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Chapter 2

ASSESSING THE NEGOTIATION EXPERIENCE: QUICK ACCESSION OR GOOD REPRESENTATION?

Tomislav Maršić*

ABSTRACT

This article examines the negotiation phase on two levels: First, it assesses domestic organising, the processes of adopting a negotiating position and the relevant actors involved. By a comparative analysis of the experiences from Estonia, Slovenia and Hungary, "best management" practises will be condensed. These are subsequently applied to Croatian negotiation management in order to identify potential problems. In a second step, the findings will be put into the wider context of the political consequences of the negotiation strategy, providing recommendations for alternative modes of domestic organising. It will be argued that the Croatian negotiation structure is streamlined in order to match ambitions to complete negotiations in a very short time. However, this institutional set-up concentrates one-dimensionally on executive expertise and reinforces problems in domestic representation and legitimisation. It therefore fails to accommodate to new strategic developments like enlargement-fatigue in the European Union and "euro-fatigue" in Croatia.

Key words:
European Union, Croatia, accession negotiations, negotiation team, democratic deficit

INTRODUCTION

The start of accession negotiations is one of the most complex parts of the accession process to manage politically, because it is the moment when "political realities begin to sink in" (Grabbe, 2003:4)[i]. This paper investigates the negotiation phase, attempting to clarify the processes involved and Croatia's institutional responses, and also analyses possible problems. The first part of the paper examines the process of the accession talks, since awareness of the structural conditions of negotiations is a prerequisite for further analysis. Subsequently, a comparative analysis of past institutional set-ups is provided, focusing on individual advantages and shortcomings.[ii] The Croatian negotiation structure will be subsequently projected against these findings, identifying potential problem areas in the domestic communication and decision-making chain.[iii] The paper concludes with recommendations concerning the lay-out of the negotiation strategy and alternative modes of domestic organisation.

Accession negotiations from the perspective of the acceding country are governed by different underlying norms.[iv] In this article attention is drawn to the conflicting norms "integration speed", "democratic control" and "stakeholder participation" which played a prominent role in the experiences of the countries of the last enlargement wave. Their realisation poses a dilemma to policy-makers in weighing normative arguments against each other in order to find a trade-off between these contradictory goals.

As for instance increasing "democratic control" would require the inclusion of more actors (e.g. the parliament) into the negotiation structure, this would have adverse effects on the "integration speed" as coordination processes become more complex. At the same time, increasing the participation of stakeholders in order to raise expertise and networking skills runs at the cost of "democratic control" as these actors are not elected representatives of the public.

Against this background it will be argued firstly that the Croatian negotiation structure is streamlined in order to fit ambitions to complete negotiations in record time. This institutional set-up however, concentrates one-dimensionally on executive expertise, reinforcing problems in domestic representation and legitimisation and also failing to accommodate to new strategic developments like enlargement-fatigue in the EU and "euro-fatigue" in Croatia. This leads to the conclusion that strategic changes in the domestic negotiation set-up should be impleme-

nted, in order to ensure better representation by the parliament and a less pressured approach to accession – a project which means nothing much less than the complete recreation of Croatia's political system.

ACCESSION NEGOTIATIONS: A PROCEDURAL OUTLINE

Accession negotiations are "bilateral, state-level negotiations", with the key interlocutors "at home" being the chief negotiators and their teams, and a relatively small number of ministers (Grabbe, 2001:4). They are not so much political but rather technical talks in a sense of "negotiating harmonisation" (Lajh, 2003:9). The strategic basis are the Agenda 2000 program for enlargement (European Council, 1999) and the Accession Partnership (Commission, 2005a), concretely specified in the (yearly) National Program for the Integration of the Republic of Croatia into the EU (MFAEI, 2006).

Real negotiations in the sense of bargaining take place only in three contexts. The largest part of the actual negotiations is carried out "at home" by finding a national position in concert with the societal actors affected.[v] Second, according to the principle "nothing is agreed until everything is agreed" in the end phase of the process, a complete package deal has to be achieved with the implication of budgetary issues. In addition, the candidate has informally to engage in negotiations on open bilateral issues with the concerned member states. Throughout the whole negotiation process the role of public opinion must not be underestimated because it can have a significant impact on a member (or candidate) country's negotiating position.

In its strategy paper, the Commission (2002:13) states that "accession negotiations are based on the principle that candidates accept the acquis and apply it effectively upon accession". Some exemptions ("transition periods") are allowed but they have to be "limited in time and scope and be accompanied by a plan clearly defining stages for the application of the acquis". In very rare cases so called "derogations" were put in place which allowed the accessing country long-lasting exemptions from specific regulations of the acquis.

Although the Commission negotiates on behalf of the member states, all decisions (such as opening and closing of chapters) have to be made unanimously by the Council. Still, the Commission plays a very important role in negotiations, as its proposal to the Council

often predetermines the latter's "Common Position" – the "answer" to the negotiation position of the candidate.

Usually two position exchanges complete one chapter, although more difficult issues can demand three (or rarely more) rounds. A chapter is closed only preliminarily until all chapters are negotiated. In contrast to the last enlargement wave, the closure of chapters is now seen to depend to a greater extent on the implementation of their contents and not so much on their mere adoption. This qualitative difference means that Croatia will have to work more thoroughly in closing the chapters, while it gives the EU wider leeway in rating Croatia's progress.

The enlargement sessions are held at intergovernmental (or: negotiation-) conferences twice during an EU presidency, one time at the level of deputies (Committee of the Permanent Representatives on the EU side, chief negotiators on side of the candidate) and one time at the level of ministers. In particular, focus is placed on the progress achieved by the candidate countries which is monitored by the Commission through progress reports and peer reviews.

Since the EU is a rigid negotiating partner with very limited space to manoeuvre, the negotiation process is qualified by "conditionality" (the need to meet EU requirements) and "hierarchy" (Grabbe, 1999). It is characterised by a structural asymmetry in bargaining power in favour of the EU, which in the past led to the label "policy-taking instead of policy-making" (Payne, 2003:34). As this asymmetry is not only caused by the overwhelming negotiation power of the EU, but also by the weaknesses of the candidate countries themselves, particular importance is attached to the organisation of the negotiation team. Accordingly, the next section will deal with the question of how three countries, Estonia, Slovenia and Hungary, organised their management with respect to leading negotiations on EU accession.

