

27 June 2006

# Screening report

# Croatia

## Chapter 19 – Social policy and employment

**Date of screening meetings:**

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Bilateral meeting: 6–8 March 2006

## I. CHAPTER CONTENT

On the basis of article 137 of the Treaty establishing the European Community, the Community supports and complements the activities of the Member States in the area of social policy.

The *acquis* in the social field includes minimum standards in areas such as labour law, equal treatment of women and men in employment and social security, as well as health and safety at work. Specific binding rules have also been developed with respect to non-discrimination on grounds of racial or ethnic origin, religion or belief, disability, age or sexual orientation.

The European Social Fund (ESF) is the main financial tool through which the EU supports the implementation of its Employment Strategy and contributes to social inclusion efforts (implementation rules are covered under Chapter 22 “Regional policy and coordination of structural instruments” which deals with all structural instruments).

The Member States participate in social dialogue at European level and in EU policy processes in the areas of employment policy, social inclusion and social protection.

In the field of disability, the EU has adopted a strategy aimed at mainstreaming disability issues into relevant Community policies and at acting to enhance the integration of people with disabilities.

International agreements, such as the relevant ILO Conventions or the future UN Convention on the Rights and Dignity of Persons with Disabilities, need to be taken into consideration in this context.

In relation to chapter 23 “Judiciary and Fundamental Rights”, it should be noted that disability issues and trade union rights are covered by chapter 19 only. As regards anti-discrimination and equal opportunities, chapter 19 focuses essentially on employment aspects, whereas chapter 23 covers cultural and minority rights as well as violence against women.

## II. COUNTRY ALIGNMENT AND IMPLEMENTATION CAPACITY

Croatia indicated that it can accept the *acquis* regarding social policy and employment. Croatia indicated that it does not expect any difficulties to implement the *acquis* by accession.

### II.a. Labour law

As regards working time, general labour regulation, i.e. the Labour Act as amended in 2003, applies to both public and private sectors. The terms “worker”, “working hours”, “night work” and “rest periods” are defined in the Croatian legislation. Other terms, including “work in shifts”, are not specifically defined by the law.

Working hours are the overall time in which the employee completes tasks according to employer’s instructions. Weekly working time is maximum 40 hours. An exception is overtime work of 10 hours per employee a month at the most. Daily breaks and daily rest are regulated, as required by the *acquis*. Daily breaks must last at least 30 minutes for work longer than 6 hours. Daily rest lasts at least 12 consecutive hours, and weekly rest at least 24 consecutive hours. Annual leave is at least 18 working days in a calendar year (Sundays and days off are not included in the annual leave days), which falls short of the *acquis* requirement of at least four weeks.

Working hours for seafarers and mobile workers in civil aviation are regulated. In relation to working hours for workers on board fishing vessels, Croatian legislation does not have special regulations, nor is there any national collective agreement concluded in this field. The working conditions of mobile workers engaged in interoperable cross-border traffic in the railway sector are not specifically regulated in Croatia.

As regards working conditions (other than working time), employment is established by a written contract. When there is no such contract, the employer is obliged to deliver a certificate with a determined content before employment begins. A labour contract is usually concluded for an indefinite period (“open-ended labour contract”). As an exception, fixed-term contracts may be concluded where there is an objective reason. One or more successive fixed-term contracts cannot be concluded for a period longer than 3 years. In 2004, 12.4 % of workers were employed under a fixed-term contract. A labour contract can also be concluded for part-time work. The share of part-time employees was only 6.6 % in 2004 (8.4 % of female workers). There is no specific non-discrimination clause with regard to part-time and fixed-term work. There is a general prohibition to employ a person younger than 15, as required by the *acquis*. However, some exceptions exist. Certain dangerous jobs, overtime work and night work are prohibited for minors. A minor may not work more than 8 hours a day and 40 hours a week. For any legal breach, fines are doubled in case of minors.

The share of posted workers is relatively low in Croatia. Unlike the *acquis* requires, protection prescribed by the Labour Act and collective agreements does not apply to employees of a foreign employer. There is not either a designated national authority responsible for supervision and international cooperation in case of transnational provision of services.

