a strong political will to strengthen the efforts, especially when corruption at the high political level was concerned. Not only was it necessary to invest more effort into pro-active prevention, unveiling and efficient prosecution of corruption, but moreover it was imperative to raise the awareness of corruption as a serious criminal act. Despite the findings of USKOK, corruption remains a serious problem, many allegations for corruption remain uninvestigated and corruptive behaviour usually fails to be punished. All too frequently high-profile and other cases unveiling corruption scams in the media disappear from sight unresolved and the public perception of corruption has worsened in the last few years. The European Commission thus concluded that until the year 2007 there was not even one successful judicial prosecution of a high-profiled case and this statement was repeated in the following year's Progress Report.

In June 2008, as a result of this criticism, a revised anti-corruption strategy was adopted with a pertinent action plan encompassing special measures for wider areas exposed to corruption. In the 2008 Progress Report, the European Commission established that the legal framework for the fight against corruption was changed, alongside with additions to the Criminal Act and complements to the Law on the Conflict of Interest. This was assessed as a step in the right direction, however, the principle of conflict of interest was assessed as not

clear enough at all levels of political decision-making. Although the new Law on Financing Political Parties became operational, the most important question of election campaigns financing has not been solved completely. In contrast with the previous Progress Report, the 2008 Report added that a "culture of political accountability is lacking".

Moreover, the 2009 Progress Report stated that "corruption remains omnipresent". The findings from last year were confirmed, saying that a limited investigation of corruption at the high level was started, but it was hindered for political reasons – and the culture of political accountability was still lacking. A discouraging formulation was used, reflecting summarily the objective and equally discouraging situation: "A serious implementation of anti-corruption procedures on the part of state administration is lacking, while many political bodies support the centrally coordinated anti-corruption effort only in words" (EU Enlargement: Croatia 2009 Progress Report).

Although the complements to the Criminal Law introduced new regulations concerning the confiscation of property in case of corruption, no such cases occurred and, therefore, an evaluation of these measures could not be done. Corruption is still 'omnipresent'. Public procurement was cited as a special source of corruption and besides this, the Law on the Right of Access to Data has not yet been implemented and has not shown any positive result. Again, the problem of a lacking culture regarding corruption is underlined.

All of this resulted in a revised Action Plan accompanying the Strategy for Combating Corruption, approved on March 18, 2010. This Action Plan announced a "general zero-rate tolerance of corruption", as Prime Minister Jadranka Kosor explained on the same day at a cabinet meeting. This Action Plan enumerates 145 measures which encompass, as already stated in the introduction, an "integral (comprehensive, all-encompassing) approach to prevent and fight corruption". For this reason, the "strategic vision of the fight against corruption" is evidenced through five thematic areas on which the government focused its activities: legal and institutional framework, prevention of corruption, legal prosecution and sanctioning of corruption, international cooperation and dissemination of public awareness on the damaging effects and harmfulness of corruption. The authors of the document are convinced that zero-rate tolerance of corruption can be achieved by reaching a synergy of activities and energies in all these areas, thus achieving visible and tangible results that can be measured. On that occasion, Minister of Justice Ivan Šimonović stressed that the Action Plan has been developed and improved in cooperation with the European Commission. According to Šimonović, the experts group of the European Commission rated the progress achieved as "very big".

Forms of political corruption

Nonetheless, the European Commission requested that the anti-corruption fight in Croatia be made more efficient, taking into consideration also the future EU funds that Croatia would be receiving after its accession, which makes the need for a tougher fight against corruption more compelling. But there are other, more sophisticated forms of political corruption, in which the transaction between the corruptor and the corrupted is not visible, nor is it so easily noticeable and it even cannot be quantified. One of these forms, more visible than others in this category, is nepotism – employing or favouring relatives, acquaintances or members of some more exclusive informal group. An instance of this is the case of 'Uncle Luka', President of the Croatian Parliament Luka Bebić, who was expected to hire 'fellow-countrymen' to leading managerial positions in public companies. When the corrupt transaction is made for the benefit of some formal group, we are dealing with cronyism – undue advantage gained on the basis of participation to a political group, i.e. a political party or clique, interest group or network. An instance of this is the employment of Rade Buljubašić, upon his return from emigration, by former Prime Minister Ivo Sanader, who was also president of the Croatian Democratic Union: Buljubašić was a salaried employee of the Croatian Electrical Utility, but in truth he worked at the HDZ headquarters. This category also