NEGOTIATION MANAGEMENT STRUCTURES IN COMPARISON

Estonian negotiation management

Estonian negotiation management was characterised by a comparatively flexible and informal structure with a strong overview from the central government (Payne, 2003:30). The negotiation structure was decentralised, with strong line ministries being responsible for the

harmonisation of law, the implementation of the accession agenda and advising the relevant working group of the negotiation team (Drechsler [et al.], 2002). In the course of negotiations, team leadership shifted from the foreign minister to the prime minister, who took over the management of the accession process shortly before the start of the negotiations. This led to a floating centre of policy coordination, split between the prime minister's State Chancellery and the Ministry of Foreign Affairs.[vi] This development also partly originated from the fact that relations with the EU started as international relations and evolved into domestic affairs.

The prime minister directed the whole process and was responsible for coordination at the highest level at a weekly and informal "European meeting" at which the cabinet discussed EU issues. This coordination role varied to a large extent by the self-definition of the respective government and its system and was rather the result of situational factors than a planned move.[vii] A newly established cabinet committee at ministerial level (Commission of Ministers for EU Affairs) acted as a discussion body for preparing negotiating positions to be adopted in government (Brusis [et al.], 2000:5). It was chaired by the prime minister and consisted of the core ministers.

The Office of European Integration was a structural unit of the State Chancellery, subordinate to the prime minister; it coordinated national preparations, mainly providing policy cooperation between the line ministries. The Office chaired the Council for Senior Civil Servants which prepared and approved the presented material and acted as a coordinating body, providing solutions to more complex inter-ministerial issues.

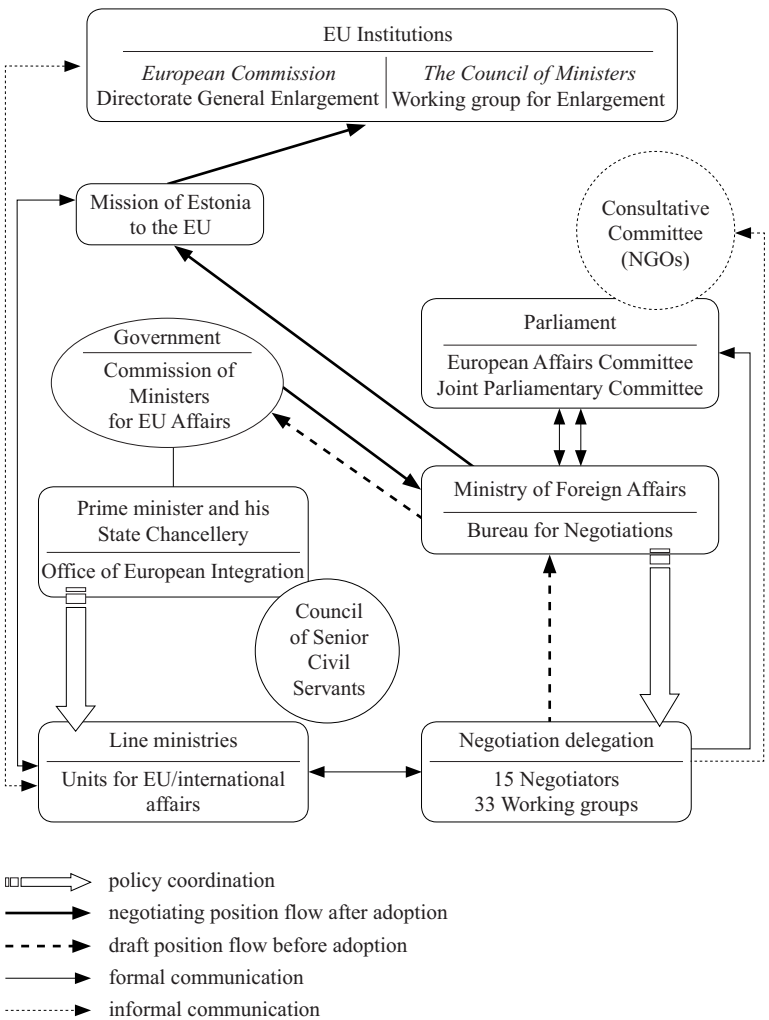
The foreign minister's Bureau for Negotiations was responsible for overall process related coordination and synchronisation of the work of the Negotiations Delegation and the working groups. In the beginning of the process it channelled all communication between the national and the EU level until this was deemed to be counterproductive as it led to time lags and weak contacts between the line ministries and the EU.

The role of the parliament was to provide acceptance and to rubberstamp the government's EU policy. The European Affairs Committee had twelve members from all political parties, in addition to members from all the standing committees.

The mission acted as a vertical channel of information between the EU and the domestic government and hosted attachés from most

ministries, which gave direct tasks to their respective officials. Nevertheless, the mission's relations with interest groups remained weak throughout the process.

Figure 1 Negotiation structure of Estonia



Source: Drechsler [et al.], 2002; Brusis [et al.], 2000; author´s illustration

One of the main lessons of the Estonian experience was that the smoothness of the overall coordination was dependent on the general quality of personal contacts at the top of political decision-making structures. Of crucial importance was the direct access of the leader of the Office of European Integration to the prime minister for the authorisation of resolving inter-ministerial conflicts. The particular success factors of the Office as the main horizontal coordination body were its flexibility, small size, openness and speediness in decision-making.

The decentralised approach with strong line ministries helped to avoid creating "islands of excellence" privileging the part of the staff dealing with EU issues leaving the rest with little expertise. At the same time the decentralised system needed very effective coordination as it was at risk of single actors avoiding dealing with issues that could be handled by somebody else.

The above mentioned dual character triggered problems in the exchange of information as some ministerial officials complained about the need for double reporting – to the prime minister's State Chancellery and to the Foreign Affairs Ministry. In this sense the Estonian example shows that the establishment of informal contacts sometimes proved to be necessary, while at the same time it was recognised that they produce plenty of unrecorded information, which are lost to the organisation when the specific person leaves.

