



CENTER FOR  
DEMOCRATIC  
TRANSITION



Kingdom of the Netherlands



ANALYSIS OF NATIONAL STRUCTURES FOR  
NEGOTIATIONS WITH THE EUROPEAN UNION



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DEMOCRATIC  
TRANSITION

# Analysis of National Structures for Negotiations with the European Union

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## FOREWORD

Dear readers,

Here is the publication “Analysis of National Structures for Negotiations with the European Union,” which is the final result of the research conducted by the Center for Democratic Transition (CDT) implemented with the support of the Royal Netherlands Embassy.

The research was conducted in collaboration with Dr Martin Brusis from the University of Munich, an eminent expert whose works are among the most important in Europe when it comes to this area.

The publication is divided into two parts. The first part refers to the chronology of relations between Montenegro and the European Union and the process of accession negotiations. The second part of the publication refers to an overview of comparative analysis of negotiating structures, made on the basis of the research, and considers coordination of the negotiation process, with an emphasis on the Negotiation Team, the EU mission, working groups and negotiating positions, as well as the role of Parliament and civil society in the same process.

Namely, the research focussed on the composition, role and organization of structures involved in the accession negotiations with the European Union, with particular emphasis on the role of parliament and civil society. The research was conducted with the aim to highlight important issues that Montenegro would face when it comes to the formation of its negotiating structures and offer an analysis of best practice which would be beneficial in future negotiations.

The research was conducted in anticipation of the Opinion of the European Commission and potential start date for accession negotiations, for CDT believed it was necessary to make timely and quality preparation for the upcoming process, and devise an effective strategy for communicating with the Montenegrin public.

From July to September, the CDT research centre conducted a comparative analysis of negotiating structures in eight countries, which, in 2004, became members of the European Union (Hungary, Czech Republic, Slovenia, Poland, Estonia, Latvia, Cyprus, and Slovakia). Also, the research includes negotiating structures of the Republic of Croatia as a country that underwent a process of negotiation and is now on the verge of the EU membership.

For the purpose of this research, a special questionnaire was developed, which consisted of about 100 questions and 60 sub-questions. The questionnaire was divided into five chapters: Coordination of Policies, Political Coordination, Procedural Aspects of Coordination, and the Role of Parliament in the Negotiation Process with the European Union and the Role of Civil Society in the Negotiation Process. In devising the questions, we consulted referential literature from this area.

In addition, a smaller questionnaire divided into five chapters, with 43 carefully selected questions, was also developed. The questionnaire was sent to e-mail addresses of governments, parliaments and civil society experts from countries that were the subject of the research.

The questionnaire was filled out with the data obtained from the said contacts, as well as through analysis of internet sources and relevant studies, assessments and articles tackling this area.

Having conducted the research, CDT announced the main findings in the form of Topics for discussion concerning the important issues related to the formation of future Montenegrin negotiating structures. Those discussion topics were used as the basis for the publication.

Research showed that negotiating structures in the countries that were subject to the research were very different, but through the analysis of good practice we can come to some interesting and effective solutions that could be applied to Montenegro in future negotiations. Also, the opening of these issues should encourage dialogue at national level on this subject and facilitate consensus-building that will enhance transparency and democratic character of the negotiation process.



## CHRONOLOGY OF RELATIONS BETWEEN MONTENEGRO AND EUROPEAN UNION

### 1.1. SHORT OVERVIEW OF MOST IMPORTANT EVENTS

Relations between Montenegro and European Union in the *Stabilization and Accession Process (SAP)* were established in July 2001.

At the EU-Western Balkans Summit, in Thessaloniki in 2003, "*Thessaloniki Agenda for Western Balkans*" was adopted, which confirmed the European perspective and introduced European Partnerships for the Western Balkans countries.

Following the referendum on the state-legal status in 2006, Montenegro as an independent state, has resumed the path of the European integration, and on 15 October 2007, signed the Stabilization and Association Agreement between Montenegro and the EU, which regulates the rights and obligations of the country that began the process of joining the European Union and regulates the legal framework for cooperation and harmonization with EU standards. The Stabilisation and Association Agreement came into force on 1 May, 2010.

*National Program for Integration of Montenegro into the European Union (NPI) for the period of 2008-2012 was adopted on 5 of June 2008*

*Montenegro presented its application for membership of the European Union on 15 December 2008. Subsequently, the Council of the European Union requested the Commission to submit its Opinion on Montenegro's application for membership.*

On 22 July 2009, the Government of Montenegro was handed over the *Questionnaire*, and the answers were submitted to Brussels on 9 December 2009. After that, Montenegro was delivered a new set of 673 questions which were answered by 12 April 2010.

On 9 November 2010, the European Commission issued a positive *Opinion on Montenegro's Readiness for Membership*, which recommended the Council to grant Montenegro candidate member status, which was done on 17 December 2010, when Montenegro became a candidate for EU membership.

In 2010, *National Programme for Integration (NPI) for the period of 2010-2014* was adopted.

On 17 February 2011, the Government of Montenegro adopted an *Action Plan for monitoring the implementation of recommendations given in the Opinion of the European Commission*.

With the *European Commission's Opinion* of 12 October 2011, Montenegro was given the green light to start negotiations with the European Union, but the date to start accession negotiations has not been determined yet.

### 1.2. ACCESSION NEGOTIATIONS

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#### ★ *Accession negotiations with the European Union?*

Accession negotiations are negotiations on the conditions under which a candidate country accedes to the European Union and adopts its founding treaties. The close of Accession Negotiations is followed by the signing of an international treaty between the EU Member States and the candidate country – called the Accession Treaty.

In order for a candidate country to become an EU candidate member state, it is necessary to harmonize its legislation with the EU *acquis communautaire*.

The *acquis* is divided into 35 chapters in relation to the areas to which the needs of the accession negotiations refer.

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<sup>1</sup> <http://www.eu-pregovori.hr/Default.asp?ru=429&sid=&akcija=&jezik=1>

★ ***Who Negotiates?***

The negotiations formally begin in a framework of a bilateral Intergovernmental conference, and then they are conducted in intergovernmental conferences involving representatives of the state as a candidate for membership, representatives of the Member States of the European Union and the European Commission.

The European Union and its positions during the negotiations are represented by the Chairman of the Council of European Union. During negotiations, a Negotiation Team (Head of the team, Chief Negotiator and team members) represents a country, which is a candidate for membership.

★ ***How do the Negotiations proceed?***

The first phase of negotiations is commonly called screening or analytical examination of harmonization of national legislation of a candidate country with the EU *acquis*. Screening is conducted for each chapter individually. The screening process involves representatives of the European Commission, on one hand, and representatives of a working group for preparation of negotiations, on the other.

The report on the results of screening, which is related to the assessment of readiness of a candidate country in relation to the adoption and enforcement of the *acquis*, is prepared by the European Commission. If the report is positive, the European Commission recommends opening of the negotiations for a particular chapter. However, if the European Commission estimates that a country is not ready, it will not propose the opening of negotiations until certain minimum requirements, so called *benchmarks* are met.

It is necessary to define a procedure for adoption of Montenegro's negotiating positions, of which drafts will be prepared by working groups, separately for each chapter. Moreover, it should be determined which bodies and in what way they would participate in the formulation of negotiating positions. The draft of the EU joint negotiating platform is drafted by the European Commission, and then considered by a working group for enlargement. Subsequently, EU Council adopts the EU Joint Platform for opening of chapters.

During negotiations, the state meets the criteria necessary for closing negotiating chapters, which are assessed by the European Commission and then confirmed by the Council of the European Union. After the closing of the negotiations on all chapters envisaged, the results of the negotiations are incorporated in the provisions of a Draft Treaty of Accession.

In order for a country to become an EU member state, the European Council must unanimously adopt the Accession Treaty, with a prior consent of the European Parliament. Then, this Treaty is signed by the acceding country, as well as all Member States of the European Union, which are to submit the instruments of ratification of the Treaty to the European Council. Then, finally, the decision on membership is made and an acceding country becomes a full EU member at the Conference on Accession.