comprises political appointment of officials according to the spoils system, i.e. when the winner in the political elections gives a number of positions in public administration to his followers regardless of their qualifications (e.g. the appointment of Neven Jurica, poet and member of HDZ, to the office of ambassador, although he was not formally qualified. This had the catastrophic effect that he used state funds for his personal needs, for which he has been found guilty by the Municipal Court in Zagreb. This form of corruption is also called clientelism – from the Latin concept *cliens*, designating a citizen who was compelled by his unfavourable position in society to resort to the support of a *patronus* (protector or patron) in return for various favours, including his vote in the elections. Accordingly, patronage is a distinct form of political corruption, in which the *patronus*, patron or protector supports his 'clients' and gives them certain positions in society (as in the examples of Luka Bebić, Ivo Sanader, et al.) based on their loyalty to the party, or party leadership, regardless of their actual abilities and often in spite of their incompetence. In this way supporters and followers of the regime are created, be it in individual cases or in cases of support to entire segments of the population (for instance, the voters from Bosnia and Herzegovina at the Croatian elections or the privileged treatment of the category of fake homeland war participants, who are mobilised as supporters of a political option or leadership).

In addition to the forms of political corruption discussed above, there are classic forms of political corruption such as embezzlement, i.e. theft of entrusted public funds or redirection thereof to areas located in the 'twilight zone'. A fitting example is the case of HNS (Croatian People's Party) official Srećko Ferenčak and his partner, who sold the piece of land entrusted to them by the City of Zagreb for humanitarian purposes on the market at the full market-based price. Furthermore, there are setbacks – on the fringe of legality (e.g. in the form of donations for humanitarian or educational purposes, given in return for government intervention, i.e. for intervention of an individual minister, for favouritism in public competitions, for state support) and other forms of so-called political lobbying.

Undoubtedly the most evasive form of corruptive transaction, however, is so-called influence peddling, i.e. trading in political influence. Influence peddling is the illegal practice of using someone's influence in the government or in public affairs, or connections with government members, in order to obtain services or preferential treatment for someone else, usually not connected with the final outcome of payment, i.e. material compensation. Such a form of political corruption is also referred to as trading in influence. OECD termed it 'undue influence peddling', as a synonym for illegal forms of political lobbying – for instance, when Croatian city or county officials lobby government officials to have the highway route pass through their region, counting on an increase in the price of land and acting in consort with possible investors who purchased the terrain in advance (a fine illustration is the case of Pelješac Bridge: a privately-owned company bought at a low price the rocky terrain at Pelješac on which, as was subsequently decided, the Pelješac Bridge would be built).

Another form of political corruption is extortion, as unlawful and intentional obtainment of an advantage, material or non-material, from another person or subject, by imposing illegal pressure in the form of threat or intimidation in order to force them to provide certain benefits. Such coercion can include physical injury, violence or hindrance and even involve endangering of a third party (e.g. the above-mentioned case of Igor Rađenović, head of Zagreb City Holding).

Finally, there is the classic form of political corruption, the conflict of interest, i.e. the mixing of public and private interests in performing one or two duties or functions. The way of resolving the conflict of interest of public office holders is crucial to the functioning of public duty bearers. Due to the lack of regulations on prevention and resolution of conflicts of interest, there were cases of state officials – ministers – who confided the managing positions in their own, private enterprises to their wives or relatives while they performed a public function (fitting examples from Ivica Račan's 2000-2003 coalition government were

ministers and officials Goranko Fižulić, Radimir Čačić and Zlatko Tomčić, while the previous, 1990s period provided countless examples). The new centre-left coalition government of Croatia, after its victory in the November 2011 elections, decided to nominate two ministers in the supervisory board of the national oil company in which it has a relative majority of share (another relative majority is held by the national Hungarian oil industry MOL). This move has been criticised by the EU in its first Monitoring Report in April 2012. In developed democratic societies, any participation of a public official (minister or state secretary) in the management of a public enterprise is also considered a conflict of interest. However, the Croatian justification, offered to the EU was that also some German public companies have state secretaries or ministers in the supervisory boards, but the EU does not complain (even though lawsuits have been started by the European Commission before the European Court of Justice).

