



## ***CONSTITUTIONAL CHANGE THROUGH EURO CRISIS LAW: CROATIA***

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# I POLITICAL CONTEXT

## POLITICAL CHANGE

### I.1

*WHAT IS THE POLITICAL CONTEXT OF THE EUROZONE CRISIS PERIOD IN CROATIA? HAVE THERE BEEN CHANGES IN GOVERNMENT, ELECTIONS, REFERENDA OR OTHER MAJOR POLITICAL EVENTS DURING THE PERIOD OF 2008-PRESENT?*

In December 2011, Croatia got a new Government as the result of the parliamentary elections. The new parliamentary majority consisted of the members of Kukuriku coalition, led by the Social-Democratic Party. Members of the Croatian Democratic Alliance, a moderate right wing political party, formed the previous Government. The new Prime Minister became Zoran Milanovic instead of Jadranka Kosor. The change of the Government, to a certain extent, represents the result of the financial crisis on which Croatia has been, huge deficit and high level of corruption and the fact that the employment rate is only 57%.

From a perspective of European integrations, the change of the Croatian Government was not particularly relevant, since both parties were very pro-European oriented, so there was no effect on Croatian progress into the European Union. The leaving Prime Minister Jadranka Kosor signed the Accession Treaty of Croatia itself.

The most important post-2008 date for Croatia is certainly 1 July 2013 when Croatia will become part of the European Union as the 28<sup>th</sup> Member State after long accession negotiations. The referendum for EU accession took place on 22 January 2012 and around 2/3 of the citizens who voted, voted in favour of the EU accession.

During 2013, Croatia will have to adjust its fiscal policy in accordance with EU requirements.

## II CHANGES TO THE BUDGETARY PROCESS

### BUDGETARY PROCESS

#### II.1

*DESCRIBE THE MAIN CHARACTERISTICS OF THE BUDGETARY PROCESS (CYCLE, ACTORS, INSTRUMENTS, ETC.) IN CROATIA.*

In Croatia, the core of the budgetary process is regulated by the Constitution that points out to the rules on annual state budget. Accordingly, at the end of every year, the Croatian Government proposes the annual budget (article 112 of the Constitution) to the Croatian Parliament which adopts the annual budget (article 80 of the Constitution). All the details are regulated by a separate Law on Budget, an ordinary law, that is adopted every year and that regulates the entire system of budgetary income and distribution.

Besides the adoption of the Law on Budget, the budgetary process is a complex process that was materially affected by the Croatian accession into the European Union, and consequently in the European Semester. Now, the process looks as following:

- 1) by mid-March, the Ministry of finance together with the Ministry of regional development and EU funds sends to all other ministries and state bodies the instructions for development of three year strategic plans taking into consideration National Growth Survey and Alert Mechanism Report as adopted by the European Commission and the Employment Guidelines as adopted by the European Parliament
- 2) by mid-April, all ministries and other state bodies send to the Ministry of finance their three year strategic plans
- 3) by the end of April, the Ministry of finance together with the Ministry of regional development and EU funds sends proposes to the Croatian Government the strategy for the period of three years
- 4) by mid-April (before EU, the deadline was mid-May), the Croatian Government shall adopt the strategy for the period of three years in order to be sent to the European Commission by the end of April
- 5) In May, the European Commission assesses Croatian national plan and makes recommendations
- 6) by the end of May, the Ministry of finance proposes to the Government the priorities of economic and fiscal policies taking into consideration recommendations made by the European Commission
- 7) by mid-June, the Government shall adopt the priorities of economic and fiscal policies that shall incorporate the recommendation of the European Commission from the month of

May and of the European Council from the month of June

8) by the end of June, the Ministry of finance sends to all ministries and other state bodies the instructions for drafting of the proposal of the State budget

9) in July, the European Council adopts final recommendations for each Member State, now including Croatia, that shall be taken into consideration while drafting the proposal of the State budget for the next year.

## GENERAL CHANGE

### II.2

*HOW HAS THE BUDGETARY PROCESS CHANGED SINCE THE BEGINNING OF THE FINANCIAL/EUROZONE CRISIS?*

In 2010 Croatia adopted its Croatian Law on Fiscal Responsibility adopted in 2010 which entered into force on 1 January 2011<sup>1</sup> whose main goal is fiscal consolidation of Croatia. It requires a decrease of state spending of 1% of the GDR per year until the moment when primary fiscal amount does not become positive. This, rather short piece of legislation (only 15 articles) was proposed by the Croatian Government and adopted by the Croatian Parliament as an ordinary law.

The main goal of this law is strengthening and maintenance of fiscal responsibility, transparency and mid- and long-term objectives of sustainable public finances.<sup>2</sup>

The adoption of the Law on Fiscal Responsibility was not, at least in 2010 when the law was adopted, identified by the European Union as one of the necessary prerequisite for further progress of Croatia in its Euro-integration process. Passing of this law represents rather the result and means of the aim of relevant stakeholders in Croatia to establish clear and efficient rules of fiscal responsibility in the country.

The Ministry in charge of finance is in charge of monitoring over application of this law in practice. No particular role for the judiciary was envisaged by this law.

## INSTITUTIONAL CHANGE

### II.3

*WHAT INSTITUTIONAL CHANGES ARE BROUGHT ABOUT BY THE CHANGES IN THE BUDGETARY PROCESS, E.G. RELATING TO COMPETENCES OF PARLIAMENT, GOVERNMENT, THE JUDICIARY AND INDEPENDENT ADVISORY BODIES?*

On the ground of the Law on Fiscal Responsibility, the Croatian Government established the Committee for Fiscal Policy whose main task is assessment of the application of fiscal rules.