## COMPARATIVE ANALYSIS OF NATIONAL NEGOTIATING STRUCTURES

### 2.1. POLICY COORDINATION

*Policy coordination means ensuring that the strategic objectives of a Government are appropriately translated into negotiating positions and successfully represented to the European Commission in the accession negotiations.*

Parties that are preparing for the negotiation process should primarily consider and decide under whose jurisdiction the policy coordination will be. Specifically, the body in charge of policy coordination will be one of the vital and most responsible carriers of the entire process.

According to the experience of the countries that joined the EU in 2004, either they entrusted the Ministry of Foreign Affairs with policy coordination - or created a special body not integrated into that Ministry.

The decision as to which of the two bodies will have the authority over policy coordination, means also a decision about whether the key role in this process is entrusted with Foreign Minister or Prime Minister. Namely, as you may see from the sections taken from the questionnaire, when it comes to the Czech Republic, Estonia and Hungary, Minister of Foreign Affairs was in charge of policy coordination, while in Slovenia and Poland, they decided to create and entrust a special body with this role, which was not integrated into the Ministry of Foreign Affairs.

<b>Slovenia</b>	<i>The Government Office for European Affairs was in charge of policy coordination.</i>
<b>Poland</b>	<i>For policy coordination was in charge the Office for European Integrations, coordinated by the Committee for European Integration headed by Prime Minister.</i>
<b>Czech Republic</b>	<i>The Ministry of Foreign Affairs was in charge of policy coordination.</i>
<b>Hungary</b>	<i>The Ministry of Foreign Affairs or more precisely the State Secretariat for European Integration was in charge of policy coordination.</i>
<b>Croatia</b>	<i>The Ministry of Foreign Affairs and European Integration was in charge of policy coordination.</i>
<b>Estonia</b>	<i>Firstly, the Ministry of Foreign Affairs and later Prime Minister's Office was in charge of policy coordination.</i>
<b>Slovakia</b>	<i>The Ministry of Foreign Affairs was in charge of policy coordination.</i>

### 2.1.2. BODY RESPONSIBLE FOR POLICY COORDINATION – ANALYSIS BY COUNTRIES

As noted above, the Ministry of Foreign Affairs was in charge of policy coordination in the Czech Republic, Hungary, Slovakia and Croatia.

In the process of negotiation with EU, special departments with certain competences were founded within the ministries.

Namely, in the *Czech Republic*, the Department for European Integration was founded within the Ministry of Foreign Affairs and had about 60 employees.

In *Hungary*, the State Secretariat for European Integration was founded and had about 100 staff persons. In addition, each ministry in Hungary had the Department for the European Union, which, in some ministries, was within the Department for Foreign Affairs. These bodies, among other things, were responsible for the preparation of strategic plans for ministries and development of diplomatic relations with colleagues from the European Union.

In *Croatia*, there was a great number of bodies established that had a specific role in the process of policy coordination and provided administrative support (Directorate for Support to Croatia's EU Accession Process, Directorate for EU and International Cooperation, Department for European Integration, Directorate for European Union and many others) but the central body for policy coordination was still the Coordinating Committee for the Accession Negotiations of the Republic of Croatia to the European Union.

The Coordination is an inter-ministerial working body of the Government of the Republic of Croatia that deliberates all the issues related to the accession negotiations of the Republic of Croatia to the European Union. In addition, the Coordination considers the draft proposals for negotiating positions that were forwarded to the Coordination by the Negotiation Team, before they were forwarded to the National Committee for Monitoring the Accession Negotiations of the Republic of Croatia to the European Union, as well as proposals for negotiating positions before their referral to the Government of the Republic of Croatia for adoption.

In *Estonia*, as noted above, policy coordination was initially under the Ministry of Foreign Affairs, which had the Department for European Integration, and then was shifted to the Prime Minister's Chancellery.

Naturally, in *Slovenia* and *Poland*, where policy coordination was not the responsibility of the Ministry of Foreign Affairs, but it was a responsibility of a specially founded body, within the Ministry of Foreign Affairs and other ministries, there were bodies with responsibilities in the process of European integration. For example, in Poland, within the Ministry of Foreign Affairs, there was the Department for European Integration, which was made up of three departments: Department for the European Union, Department for European Institutions and Regional Policy and Department for Economic Analysis, and in 2001, the single Department for the European Union and the Accession Negotiations was established.

As it was already noted, in Slovenia, there was a special body in charge of policy coordination, i.e. the *Government Office for European Affairs* headed by the Minister without Portfolio.

Although it was initially a part of the Ministry of Foreign Affairs, and then planned to be incorporated in the Prime Minister Chancellery, it was still decided during the negotiations that this Office became an independent body.

The Government Office for European Affairs, was composed of two departments for integration, Foreign Aid Division and the Department for Negotiations, and consisted of about 90 employees, including 35-40 translators. Older civil servants were previously employed by the Office for European Affairs and various ministries, and a significant number of new employees were young people with limited experience when it comes to the EU related matters, who were hired on the basis of their achievements from studies, as well as on the basis of knowledge of foreign languages.

The Government Office for European Integration coordinated the process of Slovenia's accession to the EU. This body was responsible for coordinating ministerial relations with the EU and addressing the national organizational capacity to handle EU business. Its coordinating role involved the implementation of agreements signed with the EU, monitoring the inter-departmental preparations for negotiations and compliance with the "*acquis communautaire*" and facilitating the participation of officials in the various EU institutions and bodies. Furthermore, at state secretary level, the Government Office for European Affairs heads the Inter-ministerial Committee for Relations with the EU and co-ordinates the Committee's working groups.

In Poland, the *Committee for European Integration* headed by the Prime Minister was established. The Committee consisted of the Prime Minister (chairperson), secretary, Ministers of Foreign Affairs, Interior, Economy, Justice, Finance, Social and Labour Affairs, Agriculture and Rural Development and Environment. If needed, the chairperson could appoint up to three experts who contributed to the quality of the implementation of commitments related to the process of the European integration. Also, depending on the situation, President of the National Bank and Chairman of the Government Center for Strategic Studies could attend the Committee meetings.

The main responsibilities of the Committee for European Integration were related to resolving issues related to the integration of Poland into the EU, as well as to the approval of proposals concerning the allocation of EU funds. The Committee presented to the Council of Ministers programmes relating to the commitments of adaptation and integration, and drafted proposals for laws governing these issues. Also,

the Committee was responsible to present to the Council of Ministers the reports on the implementation of programmes of compliance of the Polish economy and legal systems with the EU standards and others.

The Office of the Committee for European Integration was in charge of providing administrative support to the Committee for European Integration.

Certainly, all of the said countries also established bodies with a consultative role in the process of policy coordination, such as: the Office of the Committee for European Integration (Poland), the Council for European Integration (Hungary), the Consultative Committee (Estonia) and the like.

*In the following text, you can find an example of a part of the questionnaire for contact persons related to the part on policy coordination, along with the responses received from the Parliament of Estonia.*

*September 12, 2011*

*No 6-3/1327-1*

## **1. POLICY COORDINATION**

(Policy coordination means ensuring that the strategic objectives of a Government are appropriately translated into negotiation positions and successfully represented vis-à-vis the European Commission and the EU member states in the accession negotiations).

### **1) Who was in charge of policy coordination function during the accession negotiations with the European Union :**

- a) The Ministry of Foreign Affairs
- b) The Prime Minister
- c) A special body not integrated into the Ministry of Foreign Affairs

The Ministry of Foreign Affairs coordinated relations between the EU and Estonia. The Government also cooperated with the Ministry of Foreign Affairs. The negotiation process was the responsibility of four bodies: European Division of the Ministry of Foreign Affairs, the Negotiation Team, the Core team and 31 working groups.

**2) Who held the position of the Chief Negotiator:**

- a) The Prime Minister
- b) The Minister of Foreign Affairs
- c) ....

The Undersecretary for European Union Affairs, Alar Streimann, was the Chief Negotiator.

**3) Did the Chief Negotiator also head the Mission to the EU in Brussels?**

The mission was headed by the Minister of Foreign Affairs. Chief Negotiator was appointed as his deputy. The accession talks were also led by the Foreign Ministry.

**4) Were the representatives of the civil society members of the Negotiation Team?**

They were not members of the team, however, consultations were held with them (for example with NGO-s etc.)

**5) Was a consultative body formed in charge to assist in the process of policy coordination?**

There was the Foreign Minister's Consultative Committee to help to formulate Estonian's position and explain to the public the effects of the EU's accession on Estonia.

