

The Race is On

Bosnia`s Place in the Balkan Regatta?



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Content

Introduction.....	4
Fading Enthusiasm.....	5
Racing through the Turbulent Seas.....	10
Traces to be Followed	13
Further Directions	15

Sarajevo, April 2012

Introduction

When driving from Bosnia and Herzegovina to Croatia, its neighboring country, the first thing that travelers notice is fewer plastic bags on the riverbanks, flying off the sides of the motorways. This is a direct result of the work that was successfully done by the Croatian authorities in the field of waste management as part of the EU accession process.¹ Not that long ago, things were very different. It might even come as a surprise for many to hear that Bosnia –the only Western Balkan country², that has not yet applied for EU candidacy- adopted an EU compatible Waste Management strategy well before Croatia did. An important question is why is Bosnia still in the first stages of the EU accession process, while Croatia has managed to complete the entire process?

The answers to this question are numerous, but come down to one principle. For any country undergoing reforms, securing a political environment, in which civil servants are tasked with concrete and tangible targets, is key.

In this paper we examine the progress that both countries have made within the area of solid waste management, currently a growing priority for the European Union (EU).³ For the Western Balkan countries aspiring to become EU Member States, complying with EU requirements in the area of solid waste management (SWM) is particularly difficult. To begin with, the former Yugoslavia did not have this area well regulated. In addition, municipalities were in charge of managing solid waste, and municipal “official” dumpsites were rarely built with any modern environmental standards in mind. As a result the successor states have found themselves being “burdened for many decades with the problem of municipal waste and its ‘management’, which mainly consisted of dumping such waste on uncontrolled dumpsites.”⁴

First, we look at Bosnia’s encouraging start, which even managed to place the country slightly closer to Europe than its neighbors, at least in the field of solid waste management. Bosnia’s progress towards EU standards in solid waste management is seen in a broader context of political willingness to firmly advance towards EU integration, and how a decline in the political will to commit to necessary reforms slowed down progress within technical sectors such as waste management.

In part two, we analyze the same area of regulation in Croatia. We find that despite many difficulties being encountered, Croatia managed to comply with all of the EU’s requirements. We examine in detail how Croatia dealt with the sector of SWM in order to bring it in line with EU standards.

¹In July 2005, Croatia passed the Bylaw on Packaging and Packaging waste, which defines both the fee for disposal of packaging waste and the compensation fee for those who return packaging for reuse and recycling. The recycling and the disposal of the packaging waste is then financed from the fee that waste producers and importers are charged for the products they offer in the market. The implementation of this directive started in 2006. Within a year, 910 million pieces of packaging material were collected, or 78,500 tons.

²Kosovo is, however, a special case since five of the EU member states have not recognised its sovereignty.

³ Issues within the field solid waste management are under the DG for Environment.

⁴Strategy of Waste Management in the Republic of Croatia, 2005

The paper concludes with a list of specific recommendations drawn from the Croatian EU accession experience, which should be carefully studied in Bosnia. We strongly believe that these practical and technical aspects of the reforms are immediately applicable in Bosnia, and as such, there is no reason for BiH to wait for major structural or constitutional changes to occur in order to resume making progress towards the EU -particularly in technical areas, such as environment, food safety, or consumer protection.

Fading Enthusiasm

The post-Dayton structure of BiH did not introduce major changes in the field of SWM compared to the mechanisms that were in place while the country was still part of Yugoslavia; although newly created entities, RS and FBiH, have been given authority over environmental issues⁵, including waste management. However, it was still the local level – cities or municipalities – that were actually in charge of managing waste and they simply continued the practices inherited from the SFRY – using their local unsanitary dumpsites. The country had no sanitary landfills for safe disposal, and there was no (national) strategy to steer the process. Uncontainable disposals of waste during the war in Bosnia (1992-1995), made the situation even more alarming as “the country was seriously piled up with trash.”⁶

Aware of the troubling situation, the local entity authorities embraced the EU financed “BiH Strategy for Solid Waste Management” that was finalized in 2000.⁷ BiH was the first country in the region to have developed such a strategy. Although this strategic document had never been officially adopted by any BiH institution, in 2003 the entities devised and adopted action plans to implement the strategy. That same year, the entities received a 26 million USD loan they had requested from the World Bank to start implementing the strategy, while the entities themselves co-funded the project with 20% of the necessary funds.⁸ The strategy recognized that EU waste management standards cannot be implemented immediately, and that gradual incremental change is the only way to do it. It details the progressive changes to be implemented over the course of 20 years. As a first step, it envisaged the adoption of a new Solid Waste Law, which would require BiH to introduce and adopt EU standards, policies and practices.

Current single municipality disposal tactics, the strategy stated, would be replaced with up to 16 regional landfills, which would be more sustainable and cost efficient. Each of these regional landfills

⁵The state level is given limited competences in the environment sector. The Ministry of Foreign Trade and Economic Relations (MoFTER) is responsible for tasks and activities related to drafting the policy, basic principles, coordinating activities and harmonizing plans of entity authorities, on one side, and institutions at the international level, on the other.