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<sup>1</sup> Official Gazette of Croatia No 139/2010

<sup>2</sup> Article 2(1) of the Law on Fiscal Responsibility

## CHANGE OF TIME-LINE

*II.4*

*HOW HAS THE TIME-LINE OF THE BUDGETARY CYCLE CHANGED AS A RESULT OF THE IMPLEMENTATION OF EURO-CRISIS LAW?*

It has not changed.

## MISCELLANEOUS

*II.5*

*WHAT OTHER INFORMATION IS RELEVANT WITH REGARD TO CROATIA AND CHANGES TO THE BUDGETARY PROCESS?*

Not applicable.

### III CHANGES TO NATIONAL (CONSTITUTIONAL) LAW

#### NATURE NATIONAL INSTRUMENTS

##### III.1

*WHAT IS THE CHARACTER OF THE LEGAL INSTRUMENTS ADOPTED AT NATIONAL LEVEL TO IMPLEMENT EURO-CRISIS LAW (CONSTITUTIONAL AMENDMENT, ORGANIC LAWS, ORDINARY LEGISLATION, ETC)?*

Croatia has only adopted the Croatian Law on Fiscal Responsibility adopted in 2010 which entered into force on 1 January 2011, which is an ordinary law, i.e. it does not have legal strength of the Constitution or a constitutional law.<sup>3</sup>

#### CONSTITUTIONAL AMENDMENT

##### III.2

*HAVE THERE BEEN ANY CONSTITUTIONAL AMENDMENTS IN RESPONSE TO THE EURO-CRISIS OR RELATED TO EURO-CRISIS LAW? OR HAVE ANY AMENDMENTS BEEN PROPOSED?*

No, there have not been any. The last changes of Croatian Constitution took place in 2010 when certain provisions of the Croatian Constitution were amended as part of the European integration process of Croatia into the European Union, but none of these amendments was Euro-crisis related.<sup>4</sup>

#### CONSTITUTIONAL CONTEXT

##### III.3

*IF NATIONAL CONSTITUTIONAL LAW ALREADY CONTAINED RELEVANT ELEMENTS, SUCH AS A BALANCED BUDGET RULE OR INDEPENDENT BUDGETARY COUNCILS, BEFORE THE CRISIS THAT ARE NOW PART OF EURO-CRISIS LAW, WHAT IS THE BACKGROUND OF THESE RULES?*

No rules of that kind in Croatian Law.

#### PURPOSE CONSTITUTIONAL AMENDMENT

##### III.4

*WHAT IS THE PURPOSE OF THE CONSTITUTIONAL AMENDMENT AND WHAT IS ITS POSITION IN THE CONSTITUTION?*

Not applicable.

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<sup>3</sup> Official Gazette of Croatia No 139/2010

<sup>4</sup> Official Gazette of Croatia No 76/2010 and No 85/2010

## RELATIONSHIP WITH EU LAW

III.5

*IS THE CONSTITUTIONAL AMENDMENT SEEN AS CHANGING THE RELATIONSHIP BETWEEN NATIONAL AND EUROPEAN CONSTITUTIONAL LAW?*

Not applicable.

## ORGANIC LAW

III.6

*HAVE THERE BEEN CHANGES TO ORGANIC LAWS OR OTHER TYPES OF LEGISLATION THAT ARE OF A DIFFERENT NATURE OR LEVEL THAN ORDINARY LEGISLATION, IN RELATION TO EURO-CRISIS LAW OR THE BUDGETARY PROCESS?*

No, there have not been changes or adoption of any kind of organic laws or other types of legislation that are of a different nature or level than ordinary legislation, in relation to Euro-crisis law or the budgetary process.

## CONSTITUTIONAL AMENDMENT AND ORDINARY LAW

III.7

*IF ORDINARY LEGISLATION WAS ADOPTED IN CONJUNCTION WITH A CONSTITUTIONAL AMENDMENT, WHAT IS THE RELATIONSHIP BETWEEN THE TWO?*

Not applicable.

## PERCEPTION SOURCE OF LEGAL CHANGE

III.8

*IN THE PUBLIC AND POLITICAL DISCUSSIONS ON THE ADOPTION OF ORDINARY LEGISLATION, WHAT WAS THE PERCEPTION ON THE APPROPRIATE LEGAL FRAMEWORK? WAS THE ORDINARY LEGISLATION SEEN AS IMPLEMENTING NATIONAL CONSTITUTIONAL LAW, OR EURO-CRISIS LAW?*

Not applicable.

## MISCELLANEOUS

III.9

*WHAT OTHER INFORMATION IS RELEVANT WITH REGARD TO CROATIA AND TO CHANGES TO NATIONAL (CONSTITUTIONAL) LAW?*

Not applicable.

## IV. EARLY EMERGENCY FUNDING

*Prior to 2010, loan assistance to States was made primarily via bilateral agreements (to Latvia, Hungary, Romania, 1<sup>st</sup> round of Greek loan assistance).*

*The European Financial Stabilisation Mechanism (EFSM) and the European Financial Stability Facility (EFSF) are two temporary emergency funds, both resulting from the turbulent political weekend of 7-9 May 2010. On May 9, a Decision of the Representatives of the Governments of the Euro Area Member States was adopted expressing agreement on both funds.*

*The EFSM is based on a 'Council regulation establishing a European financial stabilisation mechanism' of May 11, 2010 adopted on the basis of article 122(2) TFEU and therefore binding on all 27 member states of the EU.*

*(<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:118:0001:0001:EN:PDF>)*

*The EFSF is a special purpose vehicle created under Luxembourgish private law by the 17 member states of the Eurozone. The EFSF Framework Agreement was signed on June 7, 2010. On June 24, 2011, the Heads of State or Government of the Eurozone agreed to increase the EFSF's scope of activity and increase its guarantee commitments. ([http://www.efsf.europa.eu/attachments/20111019\\_efsf\\_framework\\_agreement\\_en.pdf](http://www.efsf.europa.eu/attachments/20111019_efsf_framework_agreement_en.pdf) and [http://www.efsf.europa.eu/attachments/faq\\_en.pdf](http://www.efsf.europa.eu/attachments/faq_en.pdf))*