The Croatian legislation provides for the principle of protection of occupational health and safety to all workers regardless of the form or the duration of work. The employer is under the obligation to inform and train the employees with a view to work in a safe manner. Health exams are mandatory for workers employed in posts characterised by special working conditions (regardless of the duration or the working hours). Temporary agency work is regulated in Croatia. The temporary agency is obliged to inform and train the worker on health and safety risks. The user undertaking is responsible for worker’s protection, as if it was his/her employer.

As regards employer’s insolvency, the Fund for Development and Employment serves as the Guarantee Fund required by the *acquis*. Certain employees, including managers and employees working for a foreign employer in bankruptcy, are not entitled to benefits from this Fund. The Croatian legislation provides for a number of limits to the liability of the Guarantee Fund.

Legislation has been adopted with regard to information and consultation of workers, notably in the cases of collective redundancies and transfers of undertakings. A collective redundancy cannot take effect earlier than eight days from the date when the employer notifies its redundancy social plan to the competent employment service. This period is much shorter than the 30 days required by the *acquis*. Further to the employers’ obligations regarding information and consultation of workers, as required by the *acquis*, in the cases of transfer of undertakings it is provided that the new employer assumes all obligations arising from the employment contracts of the transferred workers. Moreover, a transfer cannot be the exclusive reason for the termination of labour contracts.

The Croatian legislation does not make a distinction between companies engaged in business activity on the national or the trans-national level. There is no Croatian legislation regulating

either the establishment of European works councils nor the involvement of workers in European companies and European cooperative societies. On the other hand, a general framework for informing and consulting employees is in place. Also the establishment of works councils is not a legal obligation but a right.

As regards administrative capacity, the main administrative body is the Ministry of Economy, Labour and Entrepreneurship, and its Directorate for Labour and the Labour Market. The Directorate is divided into four sectors, and has a total of 14 staff members. The implementation of legal obligations is supervised by the State Inspector's Office through its inspectorate which had an average of 154 inspectors in 2005, of which 87 in the field of labour relations and 77 in the field of occupational health and safety. A new Regulation was adopted in May 2005 in view of increasing the number of labour inspectors by additional 50 officers during the next two years. There are no courts specialised in labour disputes in Croatia. However, an initiative exists to establish special court departments and court councils for legal proceedings arising from labour disputes.

## **II.b. Health and safety at work**

The Occupational Safety and Health Act was adopted in 1996 and entered into force on 1 January 1997. The National Health and Safety at Work Programme was drafted in 2005 and should be submitted to the Government for discussion shortly. The number of fatally injured workers is the highest in the construction sector; most injuries occur in the areas of construction, forestry and shipbuilding, and with small employers. It is estimated that 20 % of injuries remain unreported.

As regards the framework on health and safety at work, application of occupational safety rules and related health protection measures shall not entail any cost for workers. The basis for the application of occupational health and safety is the preparation of a risk assessment by the employer, as required by the *acquis*. Workers are also consulted: In the case of an employer with over 20 employees, a commissioner for safety at work is elected. An employer with more than 50 workers needs to establish a board for occupational safety and health with workers' representatives. An employer with more than 250 employees needs to set up an occupational safety and health service. Training for workers' representatives should be provided, as well as regular medical check-ups. As required by the *acquis*, all the workers, except for armed forces, police and domestic servants, are covered.

Workplace is defined in the Croatian legislation. Existing premises need to be in accordance with the legislation adopted in 2005 within four years and new buildings within three years from the entry into force. It is estimated that highest costs will be related to providing access to premises to disabled persons. Legal provisions exist on use of work equipment as well as on personal protective equipment. The employer must provide the appropriate personal equipment and ensure that the employees use them while working. Fines are applied in case of non-compliance.

Legislation on safety signs, manual handling of loads and display screen equipment was adopted in 2005. The deadline for compliance with the provisions of the Ordinance on manual handling of loads is three years from the date of entry into force. Most of the diseases of muscular and skeleton system are caused by the manual handling of loads. Under the provisions on display screen equipment, a worker is defined as a person who uses computer with display screen for at least four hours during a working day. The employer needs to make a risk assessment, as required by the *acquis*, within two years from the entry into force of the legislation for the new workstations and within four years for the existing workstations. Costs are borne by the employer (except for spectacle lenses). An analysis of

the situation was carried out in 2003, and work environment (ergonomic chairs, lighting etc.) showed mostly to be a problem for the due implementation of the *acquis* on display screen equipment. Labour inspectors are partially trained for supervising the implementation.