⁶Vesna Francic World Bank, head of the Solid Waste Management project team

⁷The initiative was carried out under the EU PHARE program, which had a goal to assist the countries from the Western Balkans in their preparations for joining the European Union.

⁸Muris Hadžić, Assistant Minister, FBiH Ministry of Environment and Tourism, former head of the Joint FBiH-RS SWM Strategy Team

would cover several municipalities – known as “catchment areas”⁹ – and the municipalities would coordinate through inter-municipal conglomerates, to be formalized by signing inter-municipal agreements and creating inter-municipal councils.¹⁰ The fact that some catchment areas included municipalities from both entities¹¹ was not deemed to be a problem. Moreover, in order to implement the SWM Plan, in 2003, the entities formed a single team of professionals from both FBiH and RS.¹²

The design and operation of regional landfill sites, “will be to a much higher standard, and ultimately to fully meet all EU landfill Directive requirements.”¹³ To enable cost effective transportation and to minimize the impact on collection capabilities, Transfer Stations would be set up where it was envisaged waste could be accumulated and transported in larger quantities. According to the Strategy, each Municipality in BiH will have its own Transfer Station(s) that would play multiple roles, becoming centers for secure storage of hazardous and industrial wastes and for sorting and storing recyclable materials. “Within 10 years the holding/sorting activities covering non-household or similar wastes will have been transferred to specialist waste collection and treatment companies.”¹⁴

Judging by the actions taken and the interest expressed by BiH authorities, it seemed that Bosnia was serious about making progress within the field of SWM, efforts which resulted in significant cooperation between the FBiH and the RS. The 2005 EC progress report for BiH, while noting limited progress in the area of environment, recognized improvements on the legislative side in the field of waste management.¹⁵ “Current legislation is being implemented according to the Waste Management Strategy. In 2005, the Federation of Bosnia and Herzegovina adopted a considerable amount of implementing legislation in this area.”¹⁶

As for the political context behind the developments in BiH’s SWM sector, it is clear that the opening of the Stabilization and Association Process¹⁷ with the Western Balkans was an important part of these dynamics. To proceed in the first place, BiH had to undergo the Feasibility Study.

⁹To ensure that operation of the regional landfills used the smallest amount of utilities possible, a catchment area would need to have a minimum of 200,000 inhabitants but must be within a 50km radius.

¹⁰The councils establish communal utility companies that manage the landfills, and in most cases, the collection and transport services are handled by a different public or private company. The exceptions are Sarajevo and Banja Luka, where the existing public utility companies do both the collection and transport, and manage the regional landfills.

¹¹One such example is found in Bijeljina municipality, more precisely, at the regional sanitary landfill “Brijesnica.” The EU standards compatible landfill, constructed out of the World Bank’s SWM Project loan, has been managed by the EKODEP, a public utility company established by three municipalities from RS and two from FBiH in 2005 to be in charge of the managing the landfill. Proportionally to population size, each of the five municipalities has a portion of EKODEP shares and the appropriate voting powers, but also the corresponding financial responsibility for the loan’s installments. With no adequate facilities to deposit waste in the wider region, finding a solution was the goal of every municipal stakeholder in Bijeljina region, regardless of the entity municipality belongs to.

¹²Muris Hadžić from the FBiH Ministry of Environment who was appointed in 2003 a head of the Team, while Sveto Cvijić, from the RS Ministry of Ministry of Spatial Planning, Civil Engineering and Ecology was appointed his deputy. The Team was made up of people from both entities. E.g. a procurement manager was from FBiH, a financial manager from RS; and so it was with the engineers as well with all other supporting staff.

¹³ Bosnia I Hercegovina, Strategy for Solid Waste Management, August 2000, EU PHARE, PH9711 - Service Contract no 98-0483

¹⁴ Ibid.

¹⁵ Bosnia and Herzegovina 2011 Progress Report, Commission Staff Working Paper, Brussels, 2005.

¹⁶ Ibid.

¹⁷The European Union initiated the Stabilisation and Association Process (SAP) with Bosnia and Herzegovina, and other ex Yugoslav countries and Albanian in 1999. It is a long-term commitment to the region both in terms of political effort and financial and human resources. The SAP is the route to progressively closer relationship with the EU – based on incentives

After the initial, merely nominal, commitment to EU integrations made by BiH authorities in 1999,¹⁸ it took a further two years for Bosnia to fulfill the necessary criteria set by the EU¹⁹ in order to proceed with the so-called Feasibility Study, which was to determine Bosnia's readiness to begin the SAA²⁰ negotiations. The 2002 general elections, however, changed the dynamics of the process in BiH. From today's perspective, these elections have introduced a clearly pro-European coalition onto the Bosnian political landscape. To a certain degree, the new CoM managed to transform the previous ostensible support for EU integration into concrete actions. The then Chairman of the BiH CoM, Mr. Terzić, recalls:

"The EU has never had a better instrument than the SAP - this is the ultimate carrot. What would be of Bulgaria and Romania today if it was not for the SAP process? The SAA is like good medicine for Bosnia."²¹

The process of the Feasibility Study formally started in March 2003.²² In November 2003, the EU approved it, which demonstrated the readiness of Bosnia and Herzegovina to take the next steps in the process of European integration. The study identified 16 priority reforms necessary for the opening of negotiations on the conclusion of the Stabilization and Association Agreement. In June 2004, the EU approved the European Partnership with BiH²³. The priorities of the EP were those of the 16 priority areas identified by the study.²⁴

In response, the BiH CoM developed an operational plan with a tight budget and deadlines for actions that would allow Bosnia to move towards the European Union. In practice, fulfilling the 16 priorities meant that 41 pieces of legislation needed to be enacted and 27 new institutions established.²⁵ The country's efforts were rewarded in October 2005 when the Commissioner for Enlargement, Olli Rehn, recommended opening SAA negotiations with BiH.²⁶

Clearly, the political situation in BiH at the time was not without glitches, but the CoM managed to create an atmosphere in which matters of a technical nature - such as waste management - were left to experts and technicians. As the Director of the DEI at the time, Osman Topčagić, puts it, "this was a period of enthusiasm." BiH demonstrated that it was able to make progress meeting requirements

and obligations. It is also the framework for EU negotiations with the Western Balkan countries, all the way to their eventual accession.

¹⁸The Council of Ministers and the BiH Parliament adopted in 1999 a Resolution on the readiness to commence the process of European integration which was the first manifestation of political will to harmonize BH legislation with the EU standards

¹⁹In 2000, the European Commission presented the "Road Map" which listed the eighteen most urgent reforms that Bosnia needed to undergo to climb to the next step of European integration – starting Feasibility Study. Although this was thought to be a short-term exercise, it took until September 2002 until the European Commissioner for External Relations, Christopher Patten, officially announced the decision of the European Commission that Bosnia and Herzegovina essentially fulfilled (15 out of 18) the conditions from the "Road Map."

²⁰The centrepiece of the SAP is the conclusion of a Stabilisation and Association Agreement (SAA) which represents a far-reaching contractual relationship between the EU and each Western Balkan country, entailing mutual rights and obligations. The SAA embodies the choice for Europe made by the Western Balkan countries and the membership perspective offered to them by the EU.

²¹Interview with Adnan Terzić, former Chair of the Council of Ministers of BiH

²²In March 2003, the European Commission handed to the BiH Council of Ministers a questionnaire consisting of 346 questions covering the areas of economic and political system of BiH and other areas that are relevant for the conclusion of the Stabilization and Association Agreement.

²³2004/515/EC: Council Decision of 14 June 2004 on the principles, priorities and conditions contained in the European Partnership with Bosnia and Herzegovina, Official Journal L 221, 22/06/2004 P. 0010 - 0016

²⁴Analiza razvoja principa uslovljenosti EU (EU Conditionality), Direkcija za evropske integracije BiH, Sarajevo, 2010.

²⁵Ibid.

²⁶The negotiations were officially opened on November 25, 2005 in Sarajevo.

of a technical nature, which has little to do with the political set up of the candidate country. Without any grand sweeping constitutional change taking place, Bosnia was able to make progress towards integration into the EU in a particularly demanding and highly technical sector, such as solid waste management.

Compared with the current situation, however, the Bosnian EU perspective today seems more distant, as political stalemates and the absence of discussion on the country's EU aspirations have become the norm.²⁷ It took 16 months after the latest general elections for the political parties just to come to an agreement about the formation of the Council of Ministers, during which the "overall pace of reforms has been very limited."²⁸ In 2012, the SAA has still not been ratified²⁹, while 26 priorities from the EU partnership remain to be fulfilled.³⁰ Among the pending priorities are also activities that are not political, such as activities within the waste management sector.³¹

The current political backset did affect the BiH SWM project.³² Despite the 26 million USD valued first phase of the BiH SWM project, regarded as successful by the World Bank, BiH failed to implement the SWM Plan. By 2012, only six of the 16 sanitary regional landfills have been completed, with two more³³ under development. There are very few transfer stations and even fewer municipalities that are even considering one.

The closure of all illegal dumpsites, as well as the closure of the existing "official" but unsanitary landfills, was also defined as priorities in the strategy. Thus, the entities legislation on Waste Management³⁴ from 2002 (RS) and 2003 (FBiH) mandated that municipal landfills be closed by 2008, which was later postponed until 2012, and that only sanitary regional landfills be used.³⁵ At present, however, there are still 75 municipal landfills functioning, 25 registered in RS and 50 in FBiH, and only a few of them are categorized as sanitary or, at least, controlled landfills.³⁶

Moreover, Bosnia never updated its 2000 SWM Strategy. It did, however, take a second loan from the World Bank. A total of 40 million USD was approved in 2008 for the Solid Waste Management Programme's second phase. The aims are to complete construction of 10-12 landfills in total by the

²⁷ Following the 2010 general elections, it took over a year for the governments to be established. Bosnia lost precious time with regard to the EU accession process, as no progress was made during this time.