**6) Were the negotiation positions published entirely:**

- a) Yes
- b) No
- c) If no, please explain the reason

**7) Please explain the way of adopting the negotiation positions?**

After gaining the independence in 1991, accession to the EU was Estonian foreign policy priority. The basis for relations between Estonia and the EU was the Europe Agreement throughout the accession process. Accession negotiations were launched on March 31 in 1998. In order to conduct accession negotiations, the delegation was set up.

The negotiation positions were inspired mostly by the foreign policy goals, what in this time, was mostly the accession to the EU. However, it was not only the accession itself that was the goal, the accession was seen more like a natural process for Estonia. Estonian positions were therefore simple – domestic situation and everything else needed to be in accordance with the EU law and EU's principles.

*You can also find an example of a part of the questionnaire submitted to contact persons related policy coordination with answers provided by Dr Andras Inotai, Director of the Institute for World Economy in the Hungarian Academy of Science.*

### 1. POLICY COORDINATION

(Policy coordination means ensuring that the strategic objectives of a Government are appropriately translated into negotiation positions and successfully represented vis-à-vis the European Commission and the EU member states in the accession negotiations).

#### 1) **Who was in charge of policy coordination function during the accession negotiations with the European Union:**

- a) The Ministry of Foreign Affairs
- b) The Prime Minister
- c) A special body not integrated into the Ministry of Foreign Affairs

Ministry of Foreign Affairs

#### 2) **Who held the position of the Chief Negotiator:**

- a) The Prime Minister
- b) The Minister of Foreign Affairs
- c) ....

Minister of Foreign Affairs, but substituted by Ambassador, the Head of the Permanent Representation of Hungary to the EU. The final accession documents were signed by the Minister of Foreign Affairs

**3) Did the Chief Negotiator also head the Mission to the EU in Brussels?**

Yes (all the time, as one of the very few exceptions, despite government change in Hungary in 1998 and in 2002)

**4) Were the representatives of the civil society members of the Negotiation Team?**

Not, unfortunately

**5) Was a consultative body formed in charge to assist in the process of policy coordination?**

Not after 1998. There was a NGO established in late 1995 by the Prime Minister to advise the Government on pre-negotiation strategy (Strategic Task Force), consisting of 20 professional groups covering different EU-related policies. The activity of this body was discontinued (disrupted) after the government change in 1998 (reasons clearly political and not professional).

**6) Were the negotiation positions published entirely:**

- a) Yes
- b) No
- c) If no, please explain the reason

Not, because the chief negotiator (and maybe, the Government, as well), did not want to raise any discussion in the wider professional and public opinion-shaping circles in Hungary. The goal was to carry on and finalize negotiations as soon as possible, without any „domestic interference“.

**7) Please explain the way of adopting the negotiation positions?**

Practically a one-man-show by the chief negotiator with some help from the Ministry of Foreign Affairs and other topic-related Ministries, and Parliamentary approval (formal in most cases).

## 2.2. NEGOTIATION TEAM

The Negotiation Team is in charge of negotiations at an expert and technical level with the EU institutions and EU member states on all negotiating chapters. Therefore, it is evident that the expertise and efficiency of the negotiation team is crucial to the success of negotiations.

In this regard, *it is very important to consider who the Head of the Negotiation Team is and who makes the team.*

The research has shown that in countries where policy coordination was within the Ministry of Foreign Affairs, Minister of Foreign Affairs was the Head of the Negotiation Team (Hungary, Estonia, Latvia, Slovakia) or one of senior officials (First Deputy Minister of Foreign Affairs of the Czech Republic, while the Croatia's Chief Negotiator, who headed the negotiation team, was Deputy Head of the State Delegation of the Republic of Croatia for Negotiations on the Accession of the Republic of Croatia to the European Union).

In the states where policy coordination was the responsibility of a special body not integrated in the Ministry of Foreign Affairs and headed by the Prime Minister, the practice was different.

In Slovenia, the Negotiation Tteam was led by the Director of Macroeconomic Analysis and Development in the Government Office for European Affairs, while in Poland, it was headed by the Chief Negotiator who was a representative of Government Plenipotentiary for Poland's Accession Negotiations.

*Who Headed the Negotiation Team? (Overview by countries)*

<b>Slovenia</b>	<i>Director of Macroeconomic Analysis and Development in the Government Office for European Integration</i>
<b>Poland</b>	<i>Chief Negotiator, who was authorized representative of the Government for Poland's accession negotiations</i>
<b>Czech Republic</b>	<i>First Deputy Minister of Foreign Affairs</i>

<b>Hungary</b>	<i>Minister of Foreign Affairs</i>
<b>Croatia</b>	<i>Chief Negotiator who was at the same time also the Deputy Chief of the State Delegation of the Republic of Croatia for Negotiations on Accession of the Republic of Croatia to the European Union.</i>
<b>Estonia</b>	<i>Minister of Foreign Affairs</i>
<b>Slovakia</b>	<i>State Secretary of the Ministry of Foreign Affairs</i>
<b>Letonia</b>	<i>Minister of Foreign Affairs</i>

When it comes to the number of team members, the research has shown that the Negotiation Team most often had between 11 and 20 members.

All Negotiation Teams composed of representatives of ministries, representatives of government offices, and in most cases, representatives of the mission to the European Union or representatives of national banks.

<b>Slovenia</b>	<i>The Director of Macroeconomic Analysis and Development in the Government Office for European Affairs; four State secretaries from the Ministry of Agriculture/Forestry and Food, Ministry of Economic Relations and Development, from the Government Office for European Affairs and the Government Office for Legislation; two academic experts; the Vice Governor of the Bank of Slovenia, the Vice President of the Chamber of Commerce and Industry and the Slovenian Ambassador to the EU.</i>
<b>Poland</b>	<i>Chief Negotiator and Secretary of the Negotiation Team, deputy ministers or state secretaries from key liner ministries (Foreign Affairs, Finance, Economy, Agriculture, Labour, Justice, Interior, Transport, Environment, Telecommunications and Government Center for Strategic Studies). The representatives of the Office for Consumer and Competition Protection, Plenipotentiary representative of the Government for family affairs, representative of Poland in the EU, representative of the Office of the Prime Minister, undersecretary in the Ministry of Health and undersecretary in the Ministry of Education.</i>

<b>Czech Republic</b>	<i>Four diplomats of the Ministry of Foreign Affairs (including the Chief Negotiator), high-level civil servants from the Ministries of Finance, Trade and Industry, Justice, Interior, Agriculture, from the Centre for Environmental Issues at the Charles University, from the Czech National Bank and a representative of the Deputy Prime Minister for Economic Policy.</i>
<b>Hungary</b>	<i>Permanent members of the Negotiation Team: the State Secretary heading the State Secretariat for European Integration, Ministry of Foreign Affairs, the Chief Negotiator who also leads the Hungarian Mission to the EU, high-level civil servants from the Ministries of Foreign Affairs (4), Finance (1), Justice (1), Agriculture and Rural Development (2), Interior (1), Transport, Communication and Water Management (1), Environment (1) and from the Hungarian Committee for Norms (1). Temporary members of the team were the State Secretary for Politics from the Office of the Prime Minister and Vice President of the Hungarian National Bank.</i>
<b>Croatia</b>	<i>The Negotiation Team consists of diplomats in the Mission of Croatia to the European Union 11 members of the state institutions, two from science sector and two from economic interest groups.</i>
<b>Estonia</b>	<i>The Negotiation Team consists of the Main Delegation and the Heads of 21 Working Groups. Members of the Main Delegation were the Minister of Foreign Affairs, the Deputy Secretary General in the Ministry of Foreign Affairs (Deputy Head of the Delegation and Chief Negotiator), civil servants from 11 line Ministries, the Head of the Office for European Integration of the State Chancellery, and the Head of the Estonian Mission to the EU.</i>
<b>Letonia</b>	<i>Minister of Foreign Affairs, Deputy State Secretary in the Ministry of Foreign Affairs, Chief of Mission to the EU, Head of the Secretariat of the Delegation fore Accession Negotiations with the EU, Secretary of Parliament, Director of EU Department in the Ministry of Foreign Affairs, Deputy State Secretaries from the Ministries of Economy, Finance, Interior, Social Protection, Transport, Justice, Environment Protection and Regional Development, Deputy Head of the Secretariat for the Special Tasks, Minister for Public Administration and Local Government, Head of the Department for International Relations, Director of the Bureau for European Integration.</i>

Members of the Negotiation Team, in all these countries were also members of other bodies that were directly involved in the negotiations with the European Union.