Slovenian negotiation management

Slovenian negotiation management was characterised by high formalisation and high transparency as a consequence of far-reaching integration of societal stakeholders and parliament.[viii] The decision to join the EU was supported by a strong societal and political consensus and did not generate huge controversy at the national level. European integration meant a gradual "internalisation" of EU matters as "domestic matters", as well as putting the relevant horizontal and vertical coordination structures into place (Fink-Hafner, 2002). The decision to set up the independent Government Office for European Affairs (see below) showed that the key actors did not want to deal with EU integration in a traditional diplomatic sense and put an end to the informal coordinating role of the Foreign Ministry.

The negotiating team was explicitly established to ensure the prevalence of expertise over political or sectoral interest – one core cri-

terion for staff recruitment was the absence of any affiliation to a political party. The team was responsible for the drafting of negotiating positions and consisted of thirty-one working groups headed by senior officials from the relevant ministry or government institution. Negotiating positions were co-ordinated at meetings of all working groups and formulated with extensive support from the relevant ministries. Subsequently, the draft positions were submitted to the government and the parliament for approval. All negotiating positions were fully published.

The prime minister was not very attentive to day-to-day issues but focused on strategic matters. He kept constant contact with the key actors, particularly the relevant ministers at the weekly "European Meeting" and resolved inter-ministerial conflicts.

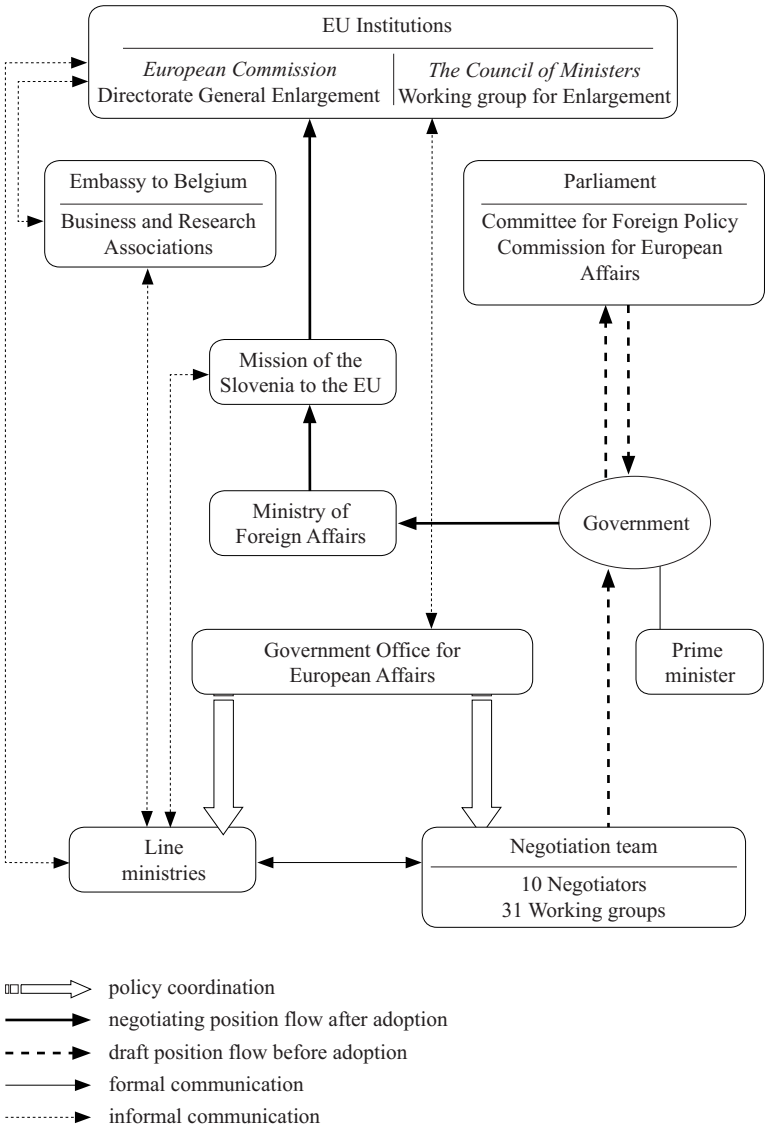
The bulk of the policy coordinating work was carried out by the Government Office for European Affairs, led by a minister without portfolio. While at the beginning it was set up within the Ministry of Foreign Affairs, in course of negotiations it became gradually independent.

The Ministry of Foreign Affairs channelled the document flow between Ljubljana and Brussels through the Mission of Slovenia to the EU. The mission's experts were predominantly recruited from the line ministries and provided analysis and technical support. The Embassy of Slovenia to Belgium played a rather informal role in the emerging network of the Slovenian Business and Research Association. The latter proved to be an important channel of information and was financially supported by two ministries.

The Parliament had the tasks of aligning Slovenia's legislation with the acquis and debating as well as adopting the proposed negotiating positions after they were discussed by the Parliamentary Committee on Foreign Policy. The Commission for European Affairs engaged in public debate and coordinated EU issues within the Parliament as a whole.

Throughout the accession process, the line ministries remained the main centres of the articulation of national positions, while the main strategic questions fell within the responsibility of the prime minister. The foreign minister acted as formal chief negotiator and set the political guidelines while the "European minister" held rather technical meetings on the progress of the negotiations. Despite the central position of the Government Office for European Affairs, the Slovenian negotiation structure developed a multitude of centres while the line ministries remained in the lead in the formulation of negotiating positions.

Figure 2 Negotiation structure of Slovenia



Source: Fink-Hafner [et al.], 2002; Brusis [et al.], 2000; author´s illustration

The formal communication channelled through the Ministry of Foreign Affairs at times proved to be too rigid and gradually led to complementary informal channels of communication, especially between state actors and EU bodies in Brussels. The contacts of the Slovenian Mission to the EU facilitated quicker response to EU demands and became even more significant after accession.

Hungarian negotiation management

The Hungarian accession negotiations were supported by a broad domestic consensus for acceding to the EU in general and for the negotiating positions in specific (Ágh [et al.], 2003). After a change of government in 1998, the negotiation management saw a centralised structure with the Ministry of Foreign Affairs at the core with very little involvement of outside parties or interest groups (Payne, 2003:31)[ix]. The significance of the ministry's leadership was a direct consequence of the relatively minor involvement of the "remote" prime minister. The cabinet seldom discussed accession management in detail – the prime minister was usually only involved in issues with significant impact on daily politics. The ministers were briefed on the negotiations by the foreign minister and handled the details of the policy issues.