²⁸ Key findings of the 2011 Progress Report on Bosnia and Herzegovina, <http://europa.eu>

²⁹ The SAA governs relations between BiH and the EU under the three pillars of the Union – the European Community, Economic Policies and the Common Market; the Common Foreign and Security Policy; and Justice and Home Affairs. BiH signed the SAA with the EU on June 16, 2008, and the last ratification of the Agreement by France, came in February 2011. However, the SAA is still not in force. It should have gone into effect within 40 days, but its entry into effect was frozen since BiH was still not complying with its previous obligations. The obligations to be met by Bosnia before the SAA could come into effect include the adoption of state laws on state aids and the implementation of the *Finci and Sejdic* ruling of the ECHR requiring an amendment to the Constitution. Without Constitutional change and reordering of governmental authorities, the country cannot realistically address the imperatives of the SAA.

³⁰ For the RS authorities, the problem is, as they see it, the transfer of competences from the entity to the state level. They consider the SAA a contract which is binding, while the European Partnership is "a list of suggestions" and does not imply uncritical compliance with all the recommendations in it. Having recommended the State Agency for Environment, the EP imposes solutions from the top, which the RS authorities strongly oppose.

³¹ Mladen Ivanic, the Head of PDP in an interview for Dnevni avaz: "BiH sporo ispunjava prioritete iz Evropskog partnerstva", December 21, 2012.

³² Interview with Vesna Francic World Bank, head of the Solid Waste Management project team

³³ Mostar and Bihac, which will use funds from the 2nd phase

³⁴ The EU CARDS program helped to prepare laws at the Entity level for environment. CARDS was the EU's main instrument of financial assistance to the Western Balkans. In 2001 the programme became operative under its own regulations.

³⁵ UNECE, 2nd Environmental Performance Review: Bosnia and Herzegovina. United Nations, New York and Geneva, 2011.

³⁶ Ibid.

end of the second credit phase in 2014.³⁷ One significant change has occurred in comparison to the first phase: it is now run by the entities separately. Each entity has their own project team now, and they are managing the funds separately— the RS has 18, and the FBiH 22 million. Because of politics, the project is conducted by two parties.³⁸

Not only are the entities no longer working together, very different visions of what needs to be done with SWM strategy seem to prevail. The FBiH position is that the Strategy has remained relevant and that the construction of 16 landfills is an optimal solution for BiH.³⁹ The RS believes that there is a need to consider alternative models of waste management - such as incinerators, recycling centers, etc., since low population density in many municipalities present a threat to the financial sustainability of landfills.⁴⁰

The result of such a situation is that “there is little progress on waste management overall. The waste management infrastructure remains to be further developed. Organizations for the recovery of packaging waste to implement the extended producer responsibility do not exist in the entities. The lack of coordination on implementing packaging waste management systems remains a concern. Investment in waste management is insufficient. No practical steps were taken to establish systems for recycling and recovery of other waste streams. Capacity to manage industrial and hazardous waste is limited.”⁴¹

And, while BiH has been crawling in a political quagmire that weakened the orientation and commitment to reforms and the EU integration in the country ever since 2006, its western neighbor, Croatia, worked hard to adapt its state and society to the Union and marked the end of the lengthy and difficult process of EU accession in June 2011. It is now waiting to formalize its membership in the EU as of July 1, 2013.

³⁷ Interview with Vesna Frančić World Bank, head of the Solid Waste Management project team

³⁸ Interview with Muris Hadžić, Assistant Minister, FBiH Ministry of Environment and Tourism, former head of the Joint FBiH-RS SWM Strategy Team

³⁹ Ibid

⁴⁰ In order for the landfill to be viable, according to Sveltana Radusin, Assistant Minister for Ecology within the RS Ministry of Spatial Planning, Civil Engineering and Ecology, catchment area needs to cover at least 250,000 to 300,000 people, and most of the municipalities in the RS are much smaller.

⁴¹ Bosnia and Herzegovina 2011 Progress Report, Commission Staff Working Paper, Brussels, 2011.

Racing through the Turbulent Seas

Soon after Croatia submitted its application for EU membership in 2003, the European Commission (EC) issued its opinion, an *Avis*⁴², on Croatia's readiness for the process. In this document, the Commission had noted that the situation in the field of environment was not satisfactory. There was some legislation, but this had not been translated into practical measures. The conclusion was that Croatia needed "considerable and sustained effort" to bring the field of environment to match the requirements of the *acquis* – which in EC parlance meant that Croatia was far from meeting EU standards. Within the environment sector, Waste Management was the area in which the EC recognized Croatia had the most problems. "Not only does the legislative framework need to be aligned with EU requirements and standards, but existing Croatian regulations are not yet being implemented."⁴³ It noted that "this sector poses a major challenge for Croatia" and advised the Croatian authorities to adopt a waste management plan.