In fact, two members of the Negotiation Team of Slovenia were also employed in the Government Office for European Affairs. Poland's Chief Negotiator, along with the Prime Minister and Minister of Foreign Affairs, was a member of the Political Committee - a body that discussed political priorities before they were submitted to the Committee for European Integration, while the Head of Mission of Poland to the EU was a member of the Negotiation Team. In the Czech Republic, some members of the Negotiation Team were present in the Working Committee for European Integration, while the Estonia's Negotiation Team composed of the Head of the Mission to the EU and Head of European Integration Office as well. In Hungary, we had a situation where the Chief Negotiator of the Negotiation Team was also Head of the Hungarian Mission to the EU, while another team member was a State Secretary who headed the State Secretariat for European Integration. In the Croatian Negotiation Team, as indicated in the table, the Chief Negotiator and Deputy Head of the State Delegation of the Republic of Croatia for Negotiations on the Accession of the European Union, was also a member of the Coordinating Committee ex officio.

If we look at the previous table, it is of crucial importance the fact that civil society representatives were included in the composition of the team in countries with similar legal and institutional legacy to the one in Montenegro.

Namely, in Slovenia, Vice President of the Chamber of Commerce and Industry was a member of the team; in Croatia, there were two representatives from the academic sector and two from economic interest groups; in the Czech Republic, a member of the Negotiation Team was a representative of the Center for Environmental Protection from the Charles University. An interesting example of protecting the citizens' interests was certainly Poland, where the team was composed of representative of the Office of Consumer and Competition Protection.

*In Montenegro, there is insufficient capacity and human resources to form a Negotiation Team that would exclude the civil sector. Such a small society should seek for specific knowledge in non-governmental organizations, universities, trade unions and business associations in order for the process to include experts from all areas of the negotiating chapters and all interests to be equally represented and taken into account in the formulation of negotiating positions. Therefore, CDT recommends that an elected representative of the civil sector finds its place in the negotiation team, and that civil society is certainly invited to get involved in the process of drafting negotiating positions at the level of working groups and through processes of regular consultations.*

### **2.3. NEGOTIATING POSITIONS**

The negotiations between a candidate country and the EU are conducted on the basis of negotiating positions that are developed for each chapter, based on the results of the analytical examination (screening).

The publicity of negotiating positions is a delicate question for there are arguments for and against publication of the contents of negotiating positions. The results showed that in Slovenia, the Czech Republic and Slovakia, negotiating positions were published in its entirety. In Estonia, the content of the negotiating position was not published, while in Hungary, it was published only after the submission of positions, so as not to harm the outcome of the negotiations.

*The practice of publication of negotiating positions is correct and preferable. The citizens need to know which interests are advocated for and what Montenegro wants to achieve in negotiations. Also, citizens must get an insight into the abilities of their elected representatives to achieve the desired success in the negotiations. The publicity of negotiating positions would mean that the negotiation process is transparent and that it seeks for establishing a better contact with the public, which, at the end of the day, would be most affected by negotiating positions.*

*Naturally, the only exception to this practice should be those situations where the disclosure of positions could really harm the outcome of negotiations.*

Successful and transparent process of formulation and acceptance of negotiating positions requires good organization and well-prepared and competent actors of the negotiation process.

In countries that were included in the research, the process of adopting negotiating positions would begin in the working groups that formulated the first draft of a negotiating position for each chapter, and then they would submit their positions to the negotiation team for consideration. After that they would be forwarded to an appropriate body responsible for the adoption of negotiating positions, which, in most cases, was the Government.

<b>Slovenia</b>	<i>The Negotiation Team was responsible for the adoption of drafts of negotiating positions, and it consisted of 31 working groups headed by high state officials from line ministries and other state institutions. Negotiating positions were aligned at the meetings of working groups and formulated with active participation of respective ministries.</i>
<b>Poland</b>	<i>Inter-ministerial working groups prepare negotiating positions for each chapter of the acquis. Working groups submit those positions to the negotiation tea. If a position has been adopted by the Negotiation Team, two Working Groups led by the Ministry of Finance and the Centre for Strategic Studies verify the costs attached to the position. Then the positions are discussed in the inter-ministerial Committee of European Integration. The Committee submits them to the Council of Ministers which decides on the adoption of the position.</i>
<b>Czech Republic</b>	<i>The line Ministry representatives heading the Working Groups submit the proposals to the Working Committee. If questions arise in the Committee, the proposals may be referred back to the Working Groups for clarification. If the Working Committee agrees on a negotiating position, the Chief Negotiator submits the position to the Committee for European Integration for a decision.</i>
<b>Hungary</b>	<i>Working groups formulate the first draft of negotiating positions and usually they submit them to the negotiation delegation for discussion. If the delegation adopts the text of the negotiating position, the Ministry of Foreign Affairs would submit the position to the Cabinet for a decision.</i>

<p><b>Estonia</b></p>	<p><i>The Negotiation Team coordinates the formulation of the positions, while working groups, at times together with outside experts and independent intellectuals, prepare negotiating positions. Positions are formulated by the Ministry of Foreign Affairs and formally adopted by the Cabinet. If a position needs to be changed in the course of the negotiations, the Cabinet has to re-adopt it.</i></p>
<p><b>Croatia</b></p>	<p><i>Working groups participate in analytical examination and assessment of conformity of the legislation of the Republic of Croatia with the EU legislation, as well as in preparing draft negotiating positions. The negotiation team also adopts draft proposals for negotiating positions, and then refers them to the Coordination for Accession Negotiations of the Republic of Croatia to the European Union. Coordination considers draft negotiation positions, which were submitted by the negotiation team before their referral to the National Committee for Monitoring Negotiations on Accession of the Republic of Croatia to the EU as well as proposals for negotiating positions before their referral to the Government of the Republic of Croatia for adoption. The Government of the Republic of Croatia adopts negotiating positions. Then, via the Secretariat of inter-governmental conference they are submitted to the European Union, which, if needed, may ask for additional explanations and information on a negotiating position, and in that case they are adopted by the Government of the Republic of Croatia and then submitted to the EU.</i></p>

When it comes to the way how the decisions are made in the Negotiation Team or how negotiating positions are formulated, the research has found that decisions were often made by consensus, while in contentious cases, the decision was made by the Government (Slovenia).

It is an important and interesting fact that in Slovenia, apart from the Government, negotiating positions were also adopted by the Parliament. Also, if the position was changed in the course of the negotiations, Parliament had to be asked for a new mandate. As for Croatia, the Croatian Parliament did not adopt negotiating positions, but the parliamentary committee responsible for monitoring the negotiations discussed about all the negotiating positions prior to their adoption by the Government.

*Involvement of Parliament in the formulation of negotiating positions is a good example of a contribution to the democratic character and transparency of the negotiation process, and Montenegro should be led by this example. However, in order to make such a thing possible, it is necessary to give Parliament a real and not illusory political responsibility for decisions made. Also, the parliament must have necessary capacity to play such an important role, starting from the competent personnel to the process of adoption of decisions. From all this it can be concluded that it is necessary to significantly improve the capacity and responsibility of the Parliament of Montenegro in order to adequately prepare it for the role it will have in future negotiations.*

*In order to even start thinking about these functions of our Parliament – this body has to make a clear statement about the role the Parliament would like to have and the role it should have in the negotiation process. As an institution that is most important for a democratic character of a process, Parliament must be realistic in assessing its capabilities and needs, so that they could be duly co-ordinated. For now, there are no indications on the position of the Parliament on this issue.*

Another interesting example can be found in Poland, where the Ministry of Finance was involved in the process of formulating negotiation positions, which verified costs attached to a certain negotiating position.