All the forms of political corruption discussed above testify to the fact that political corruption cannot be reduced to only one or two of its forms. Its evasiveness, its appearance in occult and non-transparent modes is due precisely to it being a complex phenomenon, irreducible to one or two forms. And this is exactly what is shown in the case of Croatia.

With persistence equal to that of the European Commission's request for a "full understanding of political corruption", the Croatian political and legislative practice reduces political corruption only to its most visible forms: bribery and, possibly, graft. Still, many graft-related affairs remain unsolved (for instance, the collection of precious watches of former Prime Minister Ivo Sanader). Therefore, it is obviously not enough, in the legislative aspect of the fight against corruption, to enact provisions regarding misuse of public duty, conflict of interest, right to public information and to make transparent the procedure of public procurement. It is also necessary to call political corruption by its right name in legal regulation and enumerate all its forms with corresponding measures and sanctions. In short, it is necessary to enact genuine anti-corruption legislation, thereby increasing public awareness of political corruption and creating prerequisites for efficient, all-embracing political action against corruption. For this reason, we must, first of all, analyse the shortcomings of the existing legal regulation regarding corruption in Croatia.

However, in April 2012 a major court proceeding has started against former prime minister Ivo Sanader and his accomplices, even indicting the former leading party, the HDZ for corruption by extorting money from public companies for the financing of electoral campaigns and party activities. (The extortions were realised by forcing all public companies to advertise through Fimi Media, a private company, without following public procurement practices, paying the service highly above the market price in order to allow the transfer of the surplus to the leading party, HDZ, treasury). This was a major breakthrough which will have long-lasting implications on the awareness of corruption in Croatian society. However, there is very much to do in Croatia as far as anti-corruption activities are concerned.

Necessary anti-corruption activities

First, the notion of 'conflict of interest' is not yet very clear in Croatian political life. Despite the decision to send two ministers to the supervisory board of INA-MOL, which was interpreted as an exception needed for "safeguarding national interests, endangered by the behaviour of the MOL nominated managers in the Administrative Board", the present government decided to revise the practice of the former HDZ-led government to select the members of the supervisory boards in public companies by public competition. Instead, the government will directly nominate such members from the list of their loyal followers, which is also interpreted by the European Commission, in its Monitoring Report on Croatia, as a step back regarding the negotiated Accession agreement.

Second, there is still the need to pass a series of anti-corruption laws and legal instruments, which can eradicate corruption through party financing, by making party finances transparent and accountable to public monitoring.

Third, Croatia still lacks a law protecting whistle-blowers, i.e. those who discover and make public corruption cases and scandals.

Fourth, the awareness of corruption is still lacking in the public opinion as well as in the state administration. Anti-corruption courses should be held at all levels, especially among the 65.000 employees in the 'state administration' (N.B., Croatia is with Ukraine and Russia the only European country that calls its administration, by law, 'state administration' instead of 'public administration' or civil service, thus supporting the popular view that the administration serves the state and not the citizens.

Fifth, anti-corruption courses should be included in university curricula, especially at political science, economy and law schools, thus initiating a high-level consciousness in those professions, the most exposed to corruption practices.

Sixth, Croatia needs ethical codices in the public administration, among politicians, deontological codices of the professions, clearly aiming at the creation of an anti-corruption awareness.

Seventh, the Croatian political system should be debureaucratized, i.e. hypernormativisation should be reduced to a reasonable amount. For instance, if a private citizen wants to install a solar cell on the roof of his house, he still needs 57 certificates and permits. Similarly, bureaucratic impediments to start a business, to building and to import permits, should be simplified in order to prevent corruptive short-cuts, necessary to survive the hostile business environment in same case, caused by lengthy, excessive and superfluous procedures.

Eighth, the existing provisions of the Criminal Code, the Law on Criminal Procedure, the Law on Preventing Conflict of Interest, the provisions of the Law on Public Procurement, the Law on Financing Political Parties, Independent Lists and Candidate and the provisions of the Law on the Right to Access Information, should all be unified, and, together with new provisions, they should formulate a new, modern 'Law on Preventing and Fighting Political Corruption', befitting the actual time and society, which would encompass all as yet unmentioned forms of political corruption that are usually reduced to misuse of public office. The mere mention of forms of political corruption such as nepotism, cronyism, patronage and political lobbying, along with all other existing forms of corruption mentioned in the other laws, would create a completely different climate and mobilise the entire society for prevention and fighting of political corruption. This would protect both the media and the media workers who, through denunciation of political corruption and organised crime, are exposed even to mortal danger or repression (e.g. the murder of Ivo Pukanić, owner of the periodical *Nacional*; the beating up of journalist Dušan Miljuš, who unveiled individual corruption affairs and of Igor Rađenović, head of the Zagreb City Holding, who initiated the process of unveiling corruption connections and conflict of interest within his own company; the firing of journalist Jasna Babić, who has focused on crime and corruption; the media persecution of journalist Duško Petričić, who wrote the book 'Crime in Croatian Privatisation', etc.).