Health and safety of workers in the mineral extracting industries is regulated by the Mining Act and a series of implementing regulations. Legislation on carcinogens and mutagens is not fully in line with the *acquis*. Carcinogenic and mutagenic substances are classified in the List of harmful chemicals which is in accordance with the EU classification. It is estimated that Croatia might need to close down certain benzene plants, because it will be impossible to reach required benzene levels (five times less than presently permitted) without considerable material investments. As regards asbestos, asbestos cement products are being produced and sold; however, in mid-2006 processing of asbestos should be stopped. Applying asbestos by spraying is prohibited by law, as required by the *acquis*. Medical documentation is kept for the period of only 10 years contrary to the *acquis* requirement of 40 years. Croatian regulations do not stipulate the *acquis* obligation to draw up a complete plan of work before any demolition work is begun in case of asbestos. Noise is regulated by the Noise Protection Act.

Legislation in view of aligning with the *acquis* on explosive atmospheres and chemical agents is in preparation. Legal provisions in the fields of temporary or mobile construction sites, minimum requirements for work on board fishing vessels, biological agents at work, vibration and electromagnetic fields need to be completed.

As regards administrative capacity, the National Council for Occupational Safety and Health has been established and consists of government's, employers' and workers' representatives as well as occupational safety and health specialists. There are two employees in the Safety at Work Department in the Ministry of the Economy, Labour and Entrepreneurship. The State Inspector's Office performs the activity of labour inspection. There are 77 labour inspectors responsible for health and safety at work (31 December 2005). Croatia indicated that the supervision covers only an estimated 3 % of the total number of workers per year. Other responsible bodies are mining inspection, port authorities and the Ministry of Interior (protection from fire and mine clearance).

### **II.c. Social dialogue**

According to Croatia, the institutional framework for social dialogue is in place.

As regards tripartite social dialogue, the National Economic and Social Council was established in 2001. Currently, six trade union confederations and one association of employers (Croatian Employers' Association) participate in this dialogue. Representatives of social partners are also appointed as equal members (without voting rights) into four committees of the Croatian Parliament.

As regards autonomous bipartite social dialogue, collective bargaining still focuses mainly on company level. In general, it is very much used. There is not a lot of sectoral agreements (8 %).

Representativeness criteria for trade unions have been defined by law. They are under preparation for employers' organisations, and should be adopted by the end of April 2006.

Concerning participation at European level, the Union of Autonomous Trade Unions of Croatia is the only trade union federation which is a member of ETUC, and the Croatian Employers' Association is a member of UNICE since 1999.

## **II.d. Employment policy**

In Croatia, there has been an increase in employment and decrease in unemployment over several years. The employment rate has risen from 52.6 % in the first half of 2002 to 54.8 % in 2005, whereas the unemployment rate has fallen from 15.6 % to 12.7 %. However, the employment rate remains much lower than in the EU. Problems are caused by long-term unemployed (7.3 %; 8.8 % for women in 2004) and youth unemployment (13.1 % in 2004). Regional inequalities are considerable. Qualification and skills levels of the Croatian labour force are lower than in the EU. Croatia is also lagging significantly behind in adult education and training (participation of adult population was only 2 % in 2004). A strategy of adult education and an Action Plan were adopted in November 2004.

A National Employment Action Plan based on the guidelines of the European Employment Strategy was adopted in December 2004. The JAP (Joint Assessment of Employment Policy Priorities) process was launched between the EU and Croatia in September 2005. The Annual Plan for Employment Promotion for 2006 was adopted by the Government in March 2006.

The Croatian Employment Service has 22 regional offices which have 93 branch offices. There are 1 189 employees (31 December 2005). Services include “one-stop-shops” for unemployed and employers as well as promotion of active job searching. Permanent training is provided for the employees of the service. Partnership relations between the Croatian Employment Service and private mediation agencies have been established in order to stimulate the labour market.