Waste management planning is the cornerstone of any national, regional or local policy on waste management, and is required by relevant EU legislation. The establishment of a plan allows taking stock of the existing situation to define the objectives that need to be met in the future, the formulation of appropriate strategies, and the identification of the necessary implementation means.⁴⁴ National plans should set strategic goals and targets, and the regional and local plans should be more detailed and practical.⁴⁵ In order to successfully implement the envisaged waste management program, there needs to be excellent cooperation across levels of governance and among different regions.

Although Croatia has a far simpler state structure than BiH, it was still no easy task for Croatia to achieve this. In Croatia, "waste management issues are tackled at all administrative levels (national, regional, local, and community level), in almost all segments of economy and production, in the sphere of consumption and in our daily lives, and hence involve a large number of participants."⁴⁶ The importance of having a strategic plan for how to coordinate these different actors could not have been over-emphasized. Following the positive *Avis*, which granted Croatia candidate status, the European Commission developed the European Partnership (EP) for Croatia in 2004. Just as the Bosnian EP reflected the priorities set by the Feasibility Study, the Croatian EP highlighted the

⁴²Based on the analysis of the answers to the EC Questionnaire and other relevant information, the European Commission announced its positive opinion (*Avis*), on Croatia's candidacy for full membership to the EU and recommended the European Council to approve its status of a candidate and enter into negotiations. The Croatian *Avis* was published in April, 2004. It was divided into five sections. The first one described relations between EU and Croatia, the second section consisted of an analysis of the situation in respect to the political conditions mentioned by the European Council including fulfillment of the SAP conditionalities, the third assessed the situation in Croatia and prospects in respect to the economic conditions mentioned by the European Council and the fourth addressed the question of Croatia's capacity to adopt the obligations of membership. The final section provided a general evaluation of Croatia's situation and prospects in respect of the conditions for membership of the EU and recommendations concerning accession negotiations.

⁴³European Commission Opinion on the Application of Croatia for Membership of the European Union, 2004

⁴⁴Commission's DG Environment website: <http://ec.europa.eu/environment/waste/plans/index.htm>

⁴⁵Maria Christopher, Wenke Hansen and Maic Verbuecheln. "EU Waste Policy and Challenges for Regional and Local Authorities: Background Paper for the Seminar on Household Waste Management "Capacity Building on European Community's Environmental Policy." Ecologic, Institute for International and European Environmental Policy, December 2002.

⁴⁶Strategy of Waste Management in the Republic of Croatia, 2005

priorities stemming from Croatia's avis. One of the four short-term priorities of the EP addressed the waste management sector in a very straightforward and concrete manner: ***“Adopt and start implementing a waste management plan.”***

Following this short and clear recommendation stemming from the Avis, Croatian authorities rigorously assessed their waste management sector and the findings were far from satisfactory. There were over 3000 illegal dumpsites throughout the country, there was no disposal for hazardous waste, and thus all types of waste was stored on almost all landfill sites in Croatia, which at the time produced around 1.2 million tons, and recycled very little. In addition, there were 252 registered unsanitary landfills, of which only 25 were legal in 2005, and some 172 were in the process of being repaired, or were closing. The following difficulties were also identified: insufficient awareness of the legal entities that are accountable for the waste they generate, insufficient knowledge of waste management practices and trends currently applied in the EU, poor application of market based principles, and insufficient use of the “polluter pays” principle⁴⁷, etc.

The assessment of Croatia's Waste Management sector revealed an apparent need for action. To coordinate these actions, the Croatian Waste Management Strategy⁴⁸ was prepared in October 2005. It defined waste management as a national priority. Starting from the assessment of the situation and the vision of an appropriate waste management system, the strategy defined objectives and proposed measures for their gradual implementation by 2025. According to the Strategy, 21 regional waste management centers⁴⁹ would be built and around 25 transfer stations would be set up. It foresaw the closure of all island landfills and the transport of waste collected there to chosen ports. Development of the network of around 3000 collection sites for the separate collection of waste and for around 100 recycling yards was defined as one of the ways to improve the entire waste management system.⁵⁰

Although the SWM Strategy was an EU priority stemming from the avis and the EP in terms of both adoption and implementation, Croatia soon realized that *“these are the things that we were doing for ourselves, not for the EU. Reforms should be carried out regardless of the EU. The EU just came as an accelerator of the entire process.”*⁵¹ Croatian authorities realized that by improving its environmental status, Croatia, first and foremost, improved conditions for human health. Proper waste management, in particular, is the main requisite for the abatement of risks for various diseases, and also contributes, to a large extent, towards an improved quality of living.⁵²

The rehabilitation of official, but unsanitary, landfills had already begun in 2004. Following the introduction of the deposit model of package and packaging waste management in 2005, Croatia

⁴⁷This principle stipulates that those who pollute bear the total cost of waste management, including adoption of preventative measures and elimination of damage caused by their activities.