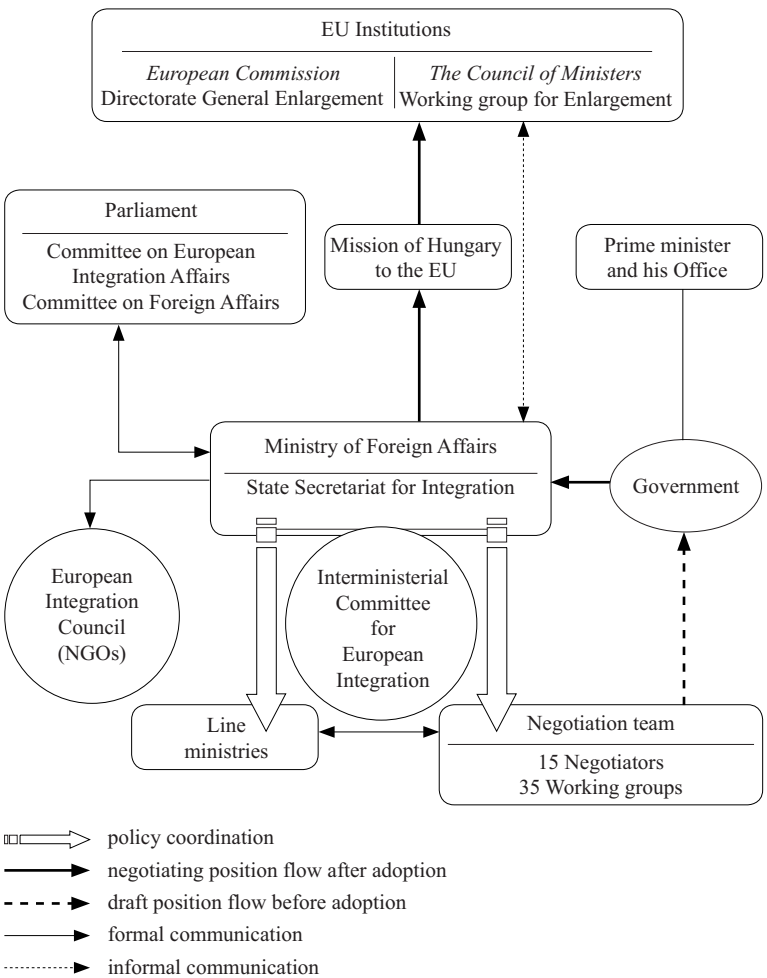
The Ministry of Foreign Affairs coordinated vertical relations with the EU, led the negotiation delegation and reported to the government and the parliament while at the same time it was host to the central bodies in the management of EU business.

The most important such body was the State Secretariat for Integration which became the centre for government decisions as well as single process and policy coordinator of the work of the line ministries[x]. The Secretariat was headed by a state secretary, who was directly responsible to the minister. It chaired the Inter-ministerial Committee for European Integration, which was responsible for coordination at the level of senior civil servants. It was composed of expert groups established according to the chapters of the acquis and headed by state secretaries leading the European integration departments in the line ministries.

The negotiation delegation, chaired by the foreign minister, was the formal body charged with handling the accession negotiations. It had twelve permanent members from the Secretariat and senior civil servants representing the most important ministries and state agencies.

Most of the actual negotiations were carried out in an informal way through meetings with staff members and ambassadors of the European Commission and the permanent representatives of the member states. The chief negotiator used a variety of personal contacts with his negotiation counterparts in Brussels and prepared reports for the government based on his assessment of the situation on the spot.

Figure 3 Negotiation structure of Hungary



Source: Ágh [et al.], 2003; Brusis [et al.], 2000; author´s illustration

In the so called "European Integration Council" the foreign minister held regular consultations with representatives from trade unions, employers' organizations, chambers of commerce, etc. (The Hungarian Quarterly, 2001). All ministers were obligated to consult economic and social partners when they formulated positions on matters within their competence.

A Parliamentary Committee on European Integration Affairs was established, which had the tasks of monitoring the harmonisation of Hungary's laws with the acquis and raising public awareness (Bessenyey Williams, 2000:13). The committee lacked expert staff and the financial resources to fulfil these tasks and was one of the least influential standing committees in parliament – the idea of transforming it to a grand committee was rejected by Prime Minister Orbán. The Parliament as a whole was not able to perform as a communication channel for organised interests (Ágh, 1999:843).

The principle of "speaking with one voice" resulted in all communication flows passing through the Secretariat thus rendering the Minister of Foreign Affairs, the head of the Secretariat and the chief negotiator the key players. Although the leadership of the Secretariat provided guidance in the process of accession, the Ministry of Foreign Affairs was but a line ministry and as such neither authorized nor empowered to resolve inter-ministerial conflicts. At the same time the "remote" approach of the prime minister depoliticised and professionalised the process (ibid, 107).

CROATIAN NEGOTIATION MANAGEMENT: A VIEW FROM CROSS NATIONAL COMPARISON

The Croatian negotiation structure is, like Hungarian management, highly centralised and is dominated by the Ministry of Foreign Affairs and European Integration (Vlada RH, 2005a).[xi] The structure is characterised by a high concentration of procedural and political power on a limited number of persons at strategic points with a high level of control.

The Ministry of Foreign Affairs and European Integration is an amalgam of the former Ministry of Foreign Affairs and the former Ministry of European Integration, unified in March 2005 in an ad-hoc decision. An interviewee reported that since unification, the ability to co-

ordinate, in the sense of pushing line ministries to draft the necessary legislation, had deteriorated since the speed of legislative harmonisation declined. At the same time civil servants responsible for the coordination of the EU pre-accession funds reported considerable complications in working processes due to the handling of essentially two ministries. Further critics claim that organising accession by the Ministry of Foreign Affairs instead of an extra-resort ministry would send out the wrong message (expert interview). This is consistent with experiences from Slovenia and Estonia, the former having set up a governmental body led by a minister without portfolio and the latter seeing a shift of power from the Ministry of Foreign Affairs to the prime minister in course of accession negotiations.