*CDT believes that Montenegro should be led this example because we must know what is the price of each of future positions and how much it's adoption will cost the Montenegrin budget. Also, such an action would demonstrate that actors of the negotiation process show accountability towards Montenegrin citizens, who have the right to be informed about the costs resulting from the adoption of negotiating positions, and the right to have, at all times, at their disposal all the relevant information about a financial component of the process.*

## 2.4. POLITICAL COORDINATION

*Namely, political coordination is the task of selecting the strategic objectives and setting the political priorities of the Government for the negotiation process and communicating them to the domestic public and the EU. In other words, political coordination includes concrete strategies for specific sectors and their harmonization with defined priorities, as well as the development of the communication strategy with the citizens.*

In order to establish an effective national structure for the negotiation process with the EU a special attention needs to be paid to a very important issue – under whose jurisdiction political coordination of the process will be, that is, whether this role will be entrusted to an already existing body, or to a newly formed one.

In Slovenia, Hungary and Croatia, there was no special body with the role of political coordination, but the Government, with help of certain bodies, was in charge of this process. Unlike these countries, Slovakia, Poland, the Czech Republic and Estonia established special bodies in charge of political coordination, and they were headed either by the Prime Minister (Poland, Estonia) or the Minister of Foreign Affairs (Czech Republic).

In *Poland*, they established the Political Committee, which discussed political priorities before they were presented to the Committee for European Integration headed by the Prime Minister. Members of the Political Committee were: the Chief Negotiator of the Polish negotiation team, Prime Minister and Minister of Foreign Affairs.

The Office of the Committee for European Integration with about 200 staff was formed to support the working bodies responsible for political coordination. The Committee was headed by the Secretary of the Committee for European Integration. The Office coordinated the legislation related to the EU accession, supervised the conformity of legislation with the European legislation, managed the implementation of the foreign aid programme and coordinated the implementation of the European Treaty.

In the *Czech Republic*, they established the Committee for European Integration, which consisted of 12 members, headed by the Minister of Foreign Affairs. The main tasks of the Committee referred to the coordination of the preparation of the Czech Republic for the EU membership, to the debate about priorities in the negotiations, overseeing the process of legal harmonization and coordination of the various ministerial departments in their relations with the EU Institutions.

Also, in order to assist in the process of political coordination, the Working Committee for European Integration was formed, with about 30 employees, headed by the First Deputy Minister of Foreign Affairs.

In *Estonia*, they formed the Office for European Integration, which was headed by the Prime Minister. This body was responsible for coordination of national preparations aiming to ensure cooperation of line ministries in policy making.

Also, the Council of Senior Civil Servants, which was in 2003 renamed in the Council for Inter-ministerial Coordination led by the Head of the Department for European Integration. The members of this body were senior representatives from all line Ministries (except the Ministry of Defence), the Estonian National Bank and the Head of the Office for European Integration. The role of this body was to coordinate the implementation of the National Programme for Adopting the Acquis and the Accession Partnership commitments. The Council prepared the National Programme for the adoption of the *acquis*, after which it was submitted to Cabinet.

The Commission of Ministers for EU Affairs was established to support the process of political coordination. It was formed with the aim to further support the system of coordination between the Council of Senior Civil Servants and the Government. It was responsible for resolving the problems of political nature, which did not require the involvement of all the Government members and which were easier to discuss outside the regular session of the Government.

The Secretariat for Information of the European Union was established within the Office for European Integration, whose role was to inform the public about the details of the accession process. The role of this body was not to provide direct support to political coordination, but significantly contributed to the involvement of the public in the process.

In *Slovakia*, they established Ministerial Council for European Integration headed by the Deputy Prime Minister responsible for European integration. This body consists of the Ministers of Foreign Affairs, Economy, Finance, Agriculture, Interior and State Secretary for Foreign Affairs who was also the Head of the negotiation team. The Council prepared decisions of politically important issues and coordinated the authorities of the state administration which were involved in the process of European integration.

The Working Committee and the Consultative Committee were established within the Ministerial Council for European Integration. The Consultative Committee of the Ministerial Council for European Integration was the body which was composed of representatives of academic institutions, trade unions, employers' union and non-governmental organizations. This was a unique body headed by the Deputy Prime Minister responsible for European integration, which could consider not only the formal proposals, but also proposals of independent experts in various fields

*Attached you can see a part of the questionnaire for contact persons related to political co-ordination, which was responded by the Secretariat of the Negotiation Team of the Republic of Croatia.*

## 2. POLITICAL COORDINATION

(Political coordination is the task of selecting the strategic objectives and setting the political priorities of the Government for the negotiation process and communicating them to the domestic public and the EU)

### 1. Was a special body formed with the role of political coordination? (If yes – please explain)

No.

### 2. If a special body with the role of political coordination wasn't formed, which existing body had this role?

This was the role of the Government of the Republic of Croatia.

**3. Was a special body formed whose purpose was to give support to the bodies related to political coordination? (If yes – please explain)**

Yes; this was one of the roles of the State Delegation of the Republic of Croatia for Negotiations on the Accession of the Republic of Croatia to the European Union.

As it can be seen from the above excerpt of the Questionnaire, a special body responsible for political coordination was not established in Croatia, instead it was the responsibility of the Government, with the assistance of the State Delegation of the Republic of Croatia for Negotiations on the Accession of the European Union. The State Delegation was subordinated to the Government and it operated on the bases of Guidelines for Negotiations adopted by the Government, and conclusions of the Coordination for negotiations on Accession of the Republic of Croatia to the European Union. This body conducts direct political discussions and negotiations with Member States and European Union institutions and is responsible for a successful course of negotiations on all chapters.

The State Delegation was obliged to submit to the Croatian Government the report on the status of negotiations after each bilateral meeting of the Inter-governmental Conference of the Republic of Croatia and the EU member states at ministerial level, as well as special reports, if requested by the Croatian Government.

The Head of the State Delegation of the Republic of Croatia for Negotiations on the Accession of the European Union was the Deputy Prime Minister and Minister of Foreign Affairs and European Integration, and other members were the Deputy Head of the Delegation who was also the Chief Negotiator, Deputy Chief Negotiator, Head of Mission of the Republic of Croatia to the EU and Secretary of the Negotiation Assembly.

In *Slovenia*, no separate body was formed for this purpose, but the Government and the Negotiation Team were responsible for political coordination.

In *Hungary*, the State Secretariat for European Integration of the Ministry of Foreign Affairs, in close cooperation with the Office of the Prime Minister, was responsible for political coordination. The State Secretariat coordinated the preparation of the

Hungarian negotiation positions and organized the work of the Delegation. It had approximately 100 staff and was headed by a State Secretary. Its Head and two deputy heads were appointed by the Prime Minister upon the proposal of the Minister of Foreign Affairs.

The Cabinet would take binding decisions on questions of accession negotiations and adopt the mandates for the negotiation positions and for the screening of each chapter of the *acquis*. The Inter-ministerial Committee for European Integration headed by the Deputy State Secretary for European Integration of the Ministry of Foreign Affairs played an important role in supporting the working bodies responsible for political coordination. The Committee composed of Deputy State Secretaries from all line Ministries and the State Secretary in the Ministry of Foreign Affairs and European Integration. This Committee provided for inter-ministerial coordination with respect to the implementation of commitments accepted by Hungary in the European Treaty and in the framework of the accession negotiations.

*As noted above, an important part of policy coordination implies the development of the communication strategy with citizens, thus it is necessary to pay special emphasis to this process. Namely, the decision on accession to the European Union will, ultimately, be the decision of Montenegrin citizens in the referendum, and for this reason it is of crucial importance to reach a consensus at the national level on this issue. It is important to explain to the citizens in the right way what the accession will bring and what its benefits and potential risks are. Also, it is important that citizens understand that the accession negotiations are difficult, and that they entail a series of trade-offs and compromises, and for these reasons it is therefore necessary to inform the public about the negotiating positions and their meanings, as well as with the entire negotiation process, for Montenegro will get what it itself negotiations, and citizens, at the end of the day, will vote and decide whether such Montenegro will become a part of the EU.*

## 2.5. PROCEDURAL ASPECTS OF COORDINATION

*Process coordination implies the management of the formulation of negotiation positions and participation of all relevant interests and actors at the appropriate stage of the negotiation process.*

The most important element of this coordination are working groups, i.e. groups within which the first draft negotiating positions are drafted. They are composed of experts of all different areas subject to the EU accession negotiations. The research has shown that the number of working groups formed for the process of accession negotiations, in countries covered with the research, usually corresponds to the number of negotiation chapters.