Conclusions

Accordingly, in conclusion, we advocate an all-embracing approach to the concept of political corruption in legal instruments and the making of a legal mechanism which would explicitly point at political corruption, with no juggling with the ambivalence of the corruption concept. Until this is done, we will not be able to free ourselves from the impression that there is a

major gap between the declarative willingness of our politicians to deal radically with political corruption, and the actual evading of integral approach to political corruption by reducing the efforts only to some elements of criminal-law prosecution. Therefore, a solution to political corruption cannot possibly be found solely in the sphere of limited legal regulation, which is mostly formulated only by legal experts who do not and cannot understand the essence of political corruption (naturally, with the exception of legal theorist and law sociologist Josip Kregar).

The long-lasting EU accession negotiations with Croatia resulted in a new, third generation of conditionality principles with regard to membership, also referred to as benchmarks. The experience and practice of these negotiations will be instructive to other countries in the region aspiring to EU membership: Bosnia and Herzegovina, Montenegro, Serbia and Macedonia. The Croatian experience shows that the fight against corruption ranks high on the list of EU priorities at the time of both opening and closing negotiations.

The launching of an anti-corruption programme and strategy had been one of the benchmarks for preparation and opening of negotiations in the field of the judiciary, and the European Commission and the intergovernmental negotiating team have opted for an integral, systemic approach to the sphere of political corruption, although the benchmarks have seemingly been formulated in quite a neutral way. But the indicators of fulfilment will be absolutely concrete and, if consistently implemented, they will have to perform the function of catalysts for the launching of a more systematic anti-corruption fight in Croatian society. For this reason, we will conclude this discussion by listing taxonomically the 21 benchmarks, which clearly demonstrate the extent to which political corruption is not only an endemic, but even a systemic affliction of the Croatian society and politics.

- 1 – to ensure the capacities for conducting the judicial reform
- 2 – to establish and keep records of appointment of judicial staff
- 3 – to reform and strengthen the State Judicial Council and the State Prosecutorial Council
- 4 – to significantly reduce the judicial backlog
- 5 – to computerise the courts and the system of allocation of cases to individual judges
- 6 – to rationalise the network of courts
- 7 – to keep records of results of war crimes trials
- 8 – to revise cases and to guarantee adequate treatment in renewal of legal proceedings
- 9 – to strengthen USKOK – Office for Combating Corruption and Organised Crime and to expand its powers
- 10 – to improve the efficiency and depoliticisation of the police
- 11 – to increase the capacity of courts, technically and in human resources
- 12 – to increase the transparency and integrity of public administration
- 13 – to improve regulations on political-party financing
- 14 – to control the assets cards of office-holders and judges
- 15 – to increase the employment of minorities, especially in the police and the judiciary
- 16 – to conduct research into under-representation of minorities in the wider public sector
- 17 – to take measures aimed at reconciliation and increased tolerance among citizens
- 18 – to finalise the solving of the housing issue of refugees, former property owners
- 19 – to improve the processing of appeals regarding house reconstruction
- 20 – to improve the administrative judicature
- 21 – to keep records of achieved results in fighting discrimination and to strengthen the Office of the Ombudsman.

This taxonomic enumeration of benchmarks clearly shows that political corruption has gained access into each of the above-listed activities. For this reason, euphemistically speaking (in fact, in diluted, diplomatic terminology), what is requested is 'improvement', 'strengthening' and 'keeping record' of thus far lacking actions. And the general benchmark, which was the precondition for opening negotiations regarding (but not only) the judiciary, retains the form

of anti-corruption strategy and the finalisation of its implementation. The final assessment, immediately preceding the 1st of July 2013, the date of Croatia's accession to the EU, thereof will have to be made by the European Commission taking into consideration all these above mentioned problems and measures to be taken in the immediate future.

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Picture by Marko Melcic.