The minister holds a powerful role as she is directly responsible for leading direct talks within the "State Delegation" while simultaneously chairing the central policy coordinating body (Coordination). The weekly-convening Coordination consists of all ministers, the chief negotiator and the negotiator of the respective field of discussion (without a vote). It is responsible for coordinating the negotiation team and the line ministries and decides by majority voting. The Coordination tackles issues for which no solution has been found at the level of senior civil servants (expert interview).

In view of the experience of Hungary, the Ministry of Foreign Affairs (chair in the Coordination), being only a line ministry, might well lack the authority effectively to find proactive solutions in interministerial disagreements. In countries with a top policy coordination structure at senior civil servant level enjoying direct connection to the (prime) minister (e.g. Slovenia), establishment of the coordination at ministerial level is not an uncommon choice in the context of the negotiation structures evaluated here, but in terms of transparency and stability it is not necessarily the best option. A politicised coordination may work well within an environment of broad domestic support, but can easily be destabilised when this consensus fails. However, it has to be acknowledged that some degree of political control has to be maintained as "negotiations between bureaucracies do not necessarily contribute to the development of shared values as a basis for new governance structures" (Grabbe, 2003:4). In this context the probably most interesting finding from the comparative analysis is that the performance of the similarly streamlined management structure in Hungary with respect to decision making on a negotiating position was comparatively slow (Payne, 2003:33) while relatively quick in Slovenia, where the parliament as an additional veto player confirmed and adopted every draft position.

The prime minister's role to date has been somewhat similar to that of the "remote" prime minister in Hungary, who was involved only in issues with a significant impact on daily politics. He is informed in a weekly cabinet meeting where EU business is the first item on the agenda (expert interview). However, according to the experiences above, with increasing dynamics and a growing agenda the prime minister might see the necessity of becoming more involved in negotiations business.

The negotiating team consists of the fifteen negotiators, the Ambassador of the Mission of Croatia to the EU in Brussels (the mission) and is chaired by the Chief Negotiator and his two deputies. The Chief Negotiator manages the work of the working groups which participate in screening and draw up the draft proposals of negotiating positions. He has a dual role, which includes preparing the positions and negotiating them directly with the Commission and the member states. The 15 negotiators convene in the weekly "negotiators meeting" where the progress of negotiations is discussed (expert interview). As seen in the above examples, the line ministries have a rather indirect but powerful role as their practical expertise results in a leading technical position and high representation among the working group members. Most of the higher-positioned members of the negotiation structure originate directly from the state administration or a state-affiliated agency. Out of fifteen negotiators, eleven come from state institutions, two from the scientific sector and two from economic interest groups. Among the thirty five working group leaders, this ratio amounts to 26:7:1, while one is self-employed (Vlada RH, 2005c). The selection of the negotiators was largely based on criteria of membership in state administration and agencies, and did not exclude those with party alignment, as e.g. in Slovenia. Expert interviews confirmed that in some cases of selecting the negotiators or working group leaders, it was not the person's proficiency level but interpersonal contacts that were the decisive factors. Still, the European Commission has underlined the proficiency of the team on many occasions. Despite signs of party political involvement in the establishment of the structure, it will probably be possible to keep party politics out of the negotiation team. By contrast, a bigger issue will be whether the negotiation team can be kept out of party politics in the long-run (see below).

The Secretariat of the Negotiation Team is the focal point of process coordination and primarily provides technical and administrative support to the State Delegation, the Negotiating Team and the

working groups. It is led by an assistant minister of foreign affairs (directly responsible to the minister) who simultaneously acts as a negotiator. Contacts within the Croatian negotiation structure are strictly channelled through the Secretariat which in some way plays the role of a "dating-service" in finding and connecting the responsible partners between the institutions. It thus acts as network point for horizontal contacts (e.g. between working groups and line ministries) as well as for the vertical communication with EU institutions in Brussels (expert interview).

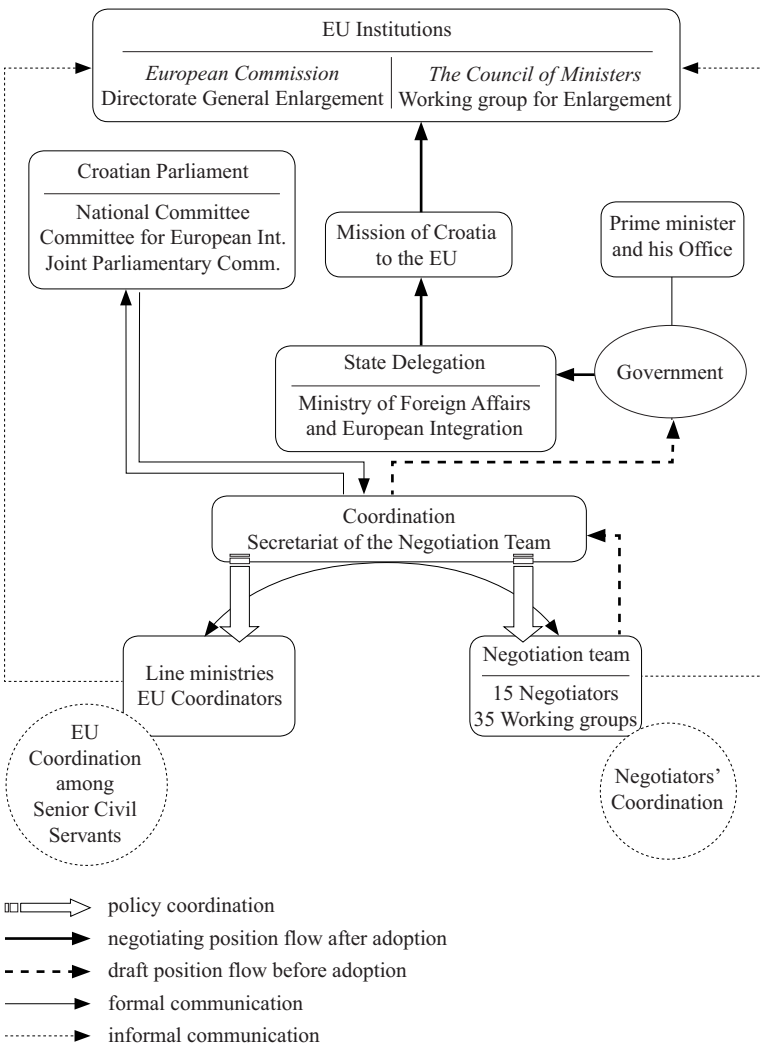
This system proved to be rigid in Slovenia and Estonia, where it led to time lags and other difficulties in the communication between the national administration and EU civil servants (which the Secretariat seeks to control). The Estonian case revealed that weak contacts between the line ministries or working groups and the EU administration can add to the emergence of isolated "islands of excellence" in the domestic administration. Despite the Secretariat's determination to keep control of the information flow, direct and informal communication channels evolved between some of the structure's bodies (e.g. between working group members and civil servants in Brussels), bypassing the Secretariat as a result of pressures of time and the need to simplify procedures.