<b>Slovenia</b>	<i>31 working groups</i>
<b>Poland</b>	<i>38 working groups</i>
<b>Czech Republic</b>	<i>31 working groups</i>
<b>Hungary</b>	<i>31 working groups</i>
<b>Croatia</b>	<i>35 working groups</i>
<b>Estonia</b>	<i>31 working groups</i>
<b>Slovakia</b>	<i>29 working groups</i>
<b>Letonia</b>	<i>31 working groups</i>

In the following text, we will put an emphasis on the composition of the working groups and the way of formulating negotiating positions in those groups.

### 2.5.1. COMPOSITION OF WORKING GROUPS

The composition of working groups in the countries that were covered by the research consisted of civil servants from the line ministries and government agencies (Poland, Hungary), while in some working groups, apart from civil servants, there were also the representatives of the civil society (academic institutions and representatives of interest organizations in Estonia and Croatia, and representatives of trade unions in Slovenia).

Also, in Hungary, although external experts and representatives of interest groups were not formal members of the working groups, they were included in the process of analyzing and preparing draft Hungarian negotiating positions.

In the most of the above mentioned countries, the working groups were led by civil servants from the line ministries or other state institutions, but there were also cases where experts from the academic community or representatives of interest groups headed the working groups, such as it was the case in the Czech Republic. In Poland, Inter-ministerial team, which consisted of 38 operational working groups, was led by the Prime Minister.

<b>Slovenia</b>	<i>Working groups were headed by high-ranking civil servants from the line ministries and other state institutions.</i>
<b>Poland</b>	<i>Inter-ministerial team, which was composed of 38 operational groups, was headed by Prime Minister.</i>
<b>Czech Republic</b>	<i>Working groups were headed by representatives of ministries responsible for certain chapters, academic experts and representatives of interest groups.</i>
<b>Hungary</b>	<i>Working groups were headed by civil servants from relevant line ministries.</i>
<b>Croatia</b>	<i>Working groups were headed by the chief, who managed the work of working groups in agreement with a member of the negotiation team who was in charge of coordination of an individual negotiation chapter.</i>
<b>Estonia</b>	<i>Working groups were headed by the officials from ministries or state administration, who were also members of the negotiation team.</i>

The criterion for the selection of working group members is of crucial importance, for the quality of negotiating positions depends on their competences and proficiency.

<b>Slovenia</b>
<i>One of the key criteria was the absence of any affiliation to a political party.</i>

<b>Estonia</b>
<i>Civil servants from line ministries and state agencies, which were professionally and legally competent for specific chapter of the EU legislation, were selected members of working groups.</i>

*CDT believes that the working groups should include representatives of NGOs, universities, trade unions and business associations, but, obviously, in much bigger numbers than in the Negotiation team. Once again, we would like to emphasize that the Montenegrin society is a small society that must not stay closed when it comes to such important decisions, because there is not enough experts for all areas that will be subject to negotiations, especially if representatives of civil sector are excluded from working groups. The main criterion for the selection of working group members should be their level of proficiency and professionalism.*

*In addition, we consider that it is necessary to organize regular consultations between working group members and all relevant experts and representatives of civil sector when it comes to the areas of their expertise, in order to formulate the best drafts of negotiating positions. This is the only way to accumulate the highest level of knowledge from all relevant areas and to formulate high quality negotiation positions in a professional and efficient way.*

You can find in the below annex a part of the questionnaire submitted to contact persons that was related to procedural aspects of coordination.

*Response: Parliament, Estonia*

### **3. PROCESS COORDINATION**

(Process coordination shall be understood here as the management of the formulation of negotiation positions, facilitating the optimized participation of all relevant interests and actors at the most appropriate stage of the negotiation process.)

#### **1. How many working groups were formed in order to deal with the negotiation process?**

There were 31 working groups.

#### **2. Have the working groups been independent in their work or integrated into the Negotiation Team?**

It was connected with the Team but not directly integrated. Their work was mostly independent in this sense that their work was to conduct a thorough analysis of the EU *acquis* and Estonian legislation. However, their work was mostly coincided with the negotiating chapters. Their work was also to implement the commitments taken during the negotiations.

**3. Were the Chiefs of the working groups also formal members of the Negotiation Team?**

Yes. Working groups heads/chiefs were members of the Negotiation Team (there were 34 of them). The representatives of the ministries were also members of the Team.

**4. In which way the cooperation between the working groups and the representatives of the Mission to the EU was regulated?**

**5. Was a document regarding the details of formulation of the negotiation positions adopted?**

The Europe Agreement was the legal basis for relations between Estonia and the European Union throughout the accession process.

*Respondant: Lubomir Fajtak, Slovakia, Director of Parliamentary Institute of the National Council*

**3. PROCESS COORDINATION**

**1. How many working groups were formed in order to deal with the negotiation process?**

For each Negotiation Chapter one – all together 29.

**2. Have the working groups been independent in their work or integrated into the Negotiation Team?**

**3. Were the Chiefs of the working groups also formal members of the Negotiation Team?**

Yes.

**4. In which way the cooperation between the working groups and the representatives of the Mission to the EU was regulated?**

The Head of the Mission to the EU in Brussels was a member of the Negotiation Team.

**5. Was a document regarding the details of formulation of the negotiation positions adopted?**

The negotiation positions were adopted by the Government.

## 2.5.2. HARMONIZATION OF POSITIONS IN WORKING GROUPS

It is necessary to consider the most successful method of formulating and harmonizing the draft negotiating positions within the working groups.

We can find good practice examples in Slovenia and Croatia, where the negotiating positions were formulated at the working groups' meetings, which also included civil society, in cooperation with government authorities or other bodies that were carriers of individual chapters. It means that they were formulated through an intensive cooperation and with political responsibility of many respective stakeholders included in the process.

In addition, it is necessary to define the procedures and mechanisms to be used in case of disagreement during the formulation and harmonization of negotiating positions, and in the case a position is changed in the course of negotiations.

A good solution to this problem can be found in Slovenia, where it was necessary to get a new mandate from Parliament if in a negotiating position suffered a change in the course of negotiations. This good practice is feasible only in the event that, as noted above, the Parliament has true political responsibility in the process of accession negotiations and administrative, organizational and other capacities that will enable it to perform these important and complex functions.

### *Hungary*

*Working groups prepared negotiations, elaborated the Hungarian draft negotiating positions and submitted them to the Chief Negotiator and provided for the operational management in Brussels. They involved also outside experts and interest group representatives. If disputes arose in an Expert Delegation, the issue was referred to the Conference of Administrative State Secretaries. If an issue couldn't be solved at this level, the Cabinet would decide.*

### *Estonia*

*The Working Groups formulated the first drafts negotiating positions, after they examined the acquis together with the Commission in the framework of the screening process and analysed Estonian legislation. The drafts were submitted to the negotiation team for discussion, and if accepted, the Minister of Foreign Affairs would submit them to the Cabinet to decide.*

### 2.5.3. BODIES SUPPORTING NEGOTIATION STRUCTURES

The formation of bodies that will provide support to the negotiation structures (or assignment of responsibilities to some of the existing ones) is of great importance because their role, inter alia, is to advise and prepare key bodies (Latvia) and persons in this process particularly when it comes to delicate political issues (Poland), to provide logistical support to the negotiation structure and establish contacts at different levels (Croatia), as well as to establish communication and consultations with the representatives of civil sector (Hungary, Estonia, Latvia).