⁴⁸The long-term Strategy document includes a rigorous assessment of the current situation in waste management, strategic and quantitative goals and measures for achieving these goals, guidelines, evaluation of investment and funding sources.

⁴⁹The Strategy envisages construction of county level centers. The centers will contain general infrastructure and buildings, a recycling yard for the reception of separated fractions and waste as delivered by various garbage generating subjects (legal subjects, households), devices for pre-treatment, and separation of secondary raw material and recycling, facilities for composting, thermal treatment of waste, mechanical – biological treatment, usage of biogas to create energy, etc.

⁵⁰Strategy of Waste Management in the Republic of Croatia, 2005

⁵¹Interview with Mira Medic, Head of the Department for EU at the Croatian Ministry of Environmental and Nature Protection; member of the Working Group for the Chapter Environment

⁵²Višnja Samardžija and Alan Dukes, Communicating Integration Impact in Croatia and Ireland, 2008

significantly improved separate collection. During 2005 and 2006, the system for the management of special waste⁵³ was established which immediately yielded great results both in protecting the environment and developing the economy. Overall, Croatia was showing good progress. There were now 26 pieces of legislation regulating the field of waste management in Croatia. Only four of them were in place before 2004⁵⁴ and between 2006 and 2008⁵⁵ Croatia reviewed its legislation on waste management to better fit the *acquis*. By 2008, Croatia was fully harmonized⁵⁶ with EU regulations in the field of waste management.

Being fully in line with the *acquis*, however, did not mean Croatia had completed the necessary tasks. If the Strategy was the first step in bringing Croatia in line with EU Waste Management standards, the second – and truly Herculean – step was its implementation. According to Toni Vidan, from the Croatian environmental NGO “Zelena akcija”, it was a great shock to the administration when they realized that the European Commission does not consider it enough just to enact the laws, even more important is that the laws are implemented:

"Because of this, I think that other countries in the region need to take one big step forward in a way that the government institutions have. The laws are seen as a formality to more or less fulfill conditions, but what a country needs to show is the implementation of this legislation. Law enforcement is probably the most positive reform in Croatia whereby the administration was forced to, because of the accession process."

To enable smooth implementation of the envisaged regulations, the Solid Waste Strategy document was updated in 2007, with the Waste Management Plan for the Republic of Croatia 2007–2015⁵⁷ which set priorities for achieving the defined goals within the given timeframe based on the Strategy. By the time the official negotiations were opened, Croatia had a very good idea of where it stood and what it still needed to do in order to meet criteria for environment. As a result, Croatia managed to implement all the necessary measures and close the negotiations on the environmental chapter in 2010. By that time, the EC was praising Croatia for making progress in legislation relating to waste management, and also for amending the SWM plan in order to improve financing and implementation of activities aimed at remediation of existing landfills and the construction of new waste management centers.

Having completed the accession negotiations in 2011, Croatia is about to become the 28th EU Member State in 2013. However, this does not mean Croatia's work is done. It will still need to invest significant resources and time in order to complete implementation of the 2005 Waste Management Strategy. According to the Croatian Waste Management Strategy, *“the financing necessary for the*

⁵³ Package and packaging waste, waste tires, waste oil, waste batteries and accumulators.

⁵⁴ Three pieces of legislation were passed in 2004 and three in 2005. Then, in 2006 and the first months of 2007, some 12 pieces of legislation were passed and another four remained in process to be passed later that year. For a list of legislation and years in which they were passed, please see Waste Management Plan in the Republic of Croatia for the Period from 2007 to 2015, adopted on 19th July 2007.

⁵⁵ Every year, starting in 2004, the Croatian Government prepared a plan for the transposition of the *acquis* into Croatian legislation. These plans are called The National Programme for the Integration of the Republic of Croatia into the European Union (NPIEU) and can be found on the website of the Ministry of Foreign Affairs of Croatia.

⁵⁶ Except for the new Waste Framework Directive 2008/98/EC

⁵⁷ This Plan further reinforced the concept that focuses on waste avoidance, increase in waste recovery and use in power generation, reduction in quantity of material for final disposal and consequently lowering risks for the environment, climate and human health.

