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## Croatian Opinion and the EU's Copenhagen Criteria

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- The European Union agreed in October 2005 to start formal discussions on the admission of the Republic of Croatia.
- The standard EU criteria for membership, known as the Copenhagen criteria, are a country's respect for democracy and the rule of law, and a functioning market economy. Public opinion evidence reported in this paper shows that Croatia meets these standards.
- But there remains a major obstacle: the EU expects Croatia to deliver Croats accused of war crimes for trial in The Hague. Two-thirds of Croats disapprove of doing so.

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### Introduction

The entry of a new member into the European Union is a four-stage process. First, a country has to apply for membership; Croatia has applied for membership. Secondly, an applicant country's institutions and practices are reviewed on technical and political grounds to see if they meet EU standards. In October 2005, the EU agreed to start reviewing Croatia's application for membership. Thirdly, the Council of Ministers must agree to the admission of the applicant; no country has yet been refused entry at this stage. Finally, the applicant country must approve joining the European Union. Norwegians have twice rejected at a referendum an entry agreement signed by the Norwegian government.

In principle, the European Union is ready to accept all the countries of Europe that want to join and meet its criteria for membership. The geographical boundaries of Europe are not delimited. By any geographical criteria, Croatia is within Europe. Its capital, Zagreb, is west of the capital cities of seven EU member states and north of the capital cities of four states. Prior to the foundation of Yugoslavia it was part of the Austro-Hungarian empire, as were other new member states; its Slavic language is written in the Roman alphabet; and it is overwhelmingly Catholic in religion. By comparison with seven new member states, Croats were not subject to the domination of the Soviet Union.

Croatia was part of the Republic of Yugoslavia, a multinational federation that was, for a one-party communist regime, relatively open politically and economically. The break-up of Yugoslavia was followed by a bitter war involving Croatia, Serbia and Bosnia-Herzegovina. The presence of a Serbian minority in Croatia and of Croats in Bosnia-Herzegovina led to the Serbian military seizing one-third of Croatia's territory in 1991. The great bulk of that territory was reclaimed by the Croat army in 1995, leading to the mass evacuation of an estimated 180,000 Serbs from the Krajina and the return of Croats who had fled the Serbian army. An end to fighting was part of the 1995 Dayton Agreement covering all participants in the war.

Following the end of the fighting, the Croat government of President Franjo Tudjman sought admission to a variety of multinational organizations. After raising questions about the regime's commitment to democracy and human rights, in 1996 the Council of Europe admitted Croatia. Although Croatia supported NATO air strikes on Serbia in 1999, it was not accepted in NATO's Partnership for Peace programme until after the death of Tudjman in late 1999 and the election of a reformist government the following year. In October 2001 the European Union and Croatia signed an association agreement. This led to the decision to start current discussions about Croatia's admission to the EU.

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### War complicates discussions

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The war of the Yugoslav succession has made the admission of Croatia far more contentious than that of other post-communist states. Even though Bulgaria and Romania have lower living standards than Croatia and are geographically more peripheral to Europe, they are ahead of the queue for joining the EU, because they have not been involved in war. The problems of minority groups in those two countries pale into insignificance compared with the fighting in Croatia and Bosnia, which created hundreds of thousands of refugees and caused tens of thousands of deaths.

The instability arising from unresolved issues of ethnic conflict in Kosovo, Macedonia and Albania, as well as in Bosnia, has involved the European Union and other intergovernmental agencies in a multiplicity of peacekeeping and stabilization programmes. By contrast with its southern neighbours, Croatia no longer requires an international military presence to keep the peace, and the movement of population consequent to war has made it very homogeneous ethnically. Admission of Croatia into the European Union can be seen as part of a policy of extending its stable state structure further into the Balkans and offering incentives to other troubled states in the region to follow Croatia in abandoning violence and seeking the economic benefits of EU entry.