<b>Poland</b>	<b>National Council for European Integration</b>
	<i>Prime Minister appointed members among the representatives of social and expert organizations and scientific circles. Main tasks of this body were related to supporting the Government with the issues related to the EU accession and advising Prime Minister on delicate political issues.</i>
<b>Estonia</b>	<b>Council for Consultations with Organizations of Civil Sector</b>
	<i>The role of these bodies was related to the establishing communication between the Government and civil society organizations, such as bussines associations and trade unions.</i>
<b>Hungary</b>	<b>European Integration Council</b>
	<i>This body consisted of the trade unions and business associations and it role was to provide consultation, mutual information and exchange of opinion on issues of EU accession.</i>
	<b>Strategic Working Group</b>
	<i>This working group, composed of NGO representatives, existed until 1998 and was coordinated by the Prime Minister's Office. Strategic Working Group provided background studies for some Expert Delegations</i>

<b>Croatia</b>	<b>Secretariat of Negotiation Team</b>
	<i>This body played the role of a “point of convergence” that was finding and connecting the responsible partners between the institutions. It thus acted as a network point for horizontal contacts (e.g. between working groups and line ministries) as well as for the vertical communication with EU institutions in Brussels.</i>

It is necessary to carefully consider the composition and competences of the bodies responsible for providing support to the negotiation structures and determine whether these bodies have administrative or consultative role, or well-coordinated both of the roles. In fact, these bodies can be an excellent way of improving communication with the civil society and another level of their involvement in the negotiation process.

## 2.6. MISSIONS TO THE EUROPEAN UNION

A very important segment of the negotiation structure is certainly the Mission to the European Union, the main role of which was to ensure an effective exchange of information and improve communication channels between a candidate country and Brussels.

Important issues that need to be considered when it comes to the Mission to the EU certainly refer to the composition of the mission, the selection of the head of the mission, and also, the divisions (departments) for different policies and areas that the mission would cover, and based on that, decide who the members will be and how many members each department will have.

When it comes to the number of members of the mission the research showed the following: in Slovenia in 2003, there were 20 members of the mission; in Poland, 18 members; in Estonia, at the beginning of there were 12 and then 80, while in Hungary, there weres 23 at the beginning and later about 100 members.

Regarding the selection of the head of the mission, in Poland, the Head of the Mission was a member of the Negotiation Team; in Hungary, the Chief Negotiator of the Negotiation Team, which further enhanced and facilitated the communication between the Mission itself and the Negotiation Team. The Croatian and Estonian Missions were headed by ambassadors.

The role of the *Polish Mission to the EU* was not as strong as the Hungarian one, where the Head of the Mission was also the Chief Negotiator. As noted above, the Head of the Polish Mission to the EU was a member of the Negotiation Team.

Members of the diplomatic staff of the mission were delegated from the Ministry of Foreign Affairs, for a period of four to five years, and only a small number of members were delegated from other ministries.

Given that the need for more expert staff was constantly increasing, it was necessary to increase the number of members of the mission, too. Some experts went to Brussels thanks to specific needs that would arise during negotiations.

The mission consisted of nine departments, of which the largest one was in charge of political and economic affairs, while the smallest department was in charge of social affairs.

The role of the mission referred to the mediation in the information flow between the Government and the EU institutions, provision of support to the Chief Negotiator, the organization of visits of the Polish delegations in Brussels, as well as cooperation in matters related to diplomatic activities.

In December 2001, Marek Grela, who was considered a close associate of the Prime Minister, was newly appointed Ambassador. The appointment of members of the mission, that is, representatives in Brussels, was a very politicized decision and only a few months after the change of the government, almost all key positions in EU related decision-making were replaced.

*The Mission of Hungary to the EU* was established in 1990. Developments in the EU negotiation process influenced an increase in the number of members of the mission and, therefore, at the very beginning there were 23 members, and in the final phase of negotiations there were as many as 100 members.

Half of the members of the mission were a part of the Ministry of Foreign Affairs, while the other half consisted of experts in specific fields, appointed by the line ministries, who were responsible for one or more areas. The work of the mission was organized in three departments – Political Department, Department for Community Policies and Department for Industrial and Trade Policy.

The Hungarian Mission to the EU had an excellent cooperation with the working groups, in a way that each working group had its contact person in the mission in Brussels. This significantly facilitated and improved communication at different levels, and thus contributed to a better and more efficient organization of the negotiations.

*The Mission of Estonia to the EU* was established in 1996, with the aim to promote and facilitate the process of accession to the European Union through the exchange of information between the EU institutions and the Government.

The mission comprised 20 members, without a clear hierarchical structure. It was divided into three departments – Department in charge of political affairs and security policy (under the Ministry of Foreign Affairs), Department that was composed of the division for economy, culture and education (with representatives from the Ministry of Foreign Affairs and line ministries) and the division for administrative and technical issues.

The Ambassador, who was in charge of negotiations, coordinated the activities of the mission. However, the line ministries were also issuing tasks for members of the mission. In terms of providing administrative support, and in terms of meeting the given tasks, the mission members were subordinated to the ambassador.

*The Mission of Croatia to the EU* headed by the Ambassador Branko Baricevic comprised of Political Department (14 members), Sectoral Department (22 members), Department for Public Relations (two members), Administrative-Technical Department (two members) and Office of the Chief Negotiator (five members).

*Montenegro should make, as soon as possible, a development and programme plan of the Mission to the EU, in order to have an adequate representation and advocacy of interests in Brussels. It is necessary to build and further develop the Mission structure, in order to enable it to fulfil its role efficiently. The key thing here is the engagement of the right people who are experts for certain and the most important areas, which would be divided in sectors, i.e. departments that will make up the Mission. As noted above, we have an extremely useful example of cooperation of the Mission to the EU and working groups, in Hungary, where each working group had a contact person in the Mission in Brussels, while 17 employees in the Mission were civil servants from various ministries who had expert knowledge in specific areas.*

*In order for Montenegro to establish a high quality communication between national negotiation structures and the Mission in Brussels, it must expand capacity and build the structure of the mission and prepare for future challenges of the negotiation process.*

*In the below annex, you can take a look at responses to a part of Questionnaire related to procedural aspects of coordination, which were replied by the Secretariat of the Negotiation Team of the Republic of Croatia.*

### **3. PROCESS COORDINATION**

(Process coordination shall be understood here as the management of the formulation of negotiation positions, facilitating the optimized participation of all relevant interests and actors at the most appropriate stage of the negotiation process.)

#### **1. How many working groups were formed in order to deal with the negotiation process?**

Their number equaled the number of negotiating chapters of the acquis – 35.

#### **2. Have the working groups been independent in their work or integrated into the Negotiation Team?**

The working groups, headed by the Chief of working group, were independent in their expert work. However, Negotiator for each, or group of negotiating chapters was formal member of the Negotiating Team.

#### **3. Were the Chiefs of working groups also formal members of the Negotiation Team?**

No.

**4. In which way the cooperation between the working groups and the representatives of the Mission to the EU was regulated?**

Through the Ministry of Foreign Affairs and European Integration, namely via Secretariat of the Negotiating Team and the Directorate for Coordination and Monitoring of Adaptation to EU Legal System and of Implementation of the Stabilization and Association Agreement, as well as the Office of the Chief Negotiator.

**5. Was a document regarding the details of formulation of the negotiation positions adopted?**

Substantive negotiations were conducted based on the EU's and the Republic of Croatia's negotiating positions, prepared in line with the screening results for each chapter. In each negotiating chapter, the Republic of Croatia as the candidate country was the first to present its negotiating position, in which the plan and mode of adoption and implementation of the *acquis* was specified, along with a description of institutional capacity.

*Procedure for drafting and adopting of the Croatian Negotiating positions has been set in the Governmental Decision from 2005.*

**\* ADDITIONAL INFORMATION**

*While waiting for the official opening of the negotiations, on 7 April 2005 the Croatian Government established a structure for negotiations and defined the composition and the scope of responsibility of the bodies constituting the structure. These were as follows:*

- *The State Delegation of the Republic of Croatia for Negotiations on the Accession of the Republic of Croatia to the European Union;*
- *The Coordinating Committee on the Accession of the Republic of Croatia to the European Union;*
- *Negotiating Team for the Accession of the Republic of Croatia to the European Union*
- *Working Groups for the Preparation of Negotiations on Individual Chapters (35) of *acquis*;*
- *Office of the Chief Negotiator;*
- *Secretariat of the Negotiating Team.*

*For each individual chapter of negotiations, state government bodies and other institutions—depending on their competences—were nominated responsible and/or co-responsible authorities. Their tasks consisted of coordinating all relevant actors and providing expert and technical assistance to the Negotiating Team and working groups.*

## 2.7. THE ROLE OF PARLIAMENT IN ACCESSION NEGOTIATIONS

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One of the key factors that will have impact on raising transparency and democratic character of the process of negotiations will certainly be the role of Parliament as the representative body of citizens.

