

Nikolina MARASOVIĆ*

The Role of the Croatian Parliament (Hrvatski Sabor) During Negotiations and After Full Membership in the EU

ABSTRACT: *When joining the EU, a relatively large number of reforms and adjustments are required from the candidate country, with the national parliaments bearing significant responsibility. Since various sections of European legislation had previously been one chapter spread into multiple chapters, the Acquis was broken into 35 chapters for the negotiations with Croatia rather than the standard 31. The choice to divide some chapters was made in light of the difficult and large-scale prior experiences. At first, Croatia had intended to finish the negotiations in time to join the EU in 2007 together with Bulgaria and Romania. However, on several issues, the negotiations proved to be more difficult than anticipated. National parliaments, in cooperation with their governments, are expected to deal with the process of harmonisation with the EU acquis, as well as the harmonisation of Constitutional provisions with EU law. One of the first steps in the process of preparation for EU membership on the part of the Sabor was the establishment of the new parliamentary European Affairs Committee, as a special body of the Sabor whose main function will be the assessment of all regulations and laws that require harmonisation with European legislation. A key step in the aforementioned procedure was the adaptation or amendment of the Constitutional provisions, primarily those that determined the valid constitutional and legal basis for the accession of the Republic of Croatia to the EU. This paper examines how the EU accession process influenced the role of the Sabor, particularly in strengthening democratic legitimacy and its capacity for European affairs. It explores how accession reshaped the Sabor's legislative and oversight functions, proposing that the process served as a catalyst for its modernisation and enhanced democratic accountability, making Croatia's experience a valuable reference for future EU candidates.*

KEYWORDS: *The Croatian Parliament, Access to the EU, Constitutional Changes, Working Bodies, Reasoned Opinions, EU Acquis.*

* PhD student at the Ferenc Deák Doctoral School of Faculty of Law of the University of Miskolc, Intern at the Central European Academy; <https://orcid.org/0009-0000-3878-7804>, nikolina.marasovic@centraleuropeanaacademy.hu.



1. Introduction

The Croatian Parliament was first recorded in the 13th century when it was merely a body of representatives for the aristocracy, and it remained this way until the middle of the 19th century. The first democratic multi-party elections in the Republic of Croatia resulted in the need to introduce fundamental changes in the constitutional and political structure, whereby the Croatian Parliament acquired a new role and meaning, as mentioned explicitly in the Decision of the Parliament of 5 July 1990.¹

For Croatia, joining the EU had multiple meanings – primarily the recognition of political and normative-institutional achievements in the form of the establishment of a nation-state and democracy in the political sense; but also a symbolic meaning for Croatian citizens in the context of moving away from the painful past of the struggle for independence, accompanied by a sense of belonging European culture and a strong pro-European orientation. Unlike all other countries, the path to full membership in the EU was long and arduous for Croatia, precisely because of the specific conditions of the process of establishing the Croatian state and democratic order. However, the structure and actions of authoritarian political actors after the establishment of independence made the path to the EU much more challenging, in addition to the difficult process of creating the Croatian state and the independence struggle. Croatia is unique for the reasons listed above, as well as the fact that it was the first nation to join the EU following the Lisbon Treaty's ratification. All of these contributed to the fact that Croatia had the longest and most involved accession negotiations, which contributed to the rise in Croatian voters' mistrust of Europe, criticism, and comparatively muted reaction to the accession referendum.

Nevertheless, Croatia gradually started to take advantages offered by the EU upon its membership, particularly the open market defined by the unrestricted flow of capital, people, commodities, and services, as well as the improved utilisation of European structural and investment funds. The EU's influence over Croatia's continued enhancement of its normative institutional framework is another indication of the membership's significant impact.

Furthermore, the Croatian Parliament started to participate in the EU's decision-making process by monitoring its government's actions and verifying that proposals for EU legislative acts adhered to the principle of subsidiarity. These changes were brought about by Croatia's membership in the EU, which also had a significant impact on the nature and extent of the parliament's execution of European affairs. Through this, the Parliament actively contributes to bolstering Croatia's democratic legitimacy

1 Od narodnih zborovanja do građanskog Sabora 1948. godine, 2023.

and does this through the European Affairs Committee as its principal body. The participation of the Croatian Parliament in EU affairs is based on the Constitution of the Republic of Croatia, the Law on the Cooperation of the Croatian Parliament, the Government of the Republic of Croatia in European Affairs, and the Parliament Standing Orders.

This article analyses the process of Croatia's accession to the EU, more precisely, the development and functioning of the Croatian Parliament during the accession process and after gaining full membership. Based on the latter, the article aims to explore how the process of European integration influenced the institutional transformation and redefinition of the functional role of the national parliament within the contemporary Croatian political system. In other words, the paper examines how the Croatian Parliament, as the main body of representative democracy, has responded to the requirements of the European legal framework (*acquis communautaire*), adapted its legislative and oversight mechanisms, and developed institutional capacities for active participation in European affairs. Additionally, the paper aims to provide potential guidelines for future candidate countries, particularly those in the Western Balkans, considering they share similar political and historical circumstances and institutional challenges with Croatia, with special emphasis on the role of national parliaments in the process of European integration. Thus, the main research question is: in what way has Croatia's EU accession process influenced the institutional transformation and functional role of the Parliament in the context of strengthening democratic standards and participation in European affairs?

Finally, the article hypothesises that the EU accession process spurred the institutional and procedural modernisation of the Croatian Parliament, making it a key actor in consolidating democratic practices. Furthermore, through alignment with European standards, the Parliament has strengthened its oversight of the executive branch and contributed to the legitimacy of decision-making at both the national and European levels. Ultimately, the Croatian experience can serve as a model for the parliaments of the Western Balkans, which still strive to achieve an optimal balance between national sovereignty and European integration.