All countries relied on institutionalising a formal or informal body for interest groups, representing union and employer organisations in the negotiation process. This body was in all cases limited to monitoring, spreading information and networking of interest groups with EU institutions in Brussels. In Croatia interest groups are not organised in an extra body, but instead send representatives to the National Parliamentary Committee (however without voting rights). Even though interest groups seem to represent a large deal of the working group members, they are present *within* the structure and thus are "under control" of the dominating state-associated actors.[xii]

The "National Committee for monitoring negotiations for accession to the EU" set up in Parliament is responsible for supervising and giving guidelines on the drafting of positions. It consists of the presidents of the Committee of Foreign Affairs, the Committee of European Integration, the Committee for Inter-parliamentary Co-operation as well as five representatives from the ruling and five from the opposition parties and decides by unanimous vote. Its additional members, the representatives of the President's Office, the academic community, the unions and the employer associations have only observer status without any voting rights. The chairperson of the Committee, who is a rep-

resentative of the biggest opposition party in parliament, holds regular consultations with the president of the Republic, the prime minister, the president of Parliament, the head of the state delegation and the chief negotiator.

Figure 4 Negotiation structure of Croatia



Source: Vlada RH, 2005a; author´s interviews and illustration

Table 1 Key features of the negotiation structures in comparison

	Estonia	Slovenia	Hungary	Croatia
Responsible cabinet figure	Prime and foreign minister	"European" minister (without portfolio)	Foreign minister	Foreign minister
Policy coordinating body	Bureau for Negotiations and Office of European Integration	Government Office for European Affairs	State Secretariat for Integration	Coordination
Process coordinating body	Office of European Integration			Secretariat
Coordination body at senior civil servant level	Council for Senior Civil Servants	Government Office for European Affairs	Inter-Ministerial Committee for European Integration	EU Coordination for Senior Civil Servants (informal)
Status of chief negotiator	Deputy secretary general in the Ministry of Foreign Affairs	Director of a scientific institute	Head of the Mission to the EU	Ambassador in the Mission to the EU
Number of negotiators	15 negotiators	11 negotiators	18 negotiators	15 negotiators
Working groups	33 working groups	31 working groups	31 working groups	35 working groups
Supporting structures	Task Force for Accession Negotiations in the Ministry of Foreign Affairs	Sub-committees supervised by 9 secretaries or under-secretaries of state	Task Force for Integration Strategy (independent advisory body)	Secretariat
Interest group integration	Weak	Strong	Medium	Weak

Source: Lippert, 2001; Brusis [et al.], 2000; author's interviews

While in expert interviews committee members confirmed that the governmental information policy has been to date satisfactory, the chair expressed discontent with the fact that the Committee only receives "governmentally approved" information (Šarić, 2006). The Committee is not designed to play an independent controlling role since some of its members lack competence and dedication (ibid.), while the absence of significant technical and analytical capacities means it is impossible to counterbalance dependence on governmental resources.[xiii]

The symptom of a weak parliament is reflected by the tight grip of the Ministry of Foreign Affairs. The structure's design fits the needs of an ambitious timetable that does not allow for widespread discussion of potentially controversial issues. Yet, it should be kept in mind that flexibility (Estonia) and openness (Slovenia) proved to be important factors in successful negotiations. The concluding section will outline why it might be worthwhile considering a different strategic approach to negotiations, which would enable a more thorough, balanced and integrative approach.

CONSEQUENCES FOR THE INTEGRATION STRATEGY: QUICK ACCESSION OR GOOD REPRESENTATION?

The existing negotiation structure reflects the priorities of the integration strategy, originally devised in the context of government change in 2000, focusing on high integration speed. Since then, however, the background parameters have changed considerably. While then the possibility of joining the EU together with Romania and Bulgaria seemed an ambitious but still attainable goal, this option is not open any more. Still, government and parliament plan to access the EU within a period of time shorter than that recorded by any new members to date.[xiv] Two trends, however, one domestic and one within the EU will put large constraints and question marks on the foreseen time table.

On the domestic side, there is a silent preference for ignoring the widespread "euroscepticism" among Croatian citizens, while far-reaching reforms will put even more stresses and strains on the population. Whereas in 2000 the levels of public support for European integration were encouraging, today polls show a rather unstable picture. This is

even more striking against the background of increasing trends of euroscepticism which could be observed during the negotiation phase in Central and Eastern Europe (CEE). Therefore, public concerns should be taken very seriously, considering the realistic option of an accession treaty being rejected by the population, as happened for instance in Norway.[xv] Yet, the only prevailing governmental measure to counter this stance seems to be pushing through negotiations as fast as possible.

At the same time, debates within the EU institutions and member states on what is called "enlargement fatigue" reflect the decreasing level of public approval for further enlargement by states from (South) Eastern Europe. One important background reason lies in the unresolved problem of the EU's internal decision structure still drawing on the EU-15 at the time of the Nice Summit in 2000. While attempts at reform failed with the rejection of the Constitutional Treaty in France and the Netherlands, the EU will first need to adjust its decision-making system to the enlarged Union before it is prepared to admit new members.[xvi,xvii] This is reflected in the debates on "enlargement capacity", in which voices calling for freezing enlargement after the accession of Bulgaria and Rumania find more and more acceptance.[xviii] Resolving this fundamental problem will require a difficult and probably long process in which public opinion in the member states will play a decisive role. In this context the lessons of the rejection of the Constitutional Treaty as a project imposed "top-down" should illustrate the danger of political elites ignoring adequate electorate representation and failing to generate the legitimacy necessary to engage in such large scale reform.