## NEGOTIATION

### IV.1:

*WHAT POLITICAL/LEGAL DIFFICULTIES DID CROATIA ENCOUNTER IN THE NEGOTIATION OF THE EFSF AND THE EFSM, IN PARTICULAR IN RELATION TO (BUDGETARY) SOVEREIGNTY, CONSTITUTIONAL LAW, SOCIO-ECONOMIC FUNDAMENTAL RIGHTS, AND THE BUDGETARY PROCESS?*

Croatia did not participate in the negotiation of the EFSF and the EFSM. No debate on these two issues can be found neither in any of the sessions of the Croatian Parliament, nor of the Croatian Government. Only a few blog and newspapers articles deal very superficially with these issues, just mentioning them, primarily as a negative phenomenon, since the EFSF and the EFSM were identified as having potential negative economic consequences for the Croatian industry and budget and of which Croatia shall be aware once it becomes the EU Member State on 01 July 2013.

## ENTRY INTO FORCE

### IV.2

*ARTICLE 1(1) EFSF FRAMEWORK AGREEMENT PROVIDES THAT IT WILL ENTER INTO FORCE IF SUFFICIENT EUROZONE MEMBER STATES HAVE CONCLUDED ALL PROCEDURES NECESSARY UNDER THEIR RESPECTIVE NATIONAL LAWS TO ENSURE THAT THEIR OBLIGATIONS SHALL COME INTO IMMEDIATE FORCE AND EFFECT AND PROVIDED WRITTEN CONFIRMATION OF THIS. WHAT DOES THIS PROCEDURE LOOK LIKE IN CROATIA AND IN WHAT WAY DOES IT INVOLVE PARLIAMENT?*



Croatia is not a Eurozone member state; it is not a party to the EFSF.

## GUARANTEES

### IV.3

*MEMBER STATES ARE OBLIGED TO ISSUE GUARANTEES UNDER THE EFSF. WHAT PROCEDURE WAS USED FOR THIS IN CROATIA? WHAT DEBATES HAVE ARISEN DURING THIS PROCEDURE, IN PARTICULAR IN RELATION TO THE IMPLICATIONS OF THE GUARANTEES FOR (BUDGETARY) SOVEREIGNTY, CONSTITUTIONAL LAW, SOCIO-ECONOMIC FUNDAMENTAL RIGHTS, AND THE BUDGETARY PROCESS?*

Croatia is not a Eurozone member state; it is not a party to the EFSF.

## ACTIVATION PROBLEMS

### IV.4

*WHAT POLITICAL/LEGAL DIFFICULTIES DID CROATIA ENCOUNTER DURING THE NATIONAL PROCEDURES RELATED TO THE ENTRY INTO FORCE OF THE EFSF FRAMEWORK AGREEMENT AND/OR THE ISSUANCE AND INCREASE OF GUARANTEES?*

Croatia is not a Eurozone member state; it is not a party to the EFSF.

## CASE LAW

### IV.5

*IS THERE A (CONSTITUTIONAL) COURT JUDGMENT ABOUT THE EFSM OR EFSF IN CROATIA?*

There is no such case law. Croatia is not a Eurozone member state; it is not a party to the EFSF.

## IMPLEMENTATION

### IV.6

*WHAT IS THE ROLE OF PARLIAMENT IN THE APPLICATION OF THE EFSF, FOR EXAMPLE WITH REGARD TO DECISIONS ON AID PACKAGES (LOAN FACILITY AGREEMENT AND MEMORANDUM OF UNDERSTANDING) AND THE DISBURSEMENT OF TRANCHES, BOTH OF WHICH NEED UNANIMOUS APPROVAL BY THE SO-CALLED GUARANTORS, I.E. THE EUROZONE MEMBER STATES?*

Croatia is not a Eurozone member state; it is not a party to the EFSF.

## IMPLEMENTING PROBLEMS

### IV.7

*WHAT POLITICAL/LEGAL DIFFICULTIES DID CROATIA ENCOUNTER IN THE APPLICATION OF THE EFSF?*

Croatia is not a Eurozone member state; it is not a party to the EFSF.

## **BILATERAL SUPPORT**

*IV.8*

*IN CASE CROATIA PARTICIPATED IN PROVIDING FUNDING ON A BILATERAL BASIS TO OTHER EU MEMBER STATES DURING THE CRISIS, WHAT RELEVANT PARLIAMENTARY DEBATES OR LEGAL ISSUES HAVE ARISEN?*

No, Croatia did not participate.

## **MISCELLANEOUS**

*IV.9*

*WHAT OTHER INFORMATION IS RELEVANT WITH REGARD TO CROATIA AND THE EFSM/EFSF?*

Not applicable.

## V TREATY AMENDMENT ARTICLE 136(3) TFEU

*At the 16/17 December 2010 European Council a political decision was taken to amend the Treaties through the simplified revision procedure of article 48(6) TFEU. On March 25, 2011 the European Council adopted the legal decision to amend article 136 TFEU by adding a new third paragraph: "The Member States whose currency is the euro may establish a stability mechanism to be activated if indispensable to safeguard the stability of the euro area as a whole. The granting of any required financial assistance under the mechanism will be made subject to strict conditionality."*

*The process of approval of this decision by the member states in accordance with their respective constitutional requirements as prescribed by article 48(6) has been completed and the amendment has entered into force on 1 May 2013.*

### NEGOTIATION

V.1

*WHAT POLITICAL/LEGAL DIFFICULTIES DID CROATIA ENCOUNTER IN THE NEGOTIATION OF THE AMENDMENT OF ARTICLE 136 TFEU?*

At the time of negotiations of the amendment of article 136 TFEU, Croatia was not a member of the EU, so it was not involved in the negotiation process. The article 136 TFEU *per se* was not a subject of the discussion in Croatian Parliament or at the sessions of the Croatian Government.