2.

Short Historical Overview of the Croatian Parliament

The first parliament known to have had its minutes and decisions recorded took place in Zagreb on 19 April 1273. It was called "the Parliament of the Kingdom of Croatia, Dalmatia and Slavonia" (lat. *Congregatio Regni totius Sclavonie generalis*), and its decisions were referred to as "*statuta et constitutiones*," which refers to provisions with legal effect. These all were Latin names, considering that the official language at that

period was Latin. But the Croatian language has been the official language of the Croatian Parliament since 1847, in accordance with a clause in the Standing Orders of the Parliament. Croatian was only established as the language of official public use a little later. Furthermore, with his seal, the Ban of Croatia approved the Parliament's decisions. Provisions regarding the trial, a general revolt or "*insurrection*" in defence of the nation, taxes, and other public benefits were made at the Parliament. Conclusions of the Ban represent the first known and complete set of Parliamentary conclusions. Only the Aristocracy could join the Parliament until the middle of the nineteenth century; thus, it was only in 1848 that it began to resemble a representative body. The first Parliament of Croatian citizens was elected and convened on 5 June 1948 and later validated during a session of the Croatian Parliament. All able-bodied members of the previous aristocratic Parliament continued to serve in it, at the ban's invitation, and 192 more representatives of the people were also elected without regard to their social standing, though they were still subject to property and educational constraints.²

After this time, it began to reflect society more generally by granting the ability to vote. The only time the Parliament was absent was from 1919 until 1941, during the first Yugoslav state. Officially, the Independent State of Croatia had a representative body during the Second World War, but it had no authority, only met three times annually, and was not elected by the populace. Later, in 1943, when the antifascist movement established the Federal State of Croatia, the State had a parliament called ZAVNOH – the communist-dominated National Anti-Fascist Council of the People's Liberation of Croatia.³

The constitutions passed in 1947, 1963, and 1974 altered the organisation of the Parliament at a time when the Republic of Croatia was one of the federal subdivisions of the Socialist Federal Republic of Yugoslavia. However, the Parliament was established as the supreme body of governmental authority under each of these constitutional arrangements.⁴

Following the first democratic multi-party elections on May 30, 1990, Croatia eventually established the first multi-party Parliament based on a new electoral law that was based on the French model.⁵

2 Croatian Parliament continuity over the centuries, 2023.

3 Boban, 2016, p. 33.

4 Croatian Parliament continuity over the centuries, 2023.

5 The French model meant the next: a single-member District with two rounds of voting. All candidates who received more than 7% of the vote in the first round advanced to the second round even if no one received a majority of the vote. Elections were held for all three of the parliament's councils, albeit each person could only vote in one or two of the councils if they had a working status or were university students.

According to the new Constitution's provisions, there were two new chambers in the Parliament: the House of Representatives, which has legislative authority whose members were chosen by equal voting among citizens, and the County House, which serves as an advisory body and has the so-called suspending veto power. In the first ten years of post-communism, there were two more rounds of general elections for the entire parliament or for its first chamber after the 1990 elections – in 1992 and 1995. There were only two elections for the second parliament in 1993 and 1997, until it was eliminated in the 2001 constitutional reform. Therefore, Croatia had a presidential-parliamentary semi-presidential system of government in the 1990s. As a leader of the HDZ (*Hrvatska Demokratska Zajednica*: Croatian Democratic Union), President Franjo Tuđman was elected twice in the first round by direct vote. Despite holding the majority of members in both chambers, the parliament was a less powerful institution than the administration and the president. This placed Croatia in the same league as post-Soviet nations with so-called super-presidential systems, in which the president controls the other branches of government.⁶

3.

Period Before Accession to the EU

To join the European Union, the candidate country has to meet several criteria, such as political (such as stability of institutions that guarantee democracy, human rights including respect and protection of minorities, and the rule of law) and economic criteria (the ability to cope with competitive pressures and market forces within the Union, as well as a functioning market economy). It also must develop the ability to take on the necessary obligations of membership, which includes adherence to the aims of political, economic and monetary union.⁷ Accession to the Union is a two-way process, which means that not only does a candidate country have to implement EU rules, the *acquis*, and policies, but the EU must also be ready to receive new members. This means that the EU's financial perspective enables the implementation of its policies if new member states are included, and that the EU's institutions can admit representatives of the new members into their work. Progress in negotiations is conditional upon meeting membership criteria. The necessary reforms must be done in the pre-accession period, which is why transition arrangements are limited in scope and duration.⁸

6 Boban, 2016, pp. 33–34.

7 Access to European Union Law, Accession criteria (Copenhagen criteria), 1995.

8 Kühnhardt, 2008, pp. 38–41.

At the beginning of 2000, after the opposition's victory in the parliamentary and presidential elections, the Republic of Croatia reflected on the opening towards parliamentarism and a new phase in the development of Croatian constitutionalism. The goal of the new coalition winners was primarily to both remove the excessively used presidential elements of the 1990 Constitution and mitigate the catastrophic economic consequences of the earlier system. The direction of the movement was the search for the best version of Croatian parliamentarism; therefore, the newly elected President of the Republic, Stjepan Mesić, and Prime Minister Ivica Račan had to find a new way to regulate the relationship between the legislature and the executive – which, compared to a mere pre-election promise, turned out to be a big undertaking.⁹ Briefly, as a result, the subsequent constitutional amendments made under the new administration's direction strengthened the role of the parliament and gave the executive branch more weight. In the end, the political system's transformation and the previously described factors made way for a political and institutional framework that was noticeably more democratic. Ultimately, this signalled the advancement of the democratisation process.¹⁰