The overall focus on quick accession at any cost is part of the dominating norms that govern enlargement. This focus rests on the shaky presumption that a slower tempo would endanger the whole transition process. On the contrary, however, especially small states in the past lacked the capacity to meet the tight timetable and to draft qualitative reform. In the case of Estonia "the overload and time pressure were major reasons for the poor quality of legislation and insufficient policy analysis" (Raik, 2004:588), while Ágh (1998) sees the management of EU accession in CEE as "a typical case of state or government overload, therefore it has been […] politically counterproductive [...]". The above mentioned development in Croatia, with the Ministry of Foreign Affairs showing signs of problems with coordination capacity through the declining number of laws harmonised should be seen in this context.

At a more basic level the persisting "need for speed" of the accession strategy collides with the goal of fostering democracy (see, among others: Beichelt, 2003) by exerting pressures to streamline the domestic negotiation process, rendering it the "hour of the executive" (Lippert [et al.], 2001:994). Consequently, the democratic deficit[xix] of the EU institutional system, itself overloaded with executive decision power, weak parliamentary control and long legitimacy chains[xx] (for an overview see: Føllesdal, 2004) is being exported to Croatia – rather silently, in the form of adaptation pressures to the EU decision making process.[xxi] This in turn happens at the risk of sacrificing participation and control of the stakeholders concerned, above all citizens and their parliamentary representatives.

This problem was partially addressed by the establishment of the National Committee.[xxii] As seen above, however, this body has no veto power and rather resembles a "debate club". This is in line with the Parliament's "traditional" politically marginalised position in the political system, despite the improvements in the last decade (Zakošek, 2002:90). Its weak integration in the accession process continues this tradition by respective path-dependencies, similar to the Hungarian prime minister's claim that "in practice it is frequently not the Parliament that is controlling government, but the reverse" (cited after Bessenyey Williams, 2001:31). [xxiii]

While older member states were able to develop mechanisms of national parliamentary scrutiny of the government incrementally as responses to step-by-step European integration, accession countries like Croatia have to adapt to the political system of the EU in a very short time. This, however, does not leave room for a responsive adaptation of legislative control, as path-dependent institutional processes require a wider time horizon. At the same time, effective national parliamentary scrutiny is the most important institutional mode of controlling the government in order to provide for representation and legitimacy. Effective scrutiny in turn is largely dependent on the domestic political system and the general strength of parliament, which is, as pointed out above, quite weak in Croatia (for a discussion of conditions for effective scrutiny, see Raunio, 2005).

In turn, low degree of responsibility vested in parliamentary representatives in the negotiation process will lead to temptations to abuse negotiation issues by politicisation instead of problem focused discussion. The National Committee's alleged strength – its political weight reflected by its overwhelming composition of high-ranking party rep-

resentatives – might also be its greatest weakness. Party politicians will hardly miss the chance to compete in defending alleged "national" interests when they are not made responsible for real decisions over negotiating positions. This is significantly reinforced by the construction of the National Committee with very limited access to independent expertise and the obligation to reach a unanimous vote.

The conflict potential has already been demonstrated by severe political fights between the two big parties, which led to several announcements of the opposition leader to withdraw support from the National Committee. Considering the still early stage of the negotiations it seems doubtful that party political quarrelling over negotiating positions will not be transported into parliament. These dissensions, together with a widespread popular perception of the legislature as merely a "law-passing machine", have led to further recoil from "politics" and a reinforcement of ongoing delegitimation trends.[xxiv] Research in this field suggests that euroscepticism among Croatian voters can to a significant part be traced back to distrust in national institutions, especially parliament (Štulhofer, 2006). Its preparedness neither effectively to control the government in the process of negotiations nor adequately to represent the citizens might reinforce this vicious circle and render it a mere "facade of democracy" (Rüb, 2001:47).

In light of these arguments, a change in accession management should be considered; such a change might have the following elements:

- *Turn away from an "as soon as possible" to an "as soon as ready" policy*. Encouraging though an ambitious entry date might be, in the present situation it seems to overstrain both the citizens as well as the Union. It should be kept in mind that it is not EU membership itself that will solve pressing problems, rather the intense reform period enabled by the "window of opportunity" and the unique dynamics of the accession period, which should be used as a self-disciplining instrument. Shortening this period means less time available for designing reforms, for sequencing them and to implement them in a socially bearable way. Eventually rising scepticism in the EU towards further enlargement should not lead to hectic reactions but to a display of determination by more thorough reforms combined with high-level political lobbying.
- *Turn away from a top-down to a more bottom-up centred approach* by installing a parliamentary veto point. It should not be forgotten that legitimacy requires control of the citizens over political proce-

sses and their contents – a control that needs to be "substantive rather than symbolic" (Dryzek, 2000:79ff.). A parliament effectively controlling government could play an important role in channelling the (often diffuse) eurosceptical attitude of many citizens, returning legitimacy and reintegrating a large part of the society in Croatia's way to the EU. Furthermore, this approach reduces probable, very damaging party politicisation tendencies by making representatives responsible and forcing them to let their words follow deeds.

- *Internalise European Affairs*. In the Croatian political system European integration is still treated like a foreign policy issue where traditionally weak or no legislative control is exerted and the role of the parliament lies mostly in ratifying of international treaties. As the above experiences in the accession process suggest, European integration issues are domestic issues, since the decisions made in Brussels will sometime override those made in Zagreb. Thus, the National Committee in Parliament should be upgraded to a grand committee with open meetings, sector specific sub committees, as well as adequate resources and analytical support.
- *Reconsider the tight grip of governmental control* rendering negotiation management more transparent and flexible. This entails: (i) *Improving conditions for "negotiations at home"* by enhancing systematic participation and integration of interest groups, actors from the field of science or other concerned stakeholders and (ii) *Lessening rigid process coordination* allowing for more flexible contacts between the national and the EU level, thus avoiding the emergence of "islands of excellence". At the same time all informal communication needs to be recorded in order to avoid loss of information to the organisation.