*realization of this Strategy over the next 20 years is estimated at 3.25 billion Euros.*⁵⁸ This would only cover waste management.⁵⁹ Out of the estimated cost of 3.25 billion Euros, by the time it had drafted its negotiating position in 2008, Croatia had used the sum of 390 million Euros – from which 200 million Euros⁶⁰ were provided by the Republic of Croatia. These are costly projects, of course, but represent only a fraction of all the financial costs Croatia will incur to fully implement the Waste Management Strategy. The bulk of the investments will be made after Croatia joins the EU and has access to both accession funds and cheaper credit,⁶¹ which will ease some of the burden of these investments.⁶²

Traces to be Followed

Croatia has just completed one of the most costly and demanding accession processes ever. Furthermore, this happened while Europe was already in the grips of what many analysts have called “enlargement fatigue” which followed what has often been referred to as “big bang enlargement.”⁶³ This enlargement is considered the “biggest hands-on management process in modern political history.”⁶⁴ As 12 countries in total joined the EU in one wave, a few of them managed “to get an easier ride in some sectors”⁶⁵ and ended becoming EU member states without having fully implemented all the necessary EU standards. Known as the “caravan approach,” this policy enabled less advanced countries – such as Romania and Bulgaria – to join the EU based more on their geographic location than their actual preparedness to access the Union. There was, however, a side effect of the “caravan”, which in the long run could harm the credibility of future accession processes, and also the candidate countries, which are, in the end, the main beneficiaries from the reforms the EU is demanding.

“No country will join the EU before being 100% ready to do so”⁶⁶ was one of the lessons learned from the last caravan enlargement, which the Western Balkan countries have missed out on. The caravan was replaced at the beginning of the century with the “regatta principle”⁶⁷ allowing the more advanced countries to progress on their way to EU membership without having to wait for their inert

⁵⁸Strategy of Waste Management in the Republic of Croatia, 2005

⁵⁹In the Screening Report (2007) only the cost for compliance with the Water Framework were estimated at 5 billion Euro

⁶⁰For more see EOP-IPA.

⁶¹Interview with Boris Vujčić, Deputy Chief Negotiator and member of the Negotiating Team responsible for the chapters Free movement of capital, Financial services, economic and monetary union.

⁶²One of the most difficult is the implementation of the construction of the waste management centres in Croatia, primarily because of the high construction costs. Croatia, however, used the negotiations smartly and managed to push the bulk of the financial costs of implementing the strategy into the future. This specific obligation, Croatia needs to fulfil until December 31, 2018 as has been negotiated with the EU, which granted Croatia the requested transitional period.

⁶³Ambrose Evans-Pritchard: “EU Ready for Big Bang Enlargement,” The Telegraph, November 19, 2002

⁶⁴Summa Timo, “The EU's Fifth Enlargement – Lessons Learned,” Fellow Program, Harvard University, Cambridge, 2008

⁶⁵Ibid.

⁶⁶Ralitsa Kovacheva, “Croatia in the EU: Lessons from the Bulgarian Accession,” Sofia, Bulgaria, 2010

⁶⁷The “Regatta principle” was introduced at the EU Helsinki Summit in December 1999. According to the principle, each candidate state could complete the accession talks at any time without being held back by other candidate states and their negotiations. It allows for better control by the Commission of the way common values are respected and reforms introduced in the candidate countries, without having to make recourse to the unpopular negative conditionality.

neighbors to come forward. Although regional cooperation is an important part of the SAP, the Croatian case clearly shows that when it comes to EU enlargement for the Balkans, each candidate should progress towards accession as fast as its own pre-accession preparations allow. Each country joins when, and if, it fully complies with the Copenhagen criteria.⁶⁸ For Croatia, this meant changing the rules of the game, and having no one to look up to.

BiH, on the other hand, is now in a good position to study and use Croatia's experience to become more skilled, in terms of avoiding difficulties and obstacles that might slow down or block the process.

“The Croatian experience can be very useful for BiH because the process in Croatia is somehow different, more complex, I would say, more demanding, if compared to the last wave of enlargement, and because we share a common history. After all, the systems that we had previously established had been largely similar.”⁶⁹

While the “caravan principle” proved useful to Bosnia several times in the past, with regional stability hardly being an issue⁷⁰, the more progressive “regatta principle” has taken its place. Although Bosnia benefits from regional advancement, this practice will no longer be tolerated by the EU at the later stages of the process – in steps following candidacy status. The essence of the process is to show commitment in changing the country in line with EU legislation and practice. BiH should seriously consider adopting a more proactive approach towards EU reforms and obligations if it is to remain a relevant stakeholder in regional developments.

For the past year, we explored the processes that have been completed in Croatia on its way to the EU, in order to identify the concrete and practical lessons BiH can find useful. We also aimed at advancing dialogue among local stakeholders on the EU processes that were successfully started in Bosnia, but heedlessly left unfinished. Some of the findings to be taken from Croatia's journey are discussed on the next page.

⁶⁸Any country seeking membership of the EU must conform to the conditions set out by Article 49 and the principles laid down in Article 6(1) of the Treaty on European Union. Relevant criteria were established by the Copenhagen European Council in 1993 and strengthened by the Madrid European Council in 1995. To join the EU, a new Member State must meet three criteria: political, economic and the acceptance of the Community *acquis*. For the European Council to decide to open negotiations, the political criterion must be satisfied. The pre-accession strategy and accession negotiations provide the necessary framework and instruments to meet the accession criteria.