Nonetheless, critics and certain scholars, such as Boban D., highlight the issues with the functioning of the parliament that existed in Croatia during that period. They note that the calibre of the relevant parties' actions has emerged as one of the primary issues with the role and operation of the parliament. Since the development of multi-party systems, common party functions – like the assembling and articulation of interests, the representation of society, the establishment of ties between the state and society, and the training of their ranks for public functions – have been absent. The second issue pertained to the parliament's involvement in making decisions. It became apparent when the new ruling coalition altered the government structure but retained the executive as the main branch of government and the parliament as a body with a subordinate role. The heads of the parties create electoral lists and choose the candidates in order prior to each legislative election (Croatia had closed and barred lists until 2015). As a result, the party in power has a strong influence over the party in the legislature, greatly diminishing the parliament's ability to exercise control. The third issue was found in the 1990s and is connected to the parliament's ability to function after 2000. In the pertinent literature, it is almost taken for granted that having a powerful parliament and an executive president with limited authority is the ideal balance of power for a nation to democratise successfully.¹¹

The resurgence of the democratic process coincided with Croatia opening up to the outside world and the resumption of the EU accession process. In response,

9 Bačić and Bačić, 2007, pp. 24–25.

10 Ibid., p. 26.

11 Boban, 2016, pp. 35–36.

the EU vigorously backed the new administration's reformist and democratisation initiatives, as well as its much-expanded foreign political, economic, and cultural cooperation. In this sense, starting accession talks with the EU, becoming a candidate state for the EU, and joining NATO are very significant. Therefore, the EU Stabilisation and Association Process aims were supported by five Southeast European nations in addition to the leaders of the EU member states at the Zagreb summit in 2000, which marked the start of the accession process. Negotiations on the Stabilisation and Association Agreement (SAA) between Croatia and the European Union, which was signed in 2001, started at the summit.¹²

Along with the stabilisation and resolution of war-related issues, procedures for harmonising national laws and regulations with the *acquis communautaire* were initiated. In 2002, the parliament changed its Standing Orders so that all legislative proposals that were to be harmonised must be specially marked 'P.Z.E.' (Art. 136). As a rule, such proposals were not adopted under the ordinary legislative procedure but under a summary procedure, which allowed only one reading in parliament and shorter deadlines for member parliaments to review the text. The 13-member European Integration Committee, established in 2001, monitored whether the 'P.Z.E.' legislative proposals had really been harmonised with the *acquis*. It did not usually assess the merits of these laws, as this was done by the relevant sectoral committees.¹³

Additionally, significant state sector reforms were implemented, including changes to the public debt and the pension and social welfare systems, as well as the school and higher education systems, health care, and taxation. These reforms were not only at the level of political campaigns but also yielded some results, notwithstanding their inconsistencies and incompleteness.¹⁴

Accordingly, on April 4, 2002, the first European Community report regarding Croatia's stabilisation and association process was released. This can be used as the starting point for estimating and comparing Croatia's progress to other nations. The study clarifies how crucial it is to meet the political requirements, because doing so completes the assessment of the process's execution. The primary political prerequisites concern regional collaboration, respect for human rights, minority protection, and upholding democracy and the rule of law. According to the report, Croatia's democratic institutions operate fairly effectively overall. The judiciary, which "suffers from serious problems of organisation, procedural inefficiency, lack of expertise and the excessive length of procedures,"¹⁵ is one issue in particular. No significant

12 Thorp, 2011, p. 3.

13 Butković, 2015, p. 463.

14 Maldini, 2019, p. 9.

15 Rodin, 2003, p. 230.

progress has been made, and radical adjustments are required. This flaw has a direct impact on the rule of law's continued uneven and complex implementation.¹⁶

Therefore, the period before EU accession, in accordance with the research question and hypothesis, points to the conclusion that the requirement for a clear EU-standard democracy had a direct impact on the transformation of the Parliament towards greater legislative efficiency, professionalism, and transparency, thus representing the starting point of institutional modernisation confirmed by the hypothesis.

4.

Constitutional Provisions Relevant to the Croatian Parliament and EU Integration

The Croatian Parliament is part of a group of smaller parliaments and one of the so-called debating parliaments, meaning everyone interested in politics can watch its plenary sessions via electronic media. Representatives operating in this manner are also compelled to run an ongoing campaign for office; the only variable being the intensity, which is determined by the approaching (frequent) elections. Similarly, there is a great deal of party discipline, which contributes to the high predictability of voting results even in the face of occasionally discordant conversational tones. This inevitably impacts the representatives' legitimacy as the people's representatives, as well as the calibre of their work.¹⁷

The Parliament became unicameral once the County House was abolished in 2001 due to constitutional reforms passed at that time, and it has stayed that way ever since. As previously indicated, the Parliament assumed a new and more significant role in Croatian politics in 2000 when the semi-presidential system was replaced with a parliamentary one. So, the Constitution governs the role of the parliament as well as the responsibilities and rights of lawmakers. The Parliament's Standing Orders regulate its internal structure and mode of operation. The Act of Cooperation between Parliament and the Government on EU Affairs also contains questions about EU matters.¹⁸

The first part of Croatia's Constitution is dedicated to the historical foundations of the Croatian nation, including its minorities. After introductory provisions, there

16 Ibid.

17 Ilišin, 2001, p. 46.

18 See: Standing Orders of the Croatian Parliament, Official Gazette No. 81/2013 and the Act on the Co-operation between Parliament and the Government on EU Affairs, Official Gazette No. 81/2013

are basic provisions that include a description of the Republic of Croatia as a state and the source of its powers. Art. 1, Para. 1 prescribes the following:

'The Republic of Croatia is a unitary and indivisible democratic welfare state. Power in the Republic of Croatia derives from the people and rests with the people as a community of free and equal citizens.'

(2) 'The people exercise this power through the election of representatives and direct decision-making.'