### APPROVAL

V.2

*HOW HAS THE 136 TFEU TREATY AMENDMENT BEEN APPROVED IN CROATIA AND ON WHAT LEGAL BASIS/ARGUMENTATION?*

Article 136 TFEU applies in Croatia together with any other article of the TFEU since 1 July 2013, the date of Croatian accession to the European Union.

### RATIFICATION DIFFICULTIES

V.3

*WHAT POLITICAL/LEGAL DIFFICULTIES DID CROATIA ENCOUNTER DURING THE RATIFICATION OF THE 136 TFEU TREATY AMENDMENT?*

Since Croatia was not a Member State of the European Union at the time of the approval of the 136 TFEU Treaty amendment, it was not supposed to approve/ratify the Treaty amendment. In accordance with this, no relevant debates have arisen since there was no ratification process. No debate took place during negotiations on this issue.

## CASE LAW

V.4

*IS THERE A (CONSTITUTIONAL) COURT JUDGMENT IN CROATIA ON THE 136 TFEU TREATY AMENDMENT?*

No, there is not a judgment of any court in Croatia, including its Constitutional Court, regarding the 136 TFEU Treaty amendment.

In general, there was no decision of the Constitutional Court of Croatia regarding the Croatian accession into the European Union with the exception of one Decision, which is rather irrelevant since it does not deal with the substantial aspects of EU accession, but with monitoring of the referendum for accession into the EU. By this Decision, the Constitutional Court of Croatia rejected the request of the opponents of Croatian accession into the European Union in which the opponents required the Constitutional Court to monitor the constitutionality and legality of the referendum of the EU accession on the ground that prerequisites for such request are missing.<sup>5</sup>

## MISCELLANEOUS

V.5

*WHAT OTHER INFORMATION IS RELEVANT WITH REGARD TO CROATIA AND THE 136 TFEU TREATY AMENDMENT?*

Not applicable.

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<sup>5</sup> The decision is available only in Croatian with summary in English at:  
<http://sljeme.usud.hr/usud/prakswen.nsf/Pojmovi/C12570D30061CE54C1257988003799E8?OpenDocument>

## VI EURO-PLUS-PACT

*On March 11, 2011 the Heads of State or Government of the Eurozone endorsed the Pact for the Euro. At the 24/25 March 2011 European Council, the same Heads of State or Government agreed on the Euro Plus Pact and were joined – hence the ‘Plus’ - by six others: Bulgaria, Denmark, Latvia, Lithuania, Poland, Romania (leaving only the UK, Czech Republic, Sweden and Hungary out).*

*The objective of the pact is to foster competitiveness, foster employment, contribute to the sustainability of public finances and reinforce financial stability. In the Euro-Plus-Pact the Heads of State or Government have entered into commitments on a number of policy areas, in which member states are competent.*

*([http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/ec/120296.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/120296.pdf))*

### NEGOTIATION

#### VI.1

*WHAT POLITICAL/LEGAL DIFFICULTIES DID CROATIA ENCOUNTER IN THE NEGOTIATION OF THE EURO-PLUS-PACT, IN PARTICULAR IN RELATION TO THE IMPLICATIONS OF THE PACT FOR (BUDGETARY) SOVEREIGNTY, CONSTITUTIONAL LAW, SOCIO-ECONOMIC FUNDAMENTAL RIGHTS, AND THE BUDGETARY PROCESS.*

Croatia did not participate in the negotiation of the Euro-Plus-Pact. No evidence of any kind of debate by the Government or by the Parliament can be found. It is not known whether Croatia would join the Euro Plus Pact once it has become a Member State.

### MISCELLANEOUS

#### VI.2

*WHAT OTHER INFORMATION IS RELEVANT WITH REGARD TO CROATIA AND THE EURO-PLUS-PACT?*

Not applicable.

## VII SIX-PACK

*The 'Six-Pack' is a package of six legislative measures (five regulations and one directive) improving the Economic governance in the EU. The Commission made the original proposals in September 2010. After negotiations between the Council and the European Parliament, the package was adopted in November 2011 and entered into force on December 13, 2011. Part of the 'Six-Pack' measures applies only to the Eurozone member states (see the individual titles below).*

*The 'Six-Pack' measures reinforce the Stability and Growth Pact (SGP), among others by introducing a new Macroeconomic Imbalances Procedure, new sanctions (for Eurozone member states) and reversed qualified majority voting. Also, there is more attention for the debt-criterion.*

*([http://ec.europa.eu/economy\\_finance/economic\\_governance/index\\_en.htm](http://ec.europa.eu/economy_finance/economic_governance/index_en.htm))*

### NEGOTIATION

#### VII.1

*WHAT POSITIONS DID CROATIA ADOPT IN THE NEGOTIATION OF THE 'SIX-PACK', IN PARTICULAR IN RELATION TO THE IMPLICATIONS OF THE 'SIX-PACK' FOR (BUDGETARY) SOVEREIGNTY, CONSTITUTIONAL LAW, SOCIO-ECONOMIC FUNDAMENTAL RIGHTS, AND THE BUDGETARY PROCESS.*

Croatia did not participate in the negotiation of the "Six-Pack". No evidence of any kind of debate can be found.