There is no official data available as regards undeclared work. According to estimations, the size of informal economy has dropped from 25.4 % of GDP in 1991–1995 to 10.4 % of GDP in 1996–2000. In 2000–2002, the share was about 10 % of GDP.

## **II.e. European Social Fund (ESF)**

The IPA proposal, according to which the role of Managing Authority for component IV (HRD) would be given to the Ministry of Economy, Labour and Entrepreneurship, is currently under consideration. The role of implementing body for the labour market aspects would be given to the Croatian Employment Service and for education to the Ministry of Science, Education and Sports. In the context of the new structures being proposed, a new department with four employees (target: six employees) has been established within the Labour Directorate of the Ministry of Economy, Labour and Entrepreneurship, while a new department with four employees (target: 10 employees) has been established in the Croatian Employment Service.

The elaboration of the strategic coherence framework for IPA components III (regional development) and IV is under way, while the component IV Operational Programme for the Development of Human Resources is foreseen to be completed by September 2006. Insofar as they are available, policy coherence with the JAP and JIM processes will also be ensured. An inter-ministerial working group has been created to this effect.

## **II.f. Social inclusion**

Although few surveys on social exclusion have been conducted in Croatia, their results indicate that the situation is similar to other countries in the EU. The most difficult situation is faced by single-person households as well as senior persons (especially older women). Rural poverty is three times higher than urban poverty, and the incidence of poverty among

the Roma is much higher than among other groups or society as a whole. It is estimated that 13 % of Roma and 5 % of non-Roma living in close proximity to Roma settlements live in absolute poverty. Pensions and other social transfers significantly contribute to reducing poverty in Croatia. A survey on poverty and social exclusion at regional level is foreseen by the United Nations Development Programme (UNDP) this year.

A Programme to Combat Poverty and Social Exclusion was adopted in September 2002. The elaboration of the Joint Inclusion Memorandum (JIM) between the EU and Croatia was launched in September 2005. The finalisation of the JIM process is foreseen for end 2006 – beginning of 2007.

The share of *persons with disabilities* in the Croatian population is 9.7 % (2001). There is a higher ratio of disabled in the active population compared to the EU. A “National Strategy of Integral Policy for the Disabled Persons 2003–2006” was adopted in January 2003. Measures are being taken in view of removing physical barriers and for introducing alternative technologies. Adjustment of national museums, national theatres and cinemas should be completed by the end of 2006. There are 26 homes for disabled (2005 people). The system is over-institutionalised and bureaucratic. A de-institutionalisation process started with NGOs in 1997. In this context, alternative services such as foster care are promoted. There are also 300 associations for disabled in Croatia, and disabled are active members of the Government Commission for the Disabled Persons (24 members of which 12 are disabled).

## **II.g. Social protection**

Social protection expenditures in 2003–2004 accounted for nearly 24 % of GDP. Croatia has higher social protection expenses relative to its GDP than the EU and South-East European countries. The pension insurance and the healthcare system absorb more than 80 % of social protection expenditures (pension insurance accounting for more than 50 % of the expenditures). Less than 20 % are spent on social welfare, child allowances, unemployment benefits, etc.

The Croatian pension insurance system was reformed as of January 1999, introducing a mixed public and private pension insurance system based on three pillars. A relatively low level of pension benefits as well as the high number of young pensioners (40 % of pensioners are under 65) are problems. A reluctance to pay social insurance contributions and the low employment rate of women might lead to a weak pension coverage of certain population groups in the future. Measures are taken to promote voluntary insurance as an additional source of income.

## **II.h. Anti-discrimination**

Although Croatia does not have a separate Act on combating all forms of discrimination or a national policy/strategy to combat discrimination, provisions to tackle discrimination are included in a number of laws, programmes and strategies. The National Strategy to combat all forms of discrimination is under preparation.