Art. 2 of the Constitution stipulates that:

'The Croatian Parliament and people shall directly, independently, and in compliance with the Constitution and law, decide upon: 1. the regulation of economic, legal, and political matters in the Republic of Croatia; 2. the preservation of natural and cultural wealth and use of the same; 3. association in alliances with other states.'

In Para. 2. it is written that: *'The Republic of Croatia may conclude alliances with other states, retaining its sovereign right to decide upon the powers to be so delegated and the right to freely withdraw therefrom.'*¹⁹

In connection with the Constitution's provisions regarding the Parliament's role, Art. 8 prescribes that the borders of the Republic of Croatia may be altered solely by the decision of the Croatian Parliament. The parliament's role in Constitutional provisions is also mentioned in the part that deals with the organisation of the Government in Art. 71: *'The Croatian Parliament shall be a representative body of people and shall be vested with legislative power in the Republic of Croatia.'* Art. 72 prescribes a number of deputies in the parliaments, therefore it stipulates: *'The Croatian Parliament shall have no less than 100 and no more than 160 deputies elected based on direct, universal, and equal suffrage by secret ballot.'* Art. 73 states: *'Deputies in the Croatian Parliament shall be elected for a term of four years.'* Art. 81 of the Constitution enumerates the powers and duties of the Croatian Parliament, while Art. 82 stipulates that the Croatian Parliament shall adopt decisions by a majority vote, provided that a majority of its deputies are present at the session.²⁰

In addition to regular financial compensation, deputies are granted additional legal powers. Deputies are immune from criminal prosecution, allowing them to carry out their responsibilities free from executive intervention. The Parliament makes the immunity decision; while it is not in session, the Parliament's Credentials

19 The Constitution of the Republic of Croatia (consolidated text), 2023.

20 Ibid.

and Immunity Committee carries this responsibility. The Parliament meets twice a year with regular sessions – from 15 September to 15 December and from 15 January to 15 July. At the request of the President of the Republic, the Government, or a majority of MPs, the Croatian Parliament holds an emergency session. An emergency meeting may be called by the Croatian Parliament President after first consulting with the parliamentary groups. In matters of dissolution of the parliament, and for the purpose of holding early elections, the majority of representatives has the authority to dissolve the Croatian Parliament, which is provided for in the Constitution. In cases where the Parliament has voted no confidence in the government (upon a call for a vote of no confidence), and if the Parliament has not approved the state budget within 120 days (from its proposal), the President of the Republic has the authority to dissolve the Parliament and upon an earlier proposal of the government, with the co-signature of the prime minister and after consultation with the representatives of the clubs of representatives. However, according to Art. 105 of the Constitution, in situations where the Government proposes to dissolve the Parliament, the President of the Republic cannot do so until impeachment proceedings are initiated against him due to a violation of the Constitution.²¹

Art. 144, Para. 2 of the Constitution of June 2010, which is significant, stipulates that the Croatian Parliament shall participate in the European legislative process in conformity with the Founding Treaties, thereby confirming the European role of national parliaments as established by the Treaty of Lisbon. The Law on the Cooperation of the Croatian Parliament and the Government of the Republic of Croatia in European Affairs (*Official Gazette 81/13*) and the Standing Orders of the Croatian Parliament further govern the Parliament's direct participation in the European decision-making process. These regulations cover oversight of the principle of subsidiarity's observance, involvement in amending funding agreements, political oversight of Europol's operations, and assessment of Eurojust's undertakings.²²

Additionally, in 2010, a constitutional amendment was made to add a new chapter (VIII) named "European Union" in relation to the topic of constitutional adjustments made in anticipation of EU accession. A draft was produced by a specialised group of experts and presented for political decision-making. It had four articles, as well as a specific clause on when the term of validity would begin, that is, when Croatia would join the EU. The content of the above-mentioned four articles included important issues regarding EU accession. Thus the first article stated the constitutional basis for membership (essential in terms of future amendments to the Treaty establishing the EU), while the second article addressed the roles of Croatian institutions at the EU level (and provided a constitutional basis for the adoption of laws to regulate relations

21 Smerdel, 2014, p. 213 ff.

22 Briški and Špiljak, 2014, p. 16.

in EU affairs). The third article focused on the relationship between national and EU law, while the fourth article established civil rights based on the EU.²³

5.

The Accession Process

The Croatian Parliament (Hrvatski Sabor) passed the Resolution on the Republic of Croatia's Accession to the European Union on 18 December 2002. A year later, on 21 February 2003, Croatia applied to join the EU in Athens. Subsequently, on 18 June 2004, the European Council granted the Republic of Croatia the status of a candidate for European Union membership at the Brussels summit. The Pre-Accession Strategy for Croatia was published by the European Commission on 6 October 2004, providing more details, following the meeting's conclusions, steps, and prerequisites for becoming a full member. Furthermore, findings accepting the Negotiating Framework for the Republic of Croatia were agreed upon during the European Union's Council of Ministers session in Brussels on 16 March 2005. Accession negotiations for Croatia's entrance into the EU were formally launched on 3 October 2005, with the EU-Croatia Bilateral Intergovernmental Conference.²⁴ The first round of the negotiations was the so-called screening, which lasted for a year (until 18 October 2006) and involved analysing whether the applicant country's laws complied with European standards. Following this was the primary phase of discussions, during which Croatia, as a candidate, would have to agree to terms under which it would implement the *acquis communautaire*. Despite their name, these are not negotiations, as the candidate country can only agree on the deadline for assuming the commitments, not the substance. To be more precise, this entails specifying the terms of the *acquis communautaire* that a candidate country must adopt, carry out, and uphold throughout the discussions. The *acquis* was structured into 31 chapters during negotiations with the fifth round of candidate nations for EU admission (10 members joined in 2004, with Bulgaria and Romania joining in 2007). Nonetheless, the *acquis* was expanded to 35 chapters for the purpose of EU membership negotiations involving Croatia. Thus, of all the preceding nations involved in the EU accession process, the Republic of Croatia had the most stringent requirements and the broadest range of standards to be enacted. In the meantime, Croatia joined NATO in 2009.²⁵

The most challenging part about adopting the *acquis* by a negotiating country, which was also the case with Croatia, is that it never stops growing and changing.