Austria is the EU member state which has been most involved in seeking to maintain stability in the region since the break-up of Yugoslavia. It is also the most active in promoting Croatia's membership. In October Austria threatened to veto the opening of discussions with Turkey on EU membership unless the same position were granted to Croatia.

The hard evidence of brutal slaughter during the war of the Yugoslav succession led in 1993 to the establishment in The Hague under United Nations auspices of the International Criminal Tribunal for the former Yugoslavia (ICTY).<sup>1</sup> Its remit is to try individuals on charges of violation of the Geneva Convention, the laws and customs of war, genocide and crimes against humanity. The Tribunal claims superiority to national courts and constitutions. To date it has indicted 161 individuals, and trials have led to the conviction of dozens of people for war crimes. The reformed Serbian government has handed over to the Tribunal's jurisdiction the wartime Serbian leader Slobodan Milosevic, who is currently on trial there. However, indicted war criminals are still at large.

The Tribunal's terms of reference explicitly prevent it from indicting a government or a whole nation, but the investigation of allegations, the apprehension of individuals indicted for war crimes and their delivery to the Tribunal in the Netherlands require cooperation from national governments. The outstanding case involving Croatia is an indictment against General Ante Gotovina, who led the operation in the Krajina region which regained Croatian territory from Serbian invaders and resulted in the flight of its long-settled Serbian population. The Tribunal has been unable to locate Gotovina to serve its indictment and secure his extradition to the Netherlands.

The Croat government has formally accepted a responsibility to extradite General Gotovina to The Hague if he can be found. However, its lack of cooperation in seeking him led to the postponement of accession talks in March. The EU made it a condition of starting negotiations that the International Tribunal declare it was satisfied that Croatia was now fully cooperating with the Tribunal. It did so on 3 October and the EU moved to start discussions the following day.

The Croatian government has prosecuted crimes according to its domestic law. However, the international non-governmental organization (NGO) Human Rights Watch has charged that the Croat government has disproportionately prosecuted Serbs for crimes against Croats rather than concentrating on prosecuting convictions of Croats responsible for crimes against Serbs.<sup>2</sup>

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### Political criteria for membership

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To be accepted for EU membership, a government must demonstrate that it meets both detailed and broad criteria. The *acquis communautaire*

summarizes in thousands of pages the obligations of existing member states and applicants are expected to accept these obligations without amendment. Discussion of the chapters of the *acquis* involves the EU evaluating the extent to which existing national practices of an applicant are consistent with the *acquis*; steps that must be taken to make practices consistent; the offer of financial and technical assistance; and the agreement of a timetable when EU laws and regulations will be implemented before or after admission to membership.

In anticipation of a flood of applications for membership from post-communist countries, the European Council adopted at its Copenhagen summit of June 1993 a set of political criteria to assess the suitability of a country for membership. Consistent with its founding mission as a league of democratic states (a claim that neither NATO nor the United Nations makes), the EU's Copenhagen criteria emphasize political values: guaranteeing democracy, the rule of law, human rights, and protection for minorities, as well as the need for a functioning market economy.<sup>3</sup>

The Copenhagen criteria reflect consensus values of justice, equality before the law, and the rights of majorities and minorities. There is a requirement too that a country have a functioning market economy, a broad term that leaves open whether it is a social market or a liberal economy. However, the breadth and abstraction of these values tend toward vagueness, thus leaving substantial scope for negotiation about whether a national government meets the criteria. This is especially so in the case of Croatia, where the aftermath of war and the forced movement of population have left questions about human rights, as well as questions about democracy and the rule of law that are relevant in all post-communist countries.

The imprecision of the Copenhagen criteria can be welcomed by politicians wanting to champion 'their' applicant for membership in the bargaining that takes place before the Council of Ministers makes a political decision about whether a country should be in or out of the European Union. However, horse-trading between politicians is not the only way to assess a country's quality of governance.