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i *In this paper it is implicitly assumed that accession to the EU is desirable.*

ii *The cases for the comparative analysis were picked on the grounds of a comparative research project "Organising for EU Enlargement: A Challenge for the Member States and the Candidate States ('Managing Europe From Home')", a six-country comparative study on the impact of the EU on structures and processes of national public policy carried out under the EU Framework V Programme (see: http://www.oeue.net/). For the purpose of this article a number of studies on candidate states were used to depict accession management in order to benefit from the uniform methodological approach applied in all three cases.*

iii *For that purpose in-depth expert interviews were held in January and February 2006 with individuals from all levels of the negotiation structure and the National Committee in Parliament, ranging from working group members via high ranking senior civil servants to politicians. The names of the interviewees will not be exhibited in this article but are known to the author.*

iv *As such, Raik (2004:567) identifies for instance inevitability, speed, efficiency and expertise.*

v *This is especially underlined by the Hungarian experience where the actual difference between the national and the EU level disappeared in course of negotiations, rendering the EU "another stakeholder (but a powerful one) in the national negotiations in formulating the Hungarian government's negotiating position" (Pálvölgyi et al., 2003:22).*

vi *In order to structure the cross-national analysis, a difference will be made between process and policy coordination (for similar distinctions, see: Brusis, 2000:12; Davis, 1997:126ff.). Process coordination means the management of procedures and the integration of the most important actors at the specific stage of the negotiation process. Policy coordination entails strategic policy formulation and "political" coordination as maintaining functionality of coordinated bodies.*

vii *While Prime Minister Mart Laar (in office 1999-2002) had to outbalance a foreign minister who was member of a different party, his successor Siim Kallas was member of the same party as the chief diplomat and thus able to concentrate more on negotiation issues. Still, even in Laar's term, the role of the prime minister continuously increased reaching its peak in 2002.*

viii *For example, civil society and independent experts were explicitly invited to co-operate in the formulation of the draft positions.*

ix *In this article, only the management structure relevant for accession negotiations (under Prime Minister Orbán) will be referred to.*

x *In course of reorganisation in 2002 it was renamed State Secretariat for Integration and External Economic Relations.*

xi *It has to be noted that at the time of writing this article (February/March 2006) the structure has not yet become fully functional. At the same time, experience with past management forms shows that changes within the institutional configuration can (and probably will) occur within the negotiation process, either through political decisions (e.g. changes in government) or informal developments leading to quasi facts. Yet its theoretical design alone and experiences made during the first screening sessions provide for a clear picture of the structure's core features.*

xii *According to the report of the chief negotiator to the government (Vlada Republike Hrvatske, 2005b:2), from 1,591 people in the working groups, 701 are "not in the system of state administration". Still, it has to be taken into account that some of the 701 non-civil servants come from scientific institutions, thus leaving the exact origins of the working group members unclear. It might be interesting to note that 869 members alone are dealing with the chapters connected to agriculture.*

xiii *To date there is only one secretary employed while for the future, five further employee positions are planned (expert interview). Yet, this still will not make up for the lack of supportive expertise.*

xiv *The government expects to finish negotiations speedier than the candidates from the last round because of policy and institutional learning and the share of the acquis already transposed. It plans to close all negotiation chapters by the end of 2007 in order for Croatia to take part in elections for the European parliament in 2009.*

xv *In Norway's referendum in November 1994 the accession treaty was narrowly rejected (47.7% in favour).*

xvi With the rejection of the Constitutional Treaty, also the "Protocol on the Role of National Parliaments in the European Union" was rejected, which provided for stronger information rights, their participation in a "first reading" of EU proposals and a "subsidiarity control" which even included a veto right under certain conditions.

xvii France and Germany already stated their preference for deepening to further enlargement, while Germany showed some signs of a changed approach towards the accession of the "Western Balkans" by applying its concept of a "privileged partnership", originally invented for labelling its preferred mode of relations with Turkey.

xviii "Enlargement capacity" was to date a merely theoretical aspect of the Copenhagen criteria defining the basic conditions for accession to the EU. This concept played a big role in the amendment of the 2005 enlargement strategy of the Union (Commission, 2005b) by a report from the European Parliament from mid-march 2006 (European Parliament, 2006). There it is stated that the EU is only able to admit new members if they can be integrated as well. According to the report, this situation is not given at the moment. Having in mind the development of the discussion on enlargement, only progress in EU deepening will allow for progress in enlargement.

xix As differentiated by Scharpf (1996), this democratic deficit is being discussed for the European and the national level.

xx The term "legitimacy chain" describes the chain between those making decisions and those being affected by them. Critics point out that this link between the sovereign on national and political actors on EU level is too long and non-transparent.

xxi The mechanisms for this export are emulation ("copying" EU institutions) and conditionality (EU requirements favouring institutional modes that give preference to executives). Examples for a mixture of both are the institutional consequences emerging out of the SAA. Its governing bodies are the Association Council (political decision body governed by high executive officials) and the Association Committee (civil servants from respective ministries) whereas the third body, the Joint Association Parliamentary Committee just makes non-binding proposals to the Association Council.

xxii The decision about the establishment of the Committee was made after few minutes of debate in a late parliamentary session. In a fifteen minutes break the party leaders, the prime minister, the foreign minister and the chief negotiator made the decision behind closed doors and thus gave a blow to representatives who pledged to call an extra morning session in order to discuss the issue extensively (Hrvatski Sabor, 2005c).

xxiii In the context of discussion on countering the democratic deficit on EU and national level, stronger national parliaments (of member states) are usually connected with intergovernmental models of European Integration, which also include strong national governments and a strong Council of Ministers. The opposite model of parliamentarisation includes strengthening European-level actors, like the European Parliament and the Commission. As this article refers to the pre-accession period, arguments for strengthening the national parliament are not supposed to provoke connotations with the intergovernmental perspective.

xxiv In this context, there is evidence that satisfaction with democracy is higher in consensual democracies, where input from opposition parties is included by the government (see Anderson et al., 1997).

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