23 Ćapeta, 2020, p. 8.

24 Barić and Ružić, 2008, p. 819.

25 Maldini, 2019, p. 11.

Rather, it is continuously updated and expanded from the start of the negotiations with a candidate nation until the country joins. This is particularly problematic when a negotiation country's legislation is required to be harmonised with the *acquis* in that subject area following a specific deadline for the transposition of a legal instrument – typically, a directive – into national legislation of the MS. In this scenario, a candidate country would have a clear objective but no guidance or resources to achieve it if it were asked to incorporate a directive into its laws before the other Member States were required to do the same.²⁶

The EU used a new negotiating process based on significant use of institutional, legal, and track record criteria, which Croatia had to achieve before the opening and closing of particular chapters, making the negotiations more difficult than they had been in the past. The Commission developed guidelines outlining how Croatia should meet approximately 400 benchmarks and sub-benchmarks based on an empirical analysis. Unfortunately, the benchmarks weren't always precise, impartial, and well-explained, occasionally making it challenging to determine whether the criterion was reached. The introduction of benchmarks led to the front-loading of conditionality, even if they were frequently helpful in easing reform implementation. This resulted from the inability to fully open and work on numerous chapters before member states accredited the opening benchmarks. Thus, Croatia had to negotiate not only with more member states but also with more legislation. Because a protracted bargaining process involving member states and EU institutions had to be completed before a joint EU negotiating stance on any chapter could be reached, negotiations became more difficult and took longer. Furthermore, some states occasionally simulated new requests that had to be met during European Council discussions, undermining the Commission's position in the accession process.²⁷

During the long accession process, which lasted from 2005 to 2011, the Parliament played a key role as a defender of the political consensus. Namely, the period of Croatia's accession to the EU was marked by a period of suspension caused by Slovenian unilateral obstruction, as well as inadequate cooperation with the International Criminal Tribunal for the Former Yugoslavia (hereinafter: ICTY). At the same time, the entire adjustment process has often been reduced to a voting machine on extremely complicated, supposedly technical issues, with little opportunity for strategic policy discussions and substantive government oversight.²⁸ The Parliament's activity in this part of the process partially confirms the hypothesis, given that there is limited functional participation but also visible institutional modernisation.

26 Emmert and Petrović, 2014, pp. 1392–1393.

27 Butković and Samardžija, 2014, p. 98.

28 Škrabalo, 2012, p. 45.

6. Working Bodies Established by the Parliament

From the beginning of Croatia's accession process, concerning the overall engagement in EU affairs, the Croatian Parliament and its three working bodies played a significant role. At the beginning of 2000, the parliament established its first working body related to EU affairs.

This was the European Integration Committee, whose primary responsibility was to oversee the processes and programs for general cooperation, as well as the harmonisation of the Croatian legal system with the *acquis communautaire*. This committee, in the process of harmonising legislation, was discussing proposals for laws that bore the designation P.Z.E. Furthermore, the committee acted as an interested working body since it did not enter into the content of the proposed law but instead considered the attached Statement of Compliance and Comparative View of the individual legal proposal to determine whether and to what extent the legal proposal was harmonised with the EU acquis. Therefore, contractual relations between Croatia and the EU, as it previously was mentioned, began with the signing of the Stabilisation and Association Agreement (SAA) in October 2001, ratified in the Croatian Parliament in December of the same year. (The SAA entered into force on 1 February 2005, upon its ratification in the EU Parliament and in all EU Member States' parliaments).²⁹ This working body has also been an observer at COSAC meetings since 2004, when Croatia was given candidate country status. It also kept an eye on how the Republic of Croatia was exercising its rights and obligations resulting from international treaties related to the Council of Europe, tracked aid and cooperation initiatives by the EU, and collaborated and shared experiences with organisations involved in the integration processes. The committee was active until Croatia joined the EU (on 1 July 2013).³⁰

Two further working bodies of the parliament were constituted in addition to the previously stated one, and each had a distinct role in the accession process.

The second body, the Joint Parliamentary Committee of the Croatian Parliament, and the European Parliament communicated and represented the integration process to the Croatian and European public. It was established within the framework of the Stabilisation and Association Agreement (in 2004) and consisted of Members of the European Parliament and Croatian parliamentarians. This new form of cooperation was based on the decision of the European Parliament in March 2004, which elected members of the special delegation for relations with the Republic of Croatia, and the decision of the Croatian Parliament on 15 October 2004. The delegation of the

29 Bačić and Bačić, 2007, pp. 97–99.

30 7. saziv Hrvatskoga sabora (22.12.2011. - 28.12.2015.) Odbor za europske integracije, 2023.