International NGOs annually release reports evaluating national governments. The oldest, Freedom House, today rates Croatia as democratic in its recognition of political and civil rights. The country's score is the same as Lithuania's, and between those of Bulgaria and Romania. On Transparency International's Perception of Corruption Index, Croatia's score of 3.4 is closer to the bottom than the top. But its corruption rating is exactly the same as Poland's, and most UN member states have more corruption than Croatia.<sup>4</sup>

## Why not ask the Croats?

The European Union accepts that citizens have a right to be consulted about constitutional issues through referendums. Even if the EU accepts a country for membership, an agreement will not be put into effect if citizens of a country vote to reject what their government has accepted. The prospect of Croats rejecting terms laid down by Brussels is a card that Zagreb can use in the bargaining about whether Croatia meets EU standards. The public opinion surveys that the European Commission conducts tend to focus on how popular or unpopular the EU is in member states.

The bottom-up approach of the *New Europe Barometer* (NEB) of the Centre for the Study of Public Policy is different.<sup>5</sup> Instead of asking Croats what they think of the European Union, it asks what they think of their own government. Is it relatively honest or relatively corrupt? How much respect is shown for human rights? Are people in favour of democratic government or would they prefer to get rid of parliament and elections? Whereas a national government will always paint a rosy picture of its country, public opinion surveys often show that a majority of citizens find fault with their government. This information is especially relevant to evaluating EU applicants *before* a decision is made about membership.

The NEB assesses public opinion through the familiar and tested methodology of a nationally representative sample survey. Between 15 and 30 September 2005, the Croatia survey institute Accent interviewed 1,017 Croatian adults. To ensure representativeness, the sample was stratified into regions, counties and urban and rural areas, and then subdivided into 176 different primary sampling units. One-fifth of interviews were verified by supervisors.

If 100% of Croats expressed the same opinion of their government, this would show that the country was a dictatorship unfit for membership in the European Union. Since citizens of a free society inevitably differ in what they think, the question is: how good does a government have to be in order to be good enough for the European Union? League tables that identify best practices are counter-productive, for any ranking of existing EU member states would show that 24 countries 'fail' to be the league leader and as many are below average as above.

Existing member states can set the threshold that a country should meet for admission. Here, the threshold is defined as the lowest rating given to any of the eight post-communist countries from Central and Eastern Europe admitted to the EU in May 2004. The *New Europe Barometer* has such benchmark indicators, because its latest round of surveys covered all these new member states and questions relevant to the Copenhagen criteria were asked there and in Croatia.<sup>6</sup>

**TABLE 1: HOW CROAT RATINGS OF THEIR GOVERNMENT COMPARE**

	Croatia	Rank	Threshold (%)	Country
<b>DEMOCRACY</b>				
Democracy as an ideal	Mean: 8.8	1=	7.7	Slovakia
How democratic is our government?	Mean: 5.5	7	5.2	Latvia
How democratic in five years?	Mean: 6.9	5=	6.5	Latvia
No likelihood of dictatorship	87%	4=	83%	Poland
<b>RULE OF LAW</b>				
Freer to say what you think	74%	7	63%	Slovakia
People like me treated fairly	45%	3	19%	Hungary
Most officials not corrupt	22%	7	18%	Lithuania
<b>MARKET ECONOMY</b>				
Earn enough from main job	48%	2	20%	Slovakia
Own three consumer durables	72%	1	27%	Lithuania
Okay to buy multinational products	57%	6	39%	Poland
<b>HUMAN RIGHTS</b>				
Government respects human rights	51%	6=	42%	Czech R.
No threat from minorities	83%	7	68%	Czech R.
No threat from immigrants	88%	2	38%	Czech R.
Rank: Compared to 8 new EU member states Threshold: Poorest rating among 8 new EU member states				

Source: Centre for the Study of Public Policy, *New Europe Barometer*. 2004/5. Nationally representative sample surveys interviewing 9,068 persons. For details, see [www.abdn.ac.uk/cspp](http://www.abdn.ac.uk/cspp).