### DIRECTIVE 2011/85/EU

***Council Directive 2011/85/EU of 8 November 2011 on requirements for budgetary frameworks of the Member States***

### IMPLEMENTATION

#### VII.2

*WHAT MEASURES ARE BEING TAKEN TO IMPLEMENT DIRECTIVE 2011/85/EU ON REQUIREMENTS FOR BUDGETARY FRAMEWORKS (REQUIRED BEFORE 31 DECEMBER 2013, ARTICLE 15 DIRECTIVE 2011/85/EU)?*

Croatia was supposed to transpose the provisions of Directive 2011/85/EU into its national legal system by the end of 2013.<sup>6</sup> However, by the end of 2013 this Directive was not transposed. In December 2013, the Croatian Government was discussing the final proposal of the Law on amendments and modifications of the Law on Fiscal Responsibility adopted in 2010, which entered into force on 1 January 2011.<sup>7</sup> The main goal of this Law is

<sup>6</sup> Assessment of the 2013 Economic programme for Croatia, SWD (2013) 361 final of 29.5.2013, p. 11

<sup>7</sup> Official Gazette of Croatia No 139/2010

transposition of Directive 2011/85/EU into Croatian law. However, this law is still not adopted by Croatian Government and proposed to the Parliament for adoption. (December 2013)

The 2013 Economic Programme of Croatia, adopted by the Croatian Government also pointed out that Croatia intends to prepare for publishing of the basic data on total revenue and total expenditure and on overall balance (surplus/deficit), monthly for the central government and social security funds sub-sectors and quarterly for the local government sub-sector in accordance with Directive 2011/85/EU.<sup>8</sup>

## IMPLEMENTATION DIFFICULTIES

### VII.3

*WHAT POLITICAL/LEGAL DIFFICULTIES DID CROATIA ENCOUNTER IN THE IMPLEMENTATION PROCESS, IN PARTICULAR IN RELATION TO IMPLICATIONS OF THE DIRECTIVE FOR (BUDGETARY) SOVEREIGNTY, CONSTITUTIONAL LAW AND THE BUDGETARY PROCESS?*

There is no evidence regarding any kind of difficulties or discussions in the implementation process.

## MACROECONOMIC AND BUDGETARY FORECASTS

### VII.4

*WHAT INSTITUTION WILL BE RESPONSIBLE FOR PRODUCING MACROECONOMIC AND BUDGETARY FORECASTS (ARTICLE 4(5) DIRECTIVE 2011/85/EU)? WHAT INSTITUTION WILL CONDUCT AN UNBIASED AND COMPREHENSIVE EVALUATION OF THESE FORECASTS (ARTICLE 4(6) DIRECTIVE 2011/85/EU)?*

The Directive has not yet been transposed into Croatian legal system, but will have to be by the end of 2013.

## FISCAL COUNCIL

### VII.5

*DOES CROATIA HAVE IN PLACE AN INDEPENDENT FISCAL COUNCIL (ARTICLE 6(1) DIRECTIVE 2011/85/EU: 'INDEPENDENT BODIES OR BODIES ENDOWED WITH FUNCTIONAL AUTONOMY VIS-À-VIS THE FISCAL AUTHORITIES OF THE MEMBER STATES')? WHAT ARE ITS MAIN CHARACTERISTICS? DOES CROATIA HAVE TO CREATE (OR ADAPT) A FISCAL COUNCIL IN ORDER TO IMPLEMENT DIRECTIVE 2011/85/EU?*

In 2011, on the basis of a Decision of the Croatian Government, the Fiscal Policy Committee was adopted, in accordance with the Law on Fiscal Responsibility. It is a professional and independent body whose main goal is to advance the public system finance and to monitor the fiscal rules established by the Croatian Law on Fiscal Responsibility adopted in 2010, which entered into force on 1 January 2011.<sup>9</sup> It consists of seven members who are

<sup>8</sup> Economic Plan of Croatia, p. 40, available at: [http://ec.europa.eu/europe2020/pdf/nd/ep2013\\_croatia\\_en.pdf](http://ec.europa.eu/europe2020/pdf/nd/ep2013_croatia_en.pdf)

<sup>9</sup> Official Gazette of Croatia No 139/2010

characterized by high level of professional experience in the area of public policy and distinguished personal reputation. The Committee members have to be independent and impartial, any conflict of interests is strictly prohibited. The main tasks of the Committee are, first, to examine and verify the application of the fiscal rules, second, to analyze and check the proposals of the Government of Croatia regarding the annual projections and the state budget, and, third, to assess the measures whose goal is to improve the efficiency and sustainability of the system of public finance. The Committee publishes its findings at least twice a year at the official website of the Ministry of Finance.

No information is provided whether it fulfils the criteria imposed by Directive 2011/85/EU

## **REGULATION No 1176/2011 ON THE PREVENTION AND CORRECTION OF MACROECONOMIC IMBALANCES**

(<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32011R1176:EN:NOT>)

### **MEIP DIFFICULTIES**

#### *VII.6*

*WHAT POLITICAL/LEGAL DIFFICULTIES DID CROATIA ENCOUNTER AND WHAT DEBATES HAVE ARISEN, IN PARTICULAR ABOUT IMPLICATIONS OF THE REGULATION FOR (BUDGETARY) SOVEREIGNTY, CONSTITUTIONAL LAW, SOCIO-ECONOMIC FUNDAMENTAL RIGHTS, AND THE BUDGETARY PROCESS?*

No information on that in Croatia.