European Parliament had 15 members and 15 deputies, whose political representation reflected the image of their groups in the new convocation of the EP; while the Delegation of the Croatian Parliament had 15 members and 13 deputies. This committee was formed as a forum for cooperation and political dialogue that discussed the issues regarding Croatia's accession to the EU, as well as various issues concerning effective operation and the development of the EU, such as common views on security and stability in Europe, including cooperation in areas covered by the common foreign and security policy. The committee met twice a year and consequently adopted joint declarations and recommendations.³¹

The third working body was the National Committee, established in 2005 and tasked with monitoring and evaluating the political dynamics of conversations and acting as a forum for consultations between the parliamentary parties and the government. Because the National Committee was mainly tasked with monitoring the discussions, it continued to function until the end of the talks in June 2011. The establishment of this committee resulted from the agreement of all parliamentary parties that the Republic of Croatia's full EU membership was a strategic national goal and that guaranteeing a transparent process for accession negotiations would need the cooperation of the executive and legislative branches.³² The National Committee, in compliance with the founding decision, oversaw and assessed the negotiation process, provided guidelines and opinions on behalf of the Croatian Parliament regarding the prepared negotiating positions, took into consideration information about the negotiation process, evaluated the individual members of the negotiating team and the negotiation process, and, when required, provided opinions on harmonising Croatian legislation with EU regulations. Additionally, it held regular information-sharing and consultation meetings with the President of the Republic, the Prime Minister, and the President of the Parliament through its president. It also held regular meetings with the chief negotiator, the head of delegations, and other representatives regarding the status of the negotiations, outstanding issues, and potential methods to close specific negotiation chapters.

Besides these three committees, the Croatian parliament had many other committees that helped during the process of joining the EU, which still operate today. However, one of the most important committees was – and still is – the European Affairs Committee (EAC). EAC was founded on 1 July 2013, following Croatia's entry into the EU, as a specific working body with the responsibility of exercising powers in the field of European affairs on behalf of the Parliament.³³

31 Bačić, 2016, p. 64.

32 Sabor in the EU Accession Process, 2023.

33 On 1 July 2023 was the 10th anniversary of this committee, as well as the 10th anniversary of Croatia joining the EU; Odbor za Europske poslove obilježio 10 godina rada, 2023.

The Chair and two Deputy Chairs are among the 17 committee members that make up the EAC. It is the only parliamentary committee with two deputy chairs: one chosen from the opposition and one from the ranks of the parliamentary majority. The President of the Committee comes from the ranks of the parliamentary majority. One of the most important functions of the committee is the implementation of EU documents within parliamentary procedures – the committee coordinates and examines Croatia's position with the competent parliamentary committees.³⁴ The composition and functions of EAC are regulated by the Standing Orders of the Croatian Parliament (Art. 64–66). As the main body for coordination in matters of European affairs, the EAC carries out many tasks in that domain. Some of the primary duties of the committee, prescribed in the Standing Orders, are to monitor the activities of Parliament in European affairs; participate in the process of nominating candidates of the Republic of Croatia for EU institutions and bodies; adopt the Work Programme for the Consideration of the Positions of the Republic of Croatia; examine EU documents and the Republic of Croatia's positions in terms of those documents, with the possibility of adopting conclusions thereon; examine government reports on EU Council meetings; monitor adherence to the subsidiarity principle; and adopt a conclusion offering the relevant authority to execute a regulatory impact assessment procedure in compliance with the law and many other duties specified by the Standing Orders and law.³⁵

In conclusion, the European Affairs Committee's primary duty is to assist in adopting the new European *acquis*; in contrast to the Committee for European Integration, whose job was to harmonise Croatian legislation with the EU *acquis*. As the national parliament of an EU member state, the Croatian Parliament has evolved from being a passive transmitter of the European *acquis* to an active player in the development of new European legislation, as can be seen from the aforementioned.

However, Croatia, at the time of concluding the negotiation on 30 June 2011, did not entirely fulfil the condition of 'stability of the institutions that guarantee democratisation, the rule of law and respecting and protection of the minorities', a political criteria for membership. The biggest reason, in this case, was Croatia's inability to fulfil all the duties due to the incomplete implementation of the assumed obligations from the *acquis*, which resulted in the inharmonious functioning of the country. As a final consequence of the mentioned, at the end of the negotiations, the EU decided to monitor Croatia regarding the fulfilment of its obligations set out in the negotiations till it entered membership. In addition, Croatia was required by the EU to provide indications of the outcomes of fulfilling the commitments made during the discussions, even after the Accession Treaty was signed, until its membership in the EU. Furthermore, Art. 36 of the Act on Accession introduced surveillance of

34 Bačić, 2016, pp. 65–66.

35 10th term of Croatian Parliament, 2023.

Croatia even after the discussions ended, principally as a protective measure. The responsibilities related to Chapter 23, which deals with the judiciary and fundamental rights, were the main subjects of monitoring. In connection with Chapter 23 and the mentioned process of democratisation, the most important was the sixth convocation of the Croatian Parliament, which opened and closed Chapter 23, but also the convocation at which final negotiations with the EU were concluded.

7.

Post-Accession Developments in the Republic of Croatia

The Treaty of Lisbon (2009), which allowed national parliaments of member states to engage directly in the European legislative process, was one of the most significant developments in strengthening the role of national parliaments in EU matters. In addition, in the Lisbon Treaty, two relevant protocols were added regarding the role of national parliaments; these were: *Protocol (No. 1) on 'the Role of National Parliaments in the European Union'* and *Protocol (No. 2) on 'the Application of the Principle of Subsidiarity and Proportionality.'* Following the provisions of the Treaty of Lisbon and related Protocols, direct participation in the performance of European affairs was based on the obligation of the EU institutions to deliver EU documents directly to national parliaments. According to the mentioned protocols, the national parliaments had a deadline of eight (8) weeks to deliver a reasoned opinion if they believed that draft legislation did not comply with the subsidiarity principle; in other words, if they thought that a certain legislative act violated the principle of subsidiarity. The final result depended not only on the timely adoption of the opinion but also on the quality of the argumentation. From the above, it is clear how necessary it is that national parliaments have directly delivered proposals for legislative acts.³⁶

As a result, one of the Lisbon Treaty's objectives was to overcome the democratic deficit, given that before the Lisbon Treaty, national parliaments could only play an indirect role in European matters by closely observing the policies of EU institutions. The analysis of the Croatian Parliament's work at the Union level provides an opportunity to test the effects of the Lisbon Treaty on national arrangements for managing European affairs and the expected priorities of action, given that the Republic