## Democracy – ideal and reality

Because subjects of communist regimes were not living under a democracy, the ideal of democracy is especially important. In Central and Eastern Europe it symbolizes three things: freedom; a government chosen after free elections; and government guarantees of social rights such as pensions and health care. When the NEB asks people how they would like to be governed, more than half of Croats give it the top rating of 10 on a scale ranging from 10 (complete democracy) to 1 (a complete

dictatorship), and the mean score is 8.8. The aspirations of the Croats for a democratic system of government are matched only by those of Hungary and well above the threshold set by Slovakia, where the ideal of democracy scores an average of 7.7.

As elsewhere in Europe, the reality of government falls far short of the ideal. Whereas Croats give three cheers for democracy as an ideal, they give barely one cheer for how democratically their existing government works in practice. The mean rating on a ten-point scale is 5.5. However, the mean rating of the country's system of

government is above that of Latvia and equal to that of Poland. It is also above those of Bulgaria and Romania, two applicant countries heading for EU admission before Croatia.

The democratic deficit in Croatia is substantial, but it could be a positive force, insofar as dissatisfaction leads voters to demand reforms that both the EU and Croatian democrats favour. Moreover, major deficiencies in government do not necessarily augur impending collapse; the Republic of Italy has persisted for more than half a century notwithstanding recurring problems of bad government. Moreover, Croats are cautiously optimistic about their system of government improving as it matures. On average, respondents think that in five years' time the government's rating on the democracy scale will rise to 6.9; this is better than the expectation that Latvians, Poles and Slovaks have of their systems of government.

Between the two world wars, fledgling democratic regimes in Central and Eastern Europe were usually overthrown by dictators. However, Croats do not think there is a risk of this happening. When the NEB survey asks how likely people think it is that parliament would be suspended and elections abolished, 87% think it is unlikely to happen. This is above the threshold set by Poland, where more than 16% of those polled are nervous that the country's current regime may be replaced by a dictator.

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## Rule of law

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Laws can be used to grant people rights or as instruments of repression. European history has more examples of the latter than the former and the one-party state of Yugoslavia strictly limited the rights of its subjects. By contrast, the EU's Copenhagen criteria expect a member state to limit what it tells its citizens they must do, and to be fair and honest in dealings with its citizens.

The *New Europe Barometer* asks a battery of questions about the extent to which people feel greater freedom from the state than under the old regime. Even though the Yugoslav regime was less repressive than many communist regimes, an overwhelming majority of Croats now feel they have much more freedom. A total of 85% feel freer to make up their own minds about religion, 79% feel freer to join any organization they want and 74% feel freer to say what they think. Among the remaining minority, most say they notice no change: only 3% on average say they feel less free. In their experience of greater freedom, Croats are well above the threshold level of Slovakia, where 63% feel freer than before to say what they think.

Laws also set rules that establish the conditions in which citizens are entitled to claim a pension, health care, education and other 'good' goods that constitute the everyday services of government. If bureaucrats administer the law fairly, then every

household will get the benefits to which it is entitled. However, communist regimes promoted a culture of favouritism and clientelism, as people conspired with friends in the party-state to jump queues to get benefits to which they were not entitled. In the region, the historical origins of favouritism and clientelism can be traced back to the Ottoman presence or earlier.

When asked whether government treats people like themselves fairly, 45% say yes. This achievement is far from perfect, but it is better than the reputation for fairness of six new EU member states and more than double that of Hungary, where only 19% expect fair treatment. Croat expectations of fair treatment are also higher than in each of the three Baltic member states, where Brussels has been concerned about the treatment of ethnic Russians.

Fair treatment is not necessarily honest; communist-trained officials may be prepared to take money from everyone as a condition of dispensing services. The bottom-up view of Croats is consistent with the top-down assessment of Transparency International: only 22% think that a majority of Croat public officials are not corrupt. However, the scale of corruption is seen as marginally better than in Lithuania and Slovakia, which appear even more corrupt in the eyes of their citizens.