## **REGULATION No 1175/2011 ON STRENGTHENING BUDGETARY SURVEILLANCE POSITIONS**

(<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:1997R1466:20111213:EN:PDF>)

### **MTO PROCEDURE**

#### *VII.7*

*WHAT CHANGES TO THE RULES ON THE BUDGETARY PROCESS ARE MADE TO ACCOMMODATE THE AMENDED MEDIUM-TERM BUDGETARY OBJECTIVE (MTO) PROCEDURE?*

No rules of that kind have yet been made.<sup>10</sup>

### **EUROPEAN SEMESTER**

#### *VII.8*

*WHAT CHANGES HAVE TO BE MADE TO THE RULES AND PRACTICES ON THE NATIONAL BUDGETARY TIMELINE TO IMPLEMENT THE NEW RULES ON A EUROPEAN SEMESTER FOR ECONOMIC POLICY COORDINATION (SECTION 1-A, ARTICLE 2-A CONSOLIDATED REGULATION 1466/97)?*

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<sup>10</sup> Assessment of the 2013 Economic programme for Croatia, SWD (2013) 361 final of 29.5.2013, p. 7



Croatia has already been, unofficially, participating in the 2013 European Semester. This is why Croatia submitted its Economic Plan to the European Commission for assessment in April 2013, but its application in practice is only expected as of 2014.<sup>11</sup>

Croatia did not get any recommendations as other Member States, but the European Commission just assessed its Economic Programme and it pointed out to the weak quality of business environment. The assessment made by the European Commission pointed out to the problems with which the justice system is faced, high level of corruption and to the fact that Croatia will be, after Spain and Greece, the third country in the EU regarding the unemployment rate.

## MTO DIFFICULTIES

### VII.9

*WHAT POLITICAL/LEGAL DIFFICULTIES DID CROATIA ENCOUNTER AND WHAT DEBATES HAVE ARISEN, IN PARTICULAR ABOUT IMPLICATIONS OF THE REGULATION FOR (BUDGETARY) SOVEREIGNTY, CONSTITUTIONAL LAW AND THE BUDGETARY PROCESS?*

No evidence of any kind of political/legal difficulties can be traced. This can be explained by the fact that Croatia is only now becoming a Member State. Before 1 July 2013, possible implications for budgetary sovereignty and process are primarily mentioned in the context that with the accession into the European Union, Croatia will limit its competences and powers in these areas.

## RESPECT MTO

### VII.10

*HOW IS RESPECT OF THE MEDIUM-TERM BUDGETARY OBJECTIVE INCLUDED IN THE NATIONAL BUDGETARY FRAMEWORK (SECTION 1A, ARTICLE 2A CONSOLIDATED REGULATION 1466/97)?*

No information.

## CURRENT MTO

### VII.11

*WHAT IS CROATIA'S CURRENT MEDIUM-TERM BUDGETARY OBJECTIVE (SECTION 1A, ARTICLE 2A CONSOLIDATED REGULATION 1466/97)? WHEN WILL IT BE REVISED?*

The current Croatian Medium-term Budgetary Objective, as pointed out in 2013 Economic Programme for Croatia, is to continue with the fiscal consolidation which is necessary for the sustainability of the burden on the society by the existing level of debt and costs of its

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<sup>11</sup> Assessment of the 2013 Economic programme for Croatia, SWD (2013) 361 final of 29.5.2013, p. 8

financing, the reduction of the state budget expenditure is planned, but also of the budget expenditure of extra-budgetary users and the units of local government when compared with the original plan. In this context, selective cuts and reallocations are planned on the expenditure side of the budget to have as little negative effect as possible on potential growth, and the continuation of investments, although in a reduced volume, in water and transportation infrastructure, health-care and education.<sup>12</sup>

## ADOPTION MTO

### VII.12

*BY WHAT INSTITUTION AND THROUGH WHAT PROCEDURE IS CROATIA'S MEDIUM-TERM BUDGETARY OBJECTIVE ADOPTED AND INCORPORATED IN THE STABILITY PROGRAMME (EUROZONE, ARTICLE 3(2)(A) CONSOLIDATED REGULATION 1466/97)?*

In Croatia, the medium-term budget objective is defined in the guidelines of the economic and fiscal policy that is proposed by the Ministry of Finance and adopted by the Croatian Government for the period of three years. It still needs to be aligned with Regulation 1466/97.

## REGULATION No 1177/2011 ON THE EXCESSIVE DEFICIT PROCEDURE

([http://eur-](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:1997R1467:20111213:EN:PDF)

[lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:1997R1467:20111213:EN:PDF](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:1997R1467:20111213:EN:PDF))

## EDP DIFFICULTIES

### VII.13

*WHAT POLITICAL/LEGAL DIFFICULTIES DID CROATIA ENCOUNTER AND WHAT DEBATES HAVE ARISEN, IN PARTICULAR ABOUT IMPLICATIONS OF THE REGULATION FOR (BUDGETARY) SOVEREIGNTY, CONSTITUTIONAL LAW AND THE BUDGETARY PROCESS?*

No legal difficulties have been notified. Again, the reason for that is that Croatia is becoming a Member State as of 1 July 2013.

## REGULATION No 1173/2011 ON EFFECTIVE ENFORCEMENT OF BUDGETARY SURVEILLANCE

(<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32011R1173:EN:NOT>)

## SANCTIONS

### VII.14

*WHAT POLITICAL/LEGAL DIFFICULTIES DID CROATIA ENCOUNTER AND WHAT DEBATES HAVE ARISEN, IN PARTICULAR ABOUT IMPLICATIONS OF THE REGULATION FOR (BUDGETARY) SOVEREIGNTY, CONSTITUTIONAL LAW AND THE BUDGETARY PROCESS?*

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<sup>12</sup> see: 2013 Economic Programme for Croatia, pp. 20-21, available in English at:

[http://ec.europa.eu/europe2020/pdf/nd/ep2013\\_croatia\\_en.pdf](http://ec.europa.eu/europe2020/pdf/nd/ep2013_croatia_en.pdf)

Croatia is not a member of the Eurozone.

## GENERAL CHANGES

*VII.15*

*WHAT FURTHER CHANGES HAVE TO BE MADE TO THE RULES ON THE BUDGETARY PROCESS IN ORDER TO COMPLY WITH THE SIX-PACK RULES?*

No information known.