36 Since 2009, national parliaments (hereinafter: NPs) have shared two votes within the framework of the EWM; in bicameral systems, each chamber has one vote. A "yellow card" is activated when one-third of the total votes, and one-fourth of the votes in the Area of Freedom, Security, and Justice, are accounted for by reasoned opinions submitted by NPs to the European Commission within the eight weeks following the transmission of an EU legislative proposal. If this amount is equal to half of the total votes cast, it is the "orange card." The Commission has not yet received an orange card.

of Croatia is the first country that joined the EU following its adoption, against the background of the persistent democratic deficit at the EU level. The status of national parliaments within the EU is determined by the delegation of legislative authority to Union institutions and expansion of the scope of Council votes requiring a qualified majority. The Croatian Parliament's performance in European matters is centred on observing the actions of the Republic of Croatia's government within EU institutions; this is in line with the national parliament's conclusions regarding its priorities in European affairs. The fact that this focus has remained on monitoring government operations even after direct participation became possible in these nations could be attributed to the circumstances surrounding the Lisbon Treaty's ratification and implementation, which did not apply to Croatia.³⁷

Thus, the Lisbon Treaty foresees the direct participation of national parliaments in cases of amendments to the Founding Treaties, in the application of the bridging clause, and in the process of checking compliance with the principle of subsidiarity within the so-called early-warning mechanism. Parliamentary oversight and subsidiarity inspections are carried out in Croatia by the Committee for European Affairs of the Croatian Parliament. However, any member of parliament, a parliamentary committee, a club of parliamentary parties, or the government may start the process.³⁸

The Committee concluded, in its reasoned opinion released on 6 October 2014, that the following proposals violated the principle of subsidiarity: *2006/66/EC on batteries and accumulators and waste batteries and accumulators; 2012/19/EU on waste electrical and electronic equipment; 1999/31/EC on landfill waste; 2000/53/EC on waste vehicles; and Proposal for a Directive amending Directive 2008/98/EC on waste*. According to the Committee on European Affairs and the Committee on Environmental Protection, the proposal failed to recognise the disparities between current national waste management systems and threatened the equitable development of European areas. The reasoned opinion was released within the allotted eight weeks following the proposal's publication date. Nevertheless, as only the parliaments of Austria, Croatia, and the Czech Republic provided reasoned comments, the Commission decided not to proceed with the "yellow card" procedure and withdrew the proposal.³⁹

In addition, in 2014, the Croatian Parliament sent three opinions to the Commission as a part of the "political dialogue" (so-called *Barroso initiative*) pertaining to the regulation of the establishment of *the European Public Prosecutor's office*; the application of the subsidiarity principle in the legislative procedure; and the proposal

37 Briški and Špiljak, 2014, pp. 7–9.

38 The EAC is required to adopt a reasoned opinion and submit it to the Speaker of Parliament if it determines that the concept of subsidiarity has been violated. Therefore, the Presidents of the European Parliament and the European Commission, as well as the EU Council Presidency, obtain reasoned opinions from the Speaker of Parliament.

39 Goldner Lang, Đurđević and Mataija, 2019, pp. 1148–1149.

for a regulation amending two Regulations from 2013 regarding the support program for food supply in educational institutions.⁴⁰

Nevertheless, the Croatian Parliament has been involved for the first time since its accession to the EU when *the third yellow card procedure* was triggered or the so-called *early warning mechanism/system*. The issued procedure was connected to *the Directive of the European Parliament and of the Council amending Directive 96/71/EC of the EP and the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services*.⁴¹ A third yellow card was issued by 14 chambers in 11 Member States, including Croatia.

The Croatian Parliament, i.e. the European Affairs Committee, found in its reasoned opinion that the proposal for a specific directive on the posting of workers within the framework of the provision of benefits does not contain a detailed statement that would enable an assessment of compliance with the principles of subsidiarity and proportionality. The committee concluded that the European Commission, as the proposer of the act, did not justify the need to adopt a legislative act at the EU level. In the same way, the Committee stated that the proposed directive limited the freedom to provide services within the EU and emphasised that the price of labour is a legitimate element of the competitiveness of companies in the EU internal market. The committee finally concluded that the Directive mentioned above created an environment of legal uncertainty for workers and companies, given the fact that parallel to the proposed amendments to *Directive 96/71/EC*, the deadline for the transposition of *Directive 2014/67/EU* on the implementation of *Directive 96/71/EU* regarding the posting of workers was also approaching. This was within the framework of the provision of services and an amendment of Regulation (EU) No. 1024/2012 on administrative cooperation through the internal market information system.⁴²

Ultimately, the European Commission again decided to maintain its proposal, stating that it did not violate the principle of subsidiarity and concluding that posting workers was a transnational issue by its definition. In connection with the third yellow card, some scholars argue that national parliaments have provided a method for Central and Eastern Europe member states to express resistance beyond simple subsidiarity concerns, particularly regarding the early warning mechanism issue and their ability to provide reasoned opinions. Taking into account the countries that submitted reasoned opinions – 13 of which were from Central and Eastern Europe (out of a total of 14 countries) – and comparing the third yellow card with the previous two, particularly in the number of submitted reasoned opinions (i.e. the activities of national parliaments), it becomes clear that the “regional block” is

40 Ibid., p. 1149.

41 European Affairs Committee on 5 May 2016, 2016.

42 Ibid., European Affairs Committee on 5 May 2016, 2016.

the key difference.⁴³ In other words, this indicates that closer coordination around a particular topic, based on shared preferences, was established by a “regional block” of national parliaments.