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## A market economy

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The goal of the European Union's founders was to strengthen both the polity and the economy of its member states. The economic dimension has gained in importance as the original common market has evolved into a Single Europe Market, with all that this implies for regulating the European stream of commerce and transferring funds from richer to poorer countries. Because Croatia's population is barely 1% that of the Union, any money it receives from Brussels will not be a substantial drain on EU finance. However, if a post-communist country cannot transform its state-controlled economy into a functioning market economy, this can be troublesome within a Single Europe Market.

It is characteristic of a badly functioning economy that people cannot live on what they earn in their main job; people rely as well on what they earn in the cash-in-hand shadow economy and by growing food, making clothes and exchanging services with friends and relatives in the non-monetized household economy. In Croatia, 48% report they earn enough from their main job to get by. While this is substantially less than in established market economies, it is far above the threshold level of 20% in Slovakia or in most other post-communist countries now in the EU.

Another sign of Croats adapting to the market economy is that most households now have what almost all Europeans regard as 'good' consumer goods. A total of 99% have a colour television set,

83% a video cassette recorder or its equivalent, and 79% have a car. Altogether, 72% of Croat households have all three of these household consumer goods, a higher proportion than in eight new EU member states from the region, and two-and-a-half times the number in Lithuania. Since these consumer goods cannot be produced at home or bought with soft currencies, they provide hard evidence of the extent of real disposable income among Croats.

The Single Europe Market is also an open market: member states are not allowed to put up substantial barriers against trade with other members, and trade barriers with non-members are set by the European Council of Ministers rather than national governments. However, this can stimulate a backlash against the EU if imports are seen as threatening jobs or if American fast food chains are seen as threatening a country's 'slow food' tradition.

When asked by the *New Europe Barometer* whether multinational companies should be able to sell their products in Croatia or whether people should buy goods produced in their country, 57% endorse an open market. This is far above the threshold level of Poland, where only 39% endorse free trade in goods. Moreover, the products bought for their homes show that even Croats who endorse the purchase of national products are prepared to buy consumer goods from around the globe rather than go back to the shortages that were the hallmark of a closed communist economy.

## Human rights

International organizations such as the United Nations proclaim the importance of human rights, but can pull their punches when members egregiously violate these rights. The European Union includes respect for human and minority rights in the Copenhagen criteria. In reviewing the application of Estonia and Latvia for membership, the EU pressed Riga and Tallinn to give evidence that they were taking steps to enable more ethnic Russians to qualify as citizens. However, it also showed understanding of the complex interconnection between citizenship and language in those countries. It accepted evidence of progress rather than making demands that national electorates could well have rejected as too high a price for EU membership.

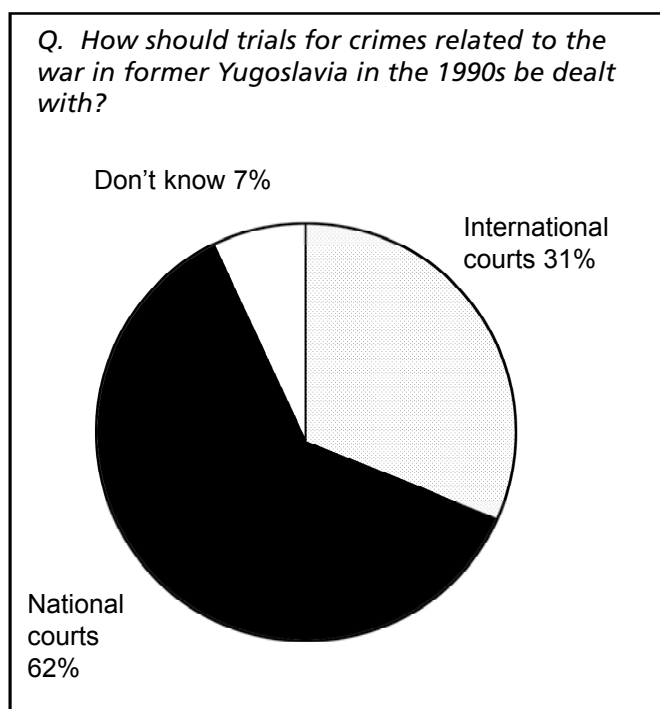
In Croatia issues of human rights are a legacy of a war in which Serbia seized Croat territory, making tens of thousands of Croats refugees, and Croatia then struck back, resulting in a massive flight of Serbs from Croatia. The events of war are hard on human rights and fresh in minds. When asked to evaluate the Croat government's respect for human rights, only 3% say it shows a lot of respect and 48% say it shows some respect. By contrast, 36% say it shows not much respect and 13% say it shows