## MISCELLANEOUS

*VII.16*

*WHAT OTHER INFORMATION IS RELEVANT WITH REGARD TO CROATIA AND THE SIX-PACK?*

Not applicable.

## VIIIESM TREATY

*The European Stability Mechanism (ESM) Treaty was signed on July 11 2011. It was later renegotiated and a new ESM Treaty was signed on February 2, 2012. The Treaty provides a permanent emergency fund that is intended to succeed the temporary emergency funds. It entered into force on September 27, 2012 for 16 contracting parties (Estonia completed ratification on October 3). The 17 contracting parties are the member states of the Eurozone, but the ESM Treaty is concluded outside EU law.*

*(<http://www.european-council.europa.eu/eurozone-governance/esm-treaty-signature?lang=it> and <http://www.esm.europa.eu/pdf/FAQ%20ESM%2008102012.pdf>)*

## NEGOTIATION

### VIII.1

*WHAT POLITICAL/LEGAL DIFFICULTIES DID CROATIA ENCOUNTER IN THE NEGOTIATION OF THE ESM TREATY, IN PARTICULAR IN RELATION TO THE IMPLICATIONS OF THE TREATY FOR (BUDGETARY) SOVEREIGNTY, CONSTITUTIONAL LAW, SOCIO-ECONOMIC FUNDAMENTAL RIGHTS, AND THE BUDGETARY PROCESS.*

Croatia is not a member of the Eurozone.

## RATIFICATION

### VIII.2

*HOW HAS THE ESM TREATY BEEN RATIFIED IN CROATIA AND ON WHAT LEGAL BASIS/ARGUMENTATION?*

Croatia is not a member of the Eurozone.

## RATIFICATION DIFFICULTIES

### VIII.3

*WHAT POLITICAL/LEGAL DIFFICULTIES DID CROATIA ENCOUNTER DURING THE RATIFICATION OF THE ESM TREATY?*

Croatia is not a member of the Eurozone.

## CASE LAW

### VIII.4

*IS THERE A (CONSTITUTIONAL) COURT JUDGMENT ON THE ESM TREATY?*

Croatia is not a member of the Eurozone.

## CAPITAL PAYMENT

### VIII.5

*WHAT IS THE ROLE OF PARLIAMENT IN THE PAYMENT OF THE (FIRST INSTALMENT OF) PAID-IN CAPITAL REQUIRED BY THE ESM TREATY (ARTICLE 36 ESM TREATY)? WHAT RELEVANT DEBATES HAVE ARISEN IN RELATION TO THIS PAYMENT?*

Croatia is not a member of the Eurozone.

## APPLICATION & PARLIAMENT

VIII.6

*WHAT IS THE ROLE OF PARLIAMENT IN THE APPLICATION OF THE ESM TREATY, FOR EXAMPLE WITH REGARD TO DECISIONS TO GRANT FINANCIAL ASSISTANCE AND THE DISBURSEMENT OF TRANCHES, WHICH BOTH REQUIRE UNANIMOUS ADOPTION BY THE BOARD OF GOVERNORS COMPOSED OF THE NATIONAL FINANCE MINISTERS.*

Croatia is not a member of the Eurozone.

## APPLICATION DIFFICULTIES

VIII.7

*WHAT POLITICAL/LEGAL DIFFICULTIES DID CROATIA ENCOUNTER IN THE APPLICATION OF THE ESM TREATY?*

Croatia is not a member of the Eurozone.

## IMPLEMENTATION

VIII.8

*HAVE THERE BEEN ANY RELEVANT CHANGES IN NATIONAL LEGISLATION IN ORDER TO IMPLEMENT OR TO COMPLY WITH REQUIREMENTS SET BY THE ESM-TREATY?*

Croatia is not a member of the Eurozone.

## MISCELLANEOUS

VIII.9

*WHAT OTHER INFORMATION IS RELEVANT WITH REGARD TO CROATIA AND THE ESM TREATY?*

Croatia is not a member of the Eurozone.

## IX FISCAL COMPACT

*The Fiscal Compact (Treaty on Stability, Coordination and Governance in the Economic and Monetary Union) was signed on March 2, 2012. Negotiations on this Treaty began between 26 member states of the EU (all but the UK) after the 8/9 December 2011 European Council. 25 contracting parties eventually decided to sign the Treaty (not the Czech Republic). After ratification by the twelfth Eurozone member state (Finland) in December 2012, the Fiscal Compact entered into force on 1 January 2013. For several contracting parties the ratification is still on-going.*

*(<http://www.european-council.europa.eu/eurozone-governance/treaty-on-stability?lang=it>)*

### NEGOTIATION

#### IX.1

*WHAT POLITICAL/LEGAL DIFFICULTIES DID CROATIA ENCOUNTER IN THE NEGOTIATION OF THE FISCAL COMPACT, IN PARTICULAR IN RELATION TO THE IMPLICATIONS OF THE TREATY FOR (BUDGETARY) SOVEREIGNTY, CONSTITUTIONAL LAW AND THE BUDGETARY PROCESS.*

Croatia has not (yet) adopted the Fiscal Compact. No particular fiscal rules as required by the fiscal Compact exist in the Croatian Constitution. Croatia has only got its own Croatian Law on Fiscal Responsibility adopted in 2010 which entered into force on 1 January 2011,<sup>13</sup> but it is *only* an ordinary law since it is neither a part of the Croatian Constitution nor it is a law with constitutional legal strength.