Legal provisions are included in the Labour Act, the Disability Act and the Same-Sex Unions Act. Croatia indicated that the Labour Act covers all of the grounds of discrimination set out in Article 13 of the EC Treaty, plus a number of additional grounds. It defines direct and indirect discrimination and exemptions from prohibition of discrimination. It also prohibits harassment and sexual harassment. As required by the *acquis*, the Labour Act also provides for a shifting of the burden of proof to the employer, if a worker or a job seeker presents facts

that suggest that the employer may have acted in a discriminatory way. According to Croatia, protection and compensation for victims are ensured (without a lower or an upper limit). However, assistance to victims in filing complaints is only foreseen in the Gender Equality Act. Prohibition of instructions to discrimination is only covered in respect of discrimination on grounds of sex and sexual orientation.

As regards anti-discrimination bodies, there are three ombudspersons in Croatia: Ombudsman (general issues), Ombudsman for gender equality and Ombudsman for children. An Office for Human Rights was established in 2001. Once the national strategy has been elaborated, it will be decided (by end 2006) whether a new equality body will be created or whether one of the existing bodies will become an umbrella body.

## **II.i. Equal opportunities**

Croatia stated that equal pay is regulated in the Labour Act, as required by the *acquis*. The principle of equal pay pertains to all employees, civil servants included. However, according to research data, women have an average of 10–15 % lower pay than men with the same level of education, seniority and job classification. Women are also insufficiently involved in self-employment or as entrepreneurs or owners of SMEs.

As regards access to employment, vocational training and promotion, and working conditions, prohibition of discrimination, direct and indirect discrimination is regulated by the Labour Act, the Gender Equality Act and the Same-Sex Unions Act. As required by the *acquis*, job vacancies must be advertised in such a way that persons of both genders may apply. Women are protected especially during pregnancy and motherhood. As required by the *acquis*, an employer cannot refuse a woman for reasons of pregnancy, cancel her employment contract or transfer her to other jobs. Harassment and sexual harassment are defined by law. As regards pregnant workers, maternity leave (mandatory for at least six months) is regulated by the Croatian legislation. The Labour Act prohibits a dismissal of a pregnant woman or of a person who is on maternity leave. It also specifies the jobs which women must not perform. Night work in industry, particularly arduous physical work, underground and underwater work are prohibited. Parental leave is not granted on a non-transferable basis, as required by the *acquis*. A father may exercise the right to parental leave only if a) the maternity leave of his spouse has expired, or b) if the mother dies, abandons her child or is unable to take care of the child. The parents retain the right to return to the same workplace after parental leave. As regards statutory social security, conditions for old-age pension for women are five years lower than for men. This also applies to civil servants.

In cases of discrimination based on sex, the burden of proof falls on the employer, as required by the *acquis*. Courts determine the amount of damages and compensation.

Legislation in view of aligning with the *acquis* on occupational social security is in preparation and is foreseen to be adopted by the end of 2006. No specific legislation exists on access to and supply of goods and services. According to the Gender Equality Act, there are no restrictions based on gender concerning access to goods and services available to the public.

As regards administrative capacity, the Gender Equality Act provides for a Gender Equality Ombudsman Office. An Office for Gender Equality was established in 2004. Every ministry has a gender equality coordinator. A national policy for the promotion of gender equality (2006–2010) is under preparation.

### **III. ASSESSMENT OF THE DEGREE OF ALIGNMENT AND IMPLEMENTING CAPACITY**

Overall, Croatia has reached a good level of alignment in the field of social policy and employment. In order to prepare for the full application of the *acquis*, a timetable should now be elaborated in view of transposing the remaining legislation. Implementation and enforcement capacity will require considerable and sustained attention, as the administrative capacity will need to be substantially strengthened across all the sectors if the *acquis* is to be properly applied. Also sufficient funding should be ensured, for example in the field of health and safety at work.

#### **III.a. Labour law**

Several main principles of the *acquis* are in place. Further harmonisation is needed, particularly as regards the directives on posting of workers, European Works Councils and on the European Company and the European Cooperative Society statutes. Several shortcomings need to be addressed with regard in particular to fixed-term and part-time work, transfer of undertakings, collective redundancies and employers' insolvency.

Administrative capacity needs to be substantially strengthened. Recruitment of staff needs to continue, and adequate training needs to be provided.

#### **III.b. Health and safety at work**

Several pieces of legislation aiming at transposing the *acquis* have been adopted. The timeframe for adoption of remaining legislation is 2007–2009.