none. The division among Croats about their government's respect for human rights is matched in other new EU member states. In the Czech Republic only 42% think their government respects human rights. Croatia is therefore above the threshold set by existing EU member states.

The experience of war has not made Croats see themselves as threatened. In reply to a battery of NEB questions about potential threats to the country's peace and security, 35% see the United States as posing at least some threat, higher than the 28% who see neighbouring countries such as Serbia as posing a threat. Only 12% see immigrants or refugees from other parts of the former Yugoslavia as threatening the country's peace and security, and 17% see national minorities within Croatia as posing a threat. Having fought and regained lost territory and reduced the Serb minority, Croats appear to believe that they are now secure. Moreover, the war has put off long-distance immigrants who have been attracted instead to peaceful and more prosperous places such as Prague; this has produced a greater sense of threat among Czechs than among Croats.

## War crimes

**FIGURE 1: WAR CRIMES A NATIONAL NOT EUROPEAN ISSUE**



Source: Centre for the Study of Public Policy, *Croatia Barometer Survey* of a nationally representative sample of 1,017 persons interviewed 15–30 September 2005.

Although the government has reached agreement in principle with the International Tribunal it has yet to do so with its own population. When the NEB survey asked Croats whether war crime trials should

be dealt with by national courts or by the international Tribunal at The Hague, 62% said that Croatian courts should deal with war crimes, as against 31% endorsing trial by an international court (see Figure 1). The EU has been unwilling to accept trials in national courts because, as the Organization for Security and Cooperation in Europe (OSCE) has documented, the Croatian practice has been to indict and convict many more Serbs than Croats of crimes related to the war. Support for national trials of alleged war criminals is found in all segments of the country's population. An absolute majority of young and old, men and women, educated and uneducated, and well-to-do and badly off believe that Croatia should try its own citizens rather than having them tried at an international tribunal in The Hague.

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### Ordinary and extraordinary considerations

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By the Copenhagen criteria, Croat citizens consistently evaluate their government more positively than do the eight Central and East European countries admitted in May 2004. Croats show a stronger commitment to democracy than many member states; they expect their government to become more democratic; and few expect a turn to dictatorship. Freedom from the state is enjoyed. The market economy provides a standard of living higher than is typical of new member states. Corruption is a bad problem – and unfairness too – but the EU has not made these shortcomings a reason for refusing membership to other post-communist countries. Instead, it has offered technical assistance and money to raise standards of governance. As long as there is some evidence of progress, the EU is prepared to believe that membership will lead new member states to raise standards of governance – and this is what the reform-minded democrats of Croatia want too.

Croats have realistic views about the potential costs and benefits of EU membership. Big majorities believe it will increase foreign investment, improve transportation and enhance environmental projects, enable Croats to work freely in other EU member states and lead to greater political stability. Big majorities also believe it will create strong competition for Croatian companies, encourage foreigners to buy holiday houses and cheap land, and that opening borders will increase anti-social crime.