⁶⁹Interview with Ružica Gelo, member of the Negotiating Team responsible for the chapters Agriculture and rural development, Fisheries, Food safety, veterinary and phytosanitary policy, Consumer and health protection

⁷⁰Croatia has an accession date set, Serbia is a candidate state, and Montenegro's date for opening the accession negotiations is set.

Further Directions

Transposition and implementation of the acquis directly affect citizens and improve their quality of life.

Simply put, the acquis regulates all aspects of life in the EU. Even people who are far removed from any political knowledge of the acquis or the European Union are directly affected by the acquis. Although seen as the most challenging issue, the transposition of the EU acquis into candidate country legislation – especially its implementation – directly affect all segments of society and the lives of thousands of citizens. This is especially true for the “technical” chapters, such as Environment, as illustrated through the example of the Waste Management sector in Croatia. The beneficiaries of the reforms required for Bosnia's accession will be its citizens.

Conditions, requirements and recommendations from the EP do not disappear, they overflow.

If the conditions, requirements and recommendations of EU documents are not fulfilled by the candidate country, they will not simply be disregarded by the EU. These conditions/recommendations will continue to pose an obstacle on the path to the EU and will continue to appear in subsequent EU documents, as seen in Croatia. They are designed to assist the country identify its weaknesses and develop dynamics of reforms based on the assessment and status of sectors corresponding to the EU acquis. According to the Croatian experience⁷¹, what is provided in the acquis has to be established and must operate in line with other EU countries, however, the manner in which it is organized in a country is up to the individual country to decide. It is, however, a gradual process consisting of a number of different phases. Therefore, it is only a matter of time before Bosnian authorities will be in a position to face the recommendations and conditions stemming from EU documents. Technical matters, such as waste management, affecting the everyday life of people, should be given priority. **Strategic and timely planning as well as 'real work' is necessary to prepare for negotiations well in advance and identify areas that may be the most difficult in terms of financial and material resources.**

A far-reaching and costly transformation that affected laws and administration – as well as Croatian society – took place long before negotiations were opened, but the transformation and negotiations needed careful and timely planning and a detailed financial framework in order to be well implemented. For this reason, a thorough and realistic assessment of the state of affairs in a sector must be conducted. The gaps between laws and regulations, and their implementation of the applicant country and those of the EU should be recognized and understood. Then, the long term plans to close those gaps as well as set up the mechanisms to finance such activities can be planned. This enables the identification of the most demanding areas in terms of the financial and material resources required. The strategizing in terms of both time and finances is, therefore, a priority.

⁷¹Interview with Nikola Ružinski, member of the Negotiating Team responsible for the chapters Energy and Environment

Cooperation among institutions, agencies and the different administrative units with competencies on the matter is essential.

While compared to Bosnia, Croatia is a centralized state, it still struggled to coordinate all the tasks stemming from obligations to the EU. It is difficult to imagine progress without appropriate and effective coordination between institutions, agencies and organizations that deal with different aspects of each section, be they thematic or territorial. The EU helps countries improve organization and coordination. In Croatia, competencies on environmental matters were scattered across different ministries. However, what is important is that the responsibilities of each institution should be clearly defined. It should also be clear which institution will be in charge of communicating with the Commission on each section, serving as a focal point. In Croatia, it was agreed that the Ministry of Environmental Protection, Physical Planning and Construction would take the lead and coordinate activities. However, it never took over the competences. It largely served a technical role for ensuring all stakeholders involved were updated. Mira Medic, member of the Working group for Environment, remembers the difficulties in the beginning:

“All ministries were equal but we needed to put someone on the top – so they could communicate with the EC. To appoint one Ministry which would be in charge was hard. We had to explain to our colleagues (from other ministries) that the Commission wants only one interlocutor. By Government decision, the Ministry of Environment Protection, Physical Planning and Construction was put at the head of this process and all the other ministries had to send documents to us. But eventually they all accepted this kind of communication. Now we do not even send official letters to each other we communicate info through emails.”

Having analyzed Croatia's accession process and identified useful points for BiH, it is also easy to conclude that Bosnia's journey towards the EU needs to focus on producing concrete results. Only then will the EU momentum, carelessly lost in 2006, be regained. BiH be back in the Balkan regatta race begun in 2000 with the SAP promising the Western Balkan countries a European perspective.

The EU also has a role to play. If the Union is serious about helping state building in Bosnia, it has no reason not to support Bosnia's membership application and then start with the assessment phase as soon as possible. After all, a chapter will only be closed when it is largely fulfilled and the EU possesses the tools necessary to make sure of that. There are no risks, therefore, to starting a pre-accession process for Bosnia. This phase will last as long as necessary for Bosnia to meet outlined conditions. Considering the tremendous transformation power that the pre-accession phase had in Croatia, it is illogical not to offer it to Bosnia as soon as possible.



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