Implementation and enforcement capacity will require considerable and sustained attention, as capacity will need to be substantially improved if the *acquis* in this field is to be properly applied. Sufficient funding of implementation is a problem. The Labour Inspectorate needs to be strengthened, and it needs to become more mobile.

#### **III.c. Social dialogue**

The institutional framework for social dialogue in Croatia is in place. Social dialogue seems to be quite developed, both between the State and social partners and between the State and other economic and social actors within a multipartite process. However, there is an imbalance between bipartite and tripartite social dialogue. Autonomous bipartite social dialogue needs to be strengthened, and social partners' capacity needs to be improved.

#### **III.d. Employment policy**

There is scope for improving policy strategy and coordination and for strengthening the administrative capacity related to employment policy planning and delivery. Problems related to low employment rate and a relatively high unemployment rate need to be tackled, including through effective measures aimed at increasing the flexibility of the labour market. Sufficient attention should be paid to active labour market measures, as well as to adult education and training. In this sense, it is foreseen to adopt an Act on Adult Education and to establish an Agency for Adult Education. Work under the JAP process should continue. Efforts should be pursued to fight against illegal work.

#### **III.e. European Social Fund (ESF)**

Building on the level of progress achieved under IPA component IV and the policy framework established under the JAP and JIM, structures and legislation will need to be adapted in order to create adequate institutional capacity for the future management,

implementation, monitoring, audit and control of ESF-type measures under IPA at national and, where appropriate, regional and local levels. IPA will also allow Croatia to develop its administrative and management capacity in view of future implementation of the ESF.

### **III.f. Social inclusion**

There is a need for more specific analysis of social exclusion and poverty in the Croatian society, as well as the introduction of related internationally comparable qualitative and quantitative indicators, as a basis for future programmes for vulnerable groups, such as pensioners, long-term unemployed, people with disabilities, refugees and minority groups. Work under the JIM process needs to continue. A more strategic approach to social benefit reforms appears necessary in order to provide more effective support for the neediest parts of the population.

As regards people with disabilities, attention should be paid to the creation of community-based services as an alternative to institutionalisation. Sufficient financial resources should be allocated in order to ensure due implementation of the National strategy for disabled. Developments in this field should be monitored carefully.

### **III.g. Social protection**

Since the pension and healthcare systems have been undergoing important changes as regards financing and organisation, the effects of these changes in terms of their adequacy and sustainability will need to be monitored. An ageing population will require further reforms of the pension and health care system that ensure both financial sustainability and social effectiveness.

### **III.h. Anti-discrimination**

The Croatian legislation is only partially in line with the *acquis*. It is not clear whether sectoral legislation provides effective protection against discrimination on grounds of racial discrimination in education, social security, health care, access to goods and services, including housing, as required by the *acquis*.

A comprehensive national strategy to combat discrimination still remains to be adopted. Further efforts are necessary to ensure full conformity with the anti-discrimination *acquis*, including the establishment of the Equality body. Public awareness in this field also needs to be raised. Serious attention should also be paid to availability of sufficiently comprehensive statistical data, as the limited statistics currently available do not allow monitoring of discrimination on the basis of different grounds. Developments in this field need to be monitored carefully.

### **III.i. Equal opportunities**

The basic legislation in this field is largely in place, although full alignment still needs to be attained. Legal adjustments are necessary, for instance, as regards removal of overprotection of women in relation to night work, physically heavy work, underground and underwater work. The relevant ILO conventions ratified by Croatia will need to be denounced at the earliest opportunity. Shortcomings with regard to parental leave, maternity benefits and excessive compulsory maternity leave as well as wider difficulties faced by pregnant women and mothers with small children in the field of employment also need to be addressed. Further adaptations appear necessary with respect to different retirement ages for men and women in the police, military and civil service. Associations which have a legitimate interest

in ensuring that the principle of equal treatment is applied should be able to engage, either on behalf or in support of the complainant, in any judicial or administrative procedure.

Enforcement of existing rules should be improved, as well as the availability of gender-segregated statistical indicators. Legal provisions providing for deterrent and dissuasive compensation in case of discrimination need to be introduced.