In ordinary circumstances, discussions on Croatia's accession could proceed without fear of interruption, focusing principally on the details of the *acquis*, and the start of discussions presupposes that Croatia will be judged to meet the requirements of the *acquis*. A country that meets the Copenhagen criteria and that has a government which promotes membership and citizens who see

benefits from joining would expect to enter the EU without difficulty.

However, the legacy of the war has created extraordinary circumstances. The International Court in The Hague is pursuing General Gotovina in Croatia and elsewhere. While this mandate is accepted by the EU member states, it is contentious in Croatia. Croat nationalists are using the issue to claim that foreigners are persecuting Croats, and that closer ties with 'Europe' – an undifferentiated entity that embraces the UN-sponsored Court as well as the European Union – should be rejected. National referendums in post-communist countries have shown that anti-EU sentiment there is less strong than the overriding importance of the return to Europe.

Since Croatia stirs up none of the popular emotions raised by Turkey, in deciding about entry the elite Council of Ministers is not tied by national electorates. However, it is tied to the ICTY. The question is whether, where and when General Gotovina may be apprehended and his delivery to the Tribunal at The Hague demanded. Since Slobodan Milosevic is currently on trial there, the ICTY can hardly be described as pro-Serb. But from a Croat perspective, it can hardly be described as pro-Croat.

As long as General Gotovina is *not* apprehended on Croat territory, then the government in Zagreb is not under international pressure to deliver a Croat for trial outside Croatia. Moreover, as long as there is no evidence that some groups within the government of Croatia are abetting Gotovina's elusiveness, then Zagreb can pass back to The Hague blame for failing to serve the indictment. However, should General Gotovina be apprehended within Croatia, then the Zagreb government will face domestic political pressures to refuse extradition of a military figure who regained the Krajina from the invading Serb army. And just as Tony Blair wants to fight Britain's corner in Europe, so the government of Croatia is expected to fight Croatia's corner.

The ICTY indictment places a big question mark over Croatia's accession, for everything will depend on the circumstances of Gotovina's pursuit at the time the Council of Ministers is expected to make its decision about Croatia's entry. If there is then a conflict between The Hague and Zagreb, Brussels will be caught trying to negotiate about the future of the EU while others struggle over the legacy of a past war.

In early rounds of enlargement the EU dealt with easy cases, such as Britain, Denmark and Ireland, or the application of Finland and Sweden. As the EU contemplates further rounds of enlargement it will face hard cases; Croatia is only the first example of this. Multinational Bosnia and Macedonia face internal nationality conflicts far greater than Croatia's, and state structures in Albania are problematic. Although Turkey has not

fought an international war, its Kurdish minority is more than double the size of the population of the whole of Croatia, and portions are engaged in armed conflict with Ankara to advance a homeland that stretches into Iraq. In Ukraine the Orange

revolution has produced a change of president; unless and until it raises its level of governance, Ukraine will not meet Copenhagen criteria of European governance.

## Endnotes

<sup>1</sup> See [www.un.org/icty](http://www.un.org/icty).

<sup>2</sup> See <http://hrw.org/english/docs/2004/12/20/croati9917.htm>.

<sup>3</sup> See Marise Cremona (ed.), *The Enlargement of the European Union* (Oxford: Oxford University Press, 2003); Milada Anna Vachudova, *Europe Undivided: Democracy, Leverage and Integration after Communism* (Oxford: Oxford University Press, 2005).

<sup>4</sup> See [www.transparency.org](http://www.transparency.org) and [www.freedomhouse.org](http://www.freedomhouse.org).

<sup>5</sup> See [www.abdn.ac.uk/cspp](http://www.abdn.ac.uk/cspp).

<sup>6</sup> See Richard Rose, *Insiders and Outsiders* (Studies in Public Policy 404) and *Are Bulgaria and Romania up to EU Standards?* (Studies in Public Policy 400), both published in 2005 by the Centre for the Study of Public Policy, University of Aberdeen. For more details, see [www.abdn.ac.uk/cspp](http://www.abdn.ac.uk/cspp).

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