### RATIFICATION

#### IX.2

*HOW HAS THE FISCAL COMPACT BEEN RATIFIED IN CROATIA AND ON WHAT LEGAL BASIS/ARGUMENTATION?*

The Fiscal Compact has not been ratified in Croatia since it is not a Member State. However, Croatian leaders have pointed out (such as current Croatian President of Government Zoran Milanovic) that Croatia will respect the rules of the Fiscal Compact even before 1 July 2013 when Croatia will join the European Union.<sup>14</sup> No evidence of this could be found in practice.

### RATIFICATION DIFFICULTIES

#### IX.3

*WHAT POLITICAL/LEGAL DIFFICULTIES DID CROATIA ENCOUNTER DURING THE RATIFICATION OF THE FISCAL COMPACT?*

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<sup>13</sup> Official Gazette of Croatia No 139/2010

<sup>14</sup> <http://www.business.hr/ekonomija/hrvatsko-pristupanje-fiskalnom-paktu-eu-super-odluka-ili-vezanje-ruku>

Croatia has not ratified the Fiscal Compact and it is not known whether at all, and if yes, when Croatia will accede to the Fiscal Compact.

## BALANCED BUDGET RULE

### IX.4

*ARTICLE 3(2) FISCAL COMPACT PRESCRIBES THAT THE BALANCED BUDGET RULES SHALL TAKE EFFECT IN NATIONAL LAW THROUGH "PROVISIONS OF BINDING FORCE AND PERMANENT CHARACTER, PREFERABLY CONSTITUTIONAL, OR OTHERWISE GUARANTEED TO BE FULLY RESPECTED AND ADHERED TO THROUGHOUT THE NATIONAL BUDGETARY PROCESSES." HOW IS THE BALANCED BUDGET RULE (INTENDED TO BE) IMPLEMENTED IN CROATIA? WILL THERE BE AN AMENDMENT OF THE CONSTITUTION? IF NOT, DESCRIBE THE RELATION BETWEEN THE LAW IMPLEMENTING THE BALANCED BUDGET RULE AND THE CONSTITUTION. IF THE CONSTITUTION ALREADY CONTAINED A BALANCED BUDGET RULE, DESCRIBE THE POSSIBLE CHANGES MADE/REQUIRED, IF ANY.*

In case Croatia becomes a member of the euro area and would decide to become a party to the Fiscal Compact, it would have to amend its Constitution or adopt a constitutional law.

## DEBATE BALANCED BUDGET RULE

### IX.5

*DESCRIBE THE NATIONAL DEBATE ON THE IMPLEMENTATION OF THE FISCAL COMPACT/BALANCED BUDGET RULE, IN PARTICULAR IN RELATION TO THE IMPLICATIONS OF THE TREATY FOR (BUDGETARY) SOVEREIGNTY, CONSTITUTIONAL LAW AND THE BUDGETARY PROCESS.*

No discussions on that issue can be found.

The repeated question on the implications of the treaty for (budgetary) sovereignty, constitutional law and the budgetary process in case of Croatia can be only answered by pointing out that Croatia will be the new member as of 1 July 2013, and it will accept the rules as they have already been agreed by other Member States. On 1 July, Croatia became eligible to accede to the Fiscal Compact, but it is not known whether at all, and if yes, when Croatia will accede to the Fiscal Compact.

## RELATIONSHIP BBR AND MTO

### IX.6

*WHAT POSITIONS, IF ANY, ARE TAKEN IN THE NATIONAL DEBATE ABOUT THE RELATIONSHIP BETWEEN THE BALANCED BUDGET RULE OF ARTICLE 3(1)(B) FISCAL COMPACT AND THE MEDIUM-TERM BUDGETARY OBJECTIVE (MTO) RULE IN THE SIX-PACK (SECTION 1A, ARTICLE 2A REGULATION 1466/97, ON WHICH SEE ABOVE QUESTION VII.10)?*

No evidence on that issue.

## CASE LAW

### IX.7

CROATIA

*IS THERE A (CONSTITUTIONAL) COURT JUDGMENT ON THE FISCAL COMPACT/IMPLEMENTATION OF THE BALANCED BUDGET RULE?*

Not applicable.

## **NON-EUROZONE AND BINDING FORCE**

*IX.8*

*HAS CROATIA DECIDED TO BE BOUND BY PARTS OF THE FISCAL COMPACT ON THE BASIS OF ARTICLE 14(5) FISCAL COMPACT ALREADY BEFORE JOINING THE EURO AREA, OR HAS THIS OPTION BEEN DEBATED?*

No information on that for Croatia.

## **MISCELLANEOUS**

*IX.9*

*WHAT OTHER INFORMATION IS RELEVANT WITH REGARD TO CROATIA AND THE FISCAL COMPACT?*

Not applicable.



## X QUESTIONS ABOUT MEMBER STATES RECEIVING FINANCIAL SUPPORT

*A number of member states have received direct financial assistance through balance of payments support (Hungary, Rumania, Latvia), bilateral agreements/IMF (Greece), the temporary emergency funds/IMF (Ireland, Portugal, Greece), and the permanent emergency fund (Spain and Cyprus).*

*([http://ec.europa.eu/economy\\_finance/assistance\\_eu\\_ms/index\\_en.htm](http://ec.europa.eu/economy_finance/assistance_eu_ms/index_en.htm))*

*Several member states have (also) indirectly benefited through the Securities Markets Programme (SMP) created in May 2010, a bond-buying programme of the European Central Bank that was replaced in September 2012 by the Outright Monetary Transactions (OMT) programme (Greece, Ireland, Portugal, Italy, Spain).*

*(<http://www.ecb.int/mopo/liq/html/index.en.html#portfolios>)*

### CONTEXT

#### X.1

*IF RELEVANT, DESCRIBE THE POLITICAL, ECONOMIC AND LEGAL SITUATION LEADING UP TO THE MOMENT OF THE FORMAL REQUEST OF DIRECT FINANCIAL ASSISTANCE.*

Croatia has not received this kind of financial assistance.