From the databases of the Organisation for Economic Co-operation and Development (OECD), with regard to the question of the number of laws passed by the Croatian Parliament under regular and urgent procedures, there is a considerable variation in the number of adopted laws. For example, a high of 308 laws was passed in 2013, whereas only 72 laws were passed in 2016 due to the EU membership process. This indicates a significant difference in the total number of laws enacted.⁴⁴ Since the accession of the Republic of Croatia to the EU, the Croatian Parliament has been publishing a monthly overview of all activities of the Croatian Parliament in the so-called “*Bilten Europski poslovi u Hrvatskom Saboru*” (Eng: *European Affairs Bulletin*). This publication gives the reader access to EU documents sent to national parliaments and an outline of parliamentary activity related to EU affairs and inter-parliamentary cooperation.⁴⁵

In the past few years, Croatia has faced particularly demanding circumstances that required swift reactions from the governing authorities. In addition to the COVID-19 pandemic, Croatia was also hit by the earthquake in Zagreb in 2020. In the same year, it also presided over the Council of Europe for the first time. The Presidency of the Council alternates among the member states every six months, and Croatia had this opportunity for the first time in the period from 1 January to 30 June 2020. Therefore, the member state that presides over the Council presides over the composition of the Council, except for the Council for Foreign Affairs, and represents the Council in relations with other EU institutions. The order of presidency of the member states of the Council is predetermined when there are groups of three chairperson countries that closely cooperate in the preparation and implementation of individual presidencies, whereby the trio determines common goals and identifiable issues to be resolved by the Council in a period of 18 months. Thus, on the basis of this program, each state in the trio is preparing its detailed six-month program for the presidency. During its presidency, Croatia was the final member of the trio, followed by Romania, which presided over the first half of 2019, and Finland, which presided over the second half of 2019.⁴⁶ During the aforementioned presidency, Croatia’s focus was on four main goals: a Europe that connects, develops, protects, and is influential. Changes coming from the EU included a new institutional and legislative mandate for European institutions, as well as the challenges that followed the exit of the United Kingdom from the EU and, finally, the Multi-annual Financial Framework (MFF, from

43 Fromage and Kreilinger, 2017, p. 146.

44 The development of new regulations in Croatia, Trends in new regulations, 2023.

45 European Affairs Bulletin, 2023.

46 Parliamentary Dimension of the Council Presidency, 2023.

2021–2027). Additional issues Croatia faces, including in the matter of the presidency, are related to new global challenges, which include not only climate change but also issues of increased migration, especially on the border between Turkey and Greece during February 2020.⁴⁷

Besides these challenges, there were also some additional changes that Croatia made in 2023. At the session held on 10 November 2022, the European Parliament supported Croatia's entry into Schengen before the end of the year. Therefore, on 1 January 2023, Croatia officially entered Schengen – the zone of free movement within the borders of the European Union – and simultaneously introduced the euro as its official currency.

8.

Conclusion

The role of the Croatian Parliament in the process of accession negotiations and the process of joining the EU significantly contributed to the democratisation of the Republic of Croatia, as well as to fulfilling other conditions that were necessary during the reforms in the pre-accession period. The Croatian Parliament was operating in line with its duties prescribed by the Constitution of the Republic of Croatia, Standing orders of the Croatian Parliament, and other important legal acts, acting in cooperation with the Croatian Government. Standing Orders of the Croatian Parliament from the 2000s, including later amendments that were followed by Constitutional changes, had introduced new parliamentary structures and procedures to support the European process, also establishing the European Integrations Committee and introducing an urgent procedure for the adoption harmonisation laws.

Initially, the National Committee, in dialogue with the government, defined and agreed on the necessary normative measures and gave its political consent for their creation. Then, the Committee for the European Integration was the legal control of the level of compliance with the *acquis* of the legal proposals that reached the Parliament. Therefore, the Government was competent to negotiate with the EU based on the mandate given to it by the Parliament, while the National Committee was in charge of monitoring the course of negotiations proposed by the Government and of consensually confirming each negotiating position of Croatia proposed by the Government before it was referred to Brussels.

It can be concluded that the Croatian Parliament provided legitimacy to the overall process of accession in the way that the Constitution authorises or obliges it to do, and, at the same time, supervised the course of negotiations and fulfilled its task

⁴⁷ Bandov, 2020, pp. 188–189.

as a legislative body in terms of harmonising national legislation with the European acquis. At the same time, the Parliament approved the beginning of the integration process by ratifying the Stabilisation and Association Agreement in December 2001, thus authorising the government to proceed with the integration process.

All important documents for negotiation and accessing the Republic of Croatia in the EU, Croatian Parliament had been consensual, starting with the Resolution of Parliament declaring accessing the EU as a strategic national goal. The parliament, as a legislator, during the negotiation process, adopted 523 laws with the goal of harmonising national law with EU law and, with that, achieved its role as a legislator. Accordingly, the institutional structure of Parliament was adjusted to support the negotiation process, with each parliamentary body fulfilling its constitutionally defined role.

The European Integration Committee was thus mostly working on legislation, while the National Committee was primarily responsible for the supervision of the process of negotiations. The third body, the Common Parliamentary Committee, led the political dialogue between the Croatian Parliament and the European Parliament. This was an inter-parliamentary communication channel that represented accession negotiations to the Croatian and European public.

Finally, an analysis of the entire integration process of Croatia into the EU and the role of the Croatian Parliament during and after the process itself confirms the research hypothesis of the article. Namely, the EU accession process has indeed stimulated the institutional and procedural modernisation of the Croatian Parliament, and simultaneously, led to the redefinition of its functional role in the contemporary political system of Croatia. Finally, Croatia's experience can indeed serve as a model for the countries of the Western Balkans because it indicates that the successful transformation of the national parliament does indeed constitute one of the key prerequisites for a stable democracy and effective membership in the European Union.

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