It is the fact that the very process of negotiations should not be “the executive right of executive authorities” but that it should serve to strengthen democratic character of decisions by including as many relevant actors and institutions as possible, among which Parliament is certainly one of the most important.

First of all, document that will regulate all aspects of cooperation between the Government and Parliament should be adopted, and thereby formalize their relationship and roles in the negotiation process.

In Slovenia and Croatia these documents were adopted and have proved to be very useful for regulating the relations between these institutions.

Namely, in Slovenia, the cooperation between Parliament and the Government are regulated by the Act on Cooperation between the National Assembly and Government in EU Affairs which came into force on 23 April 2004, which was adopted based on Article 3a of the Constitution.

In Croatia the relationship between the Government and Parliament was formalized on 19 January 2005 through the Statement by the Croatian Parliament and the Government of the Republic of Croatia on Joint Actions in the Process of Negotiation on Full Membership in the European Union.

General consensus of all political parties in Parliament was confirmed by a Joint Statement of all political parties on the Beginning of Negotiations between Croatia and the European Union in December 2004. After that in 2005 the Declaration on the Fundamental Principles of Negotiations on Full Membership of the Republic of Croatia in the European Union, the above mentioned Statement as well as the Decision on the Establishment of the National Committee for Monitoring the Accession Negotiations.

Also, the parliaments of Croatia and Slovakia have adopted the documents which regulate their own role in the negotiation process. In Croatia, it was the already mentioned Declaration on Fundamental Principles of Negotiations on Full Membership of the Republic of Croatia in the European Union, and in Slovakia several documents with this function were adopted: the Main Tasks of the National Council in the Process of Approximation of Slovak Law to Community Law (1996), the National Council and its Role in the Integration Process (1999) and “Euro-Amendment” to the Constitution of the Slovak Republic .

The Parliament of Montenegro has adopted the Action Plan for Strengthening of the Legislative and Oversight Role of the Parliament for the period November 2010 - November 2011. According to this Action Plan, the Parliament should adopt a document that would regulate its role in the process of negotiations with the EU, but significant steps in this direction have not been undertaken yet.

*Although they have not been adopted in all countries that have gone through the negotiation process, the documents of this type are extremely important and desirable, because they formalize the relationship between institutions, define their responsibilities in the process and significantly reduce the possibility of any potential misunderstandings or override of powers. Besides this, in this way the Parliament will be given a real political responsibility, which will allow its serious involvement in all aspects of the negotiation process for which it is responsible.*

Furthermore, in almost all parliaments of the countries which were in the focus of the research, there was established the practice to prioritize law proposals aimed at harmonization and to adopt them in shortened procedure.

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<sup>2</sup> The main tasks of the National Council is the process of Approxiamtion of Slovak Law to Community Law (1996)

<sup>3</sup> “Euro-amendment” of the Constitution of the Slovak Republic (2001)

*Even though this is of enormous importance for the process of harmonization of legislation, other, less positive aspects should be also considered. Namely, in order to make this practice really efficient, it is necessary to make a balance between the speed of adoption and discussion on law proposals so that the new laws would not remain only dead letter on paper. If due to the emergency procedures a fundamental debate in committees is skipped, this will have a significant impact on the quality of decision making. This situation would lead to a gap between legislation and actual capacities of their implementation, which would, also, be a big step backwards on the road of Montenegro's accession to the European Union. Therefore, it is necessary to strengthen legislative and oversight functions of the Parliament. According to the opinion of the European Commission, the Parliament is still not fully utilizing all available mechanisms to improve the oversight function. The improvement of capacities of the Parliament is the only way to make it stop being only a voting machine and to begin to fulfill its function effectively, not only in the negotiation process, but also after it.*

The research has shown that the roles of Parliaments in these countries were related to consultative and oversight functions. Also, these Parliaments conducted some very responsible and demanding activities within the scope of their competence such as giving opinions on negotiating positions and making reports on the progress of negotiations, for which good awareness and organization of Parliament were of key importance. The unique example was Slovenia, whose Parliament was most actively involved in the negotiation process and which, among other things, adopted drafts negotiating positions. Also, if in Slovenia during the negotiations the negotiating position had changed, the new mandate of the Parliament would have been sought.

In Parliaments of all countries that were in the focus of the research Parliamentary Committees which dealt with the matters of accession negotiations were established. These Committees had different demanding functions including the following: making their own progress reports, presentations of public opinion on the issues in the area of the European integration, organization of debates on the laws of the European Union, maintaining communication with parliamentary authorities from the EU countries, etc.

An interesting example is the Croatian Committee for Monitoring the Accession Negotiations which consisted, in addition to the representatives of political parties, of the members of trade unions, associations of employers and academic community. In Slovenia, the civil sector representatives were allowed to be invited to participate in the discussion of specific agenda items that were in the sphere of their interests, while in Poland, members of NGOs were involved only at the level of working groups, although they did not have access to the entire content of negotiating positions. Also, in Poland and Croatia members of Negotiation Teams could take part in the work of the Committee in the discussions relating to the European integration and the process of negotiation with the EU.

The Committee meetings in Slovakia and Hungary (except in exceptional circumstances) were open so that interested parties could attend.

*The CDT believes that Committees should be open to professionals who would use their knowledge and experience to improve performance and capacity of these Committees. Therefore, it would be desirable to include relevant representatives of the civil sector, who are experts in their fields, in the work of Committees because it would significantly improve the quality of work and decision making. Also, to make this possible, it is necessary, above all, to regulate the procedures for communication with the civil sector, and only then the procedures for the civil sector's potential involvement in the work of Committees.*

The way and intensity of communication with citizens are of crucial importance for the transparency of the process of accession negotiations. A good example is Cyprus where the Committee on European Affairs established the Subcommittee for Communication with Citizens. The Subcommittee was responsible for communicating with and informing citizens about major issues of the European integration, but also about how the EU accession would impact their lives. Debates were organized at the national level, as well as seminars and workshops, which were open to media representatives.

Also, in Estonia campaigns for the public were organized as a result of joint engagement of the Negotiation Team and the civil sector, and in Croatia the civil sector took over the organization of a series of public events aimed at informing the public about issues related to the European Union.

*The CDT believes that it is necessary to inform the public promptly and objectively in order to have the meaningful process of negotiations. Citizens must be aware of the developments in this field in order to be able to understand that the negotiation process is complex and that it requires a lot of effort and compromise in order to get to optimal solutions. Parliament as a representative body of citizens has the obligation to pursue this issue and to define the manner and procedure of communication with the public. As a result of this, decisions made by the Parliament and Committees during this process, as well as all actualities, should be made available to citizens in a separate part of the Parliament's website. Then, some good solutions, concerning the education of citizens, would include organizing debates at the national level, as well as seminars and TV shows, which would contribute to the quality of information and understanding of challenges of the negotiation process.*

*Based on this it can be concluded that it is extremely important to build a well organized model of communication with citizens, because communication depends on what kind of citizens' support the process will have, how much they will be involved and interested in the above events, and thus prepared for the future accession to the European Union.*

### 2.7.1. OVERVIEW OF KEY COMPETENCES OF PARLIAMENTS - ANALYSIS BY COUNTRIES

#### ★ *Estonia*

The Estonian Parliament (Riigikogu), unlike Parliaments in some other European countries, did not adopt a special procedure in order to harmonize the Estonian legislation with the EU legal order. Also, special legal acts were not adopted that would regulate the relationship between the Government and Parliament in the negotiation process.

*The Committee on European Affairs* was established in the Parliament in 1997, as a special body in charge of the EU affairs within the Parliament. The mandate of the Committee was established by legal acts and its oversight primarily relied on customs and good practice.

Formally, the role of the Committee was to contribute to achieving the objectives defined on the basis of the European Treaty, to maintain cooperation with the Government and the European Parliament and other institutions of the EU. The Committee took the role of the forum which gathered the civil sector, as well as representatives of legislative and executive authorities in regard to the positions of Estonia in the negotiation process. The Committee examined positions before they were approved by the Government. Also, the Committee forwarded to the Government its opinions and proposals related to negotiating positions for insight. Besides this, the Committee was involved in the campaign which was focused on the presentation of benefits and obligations that the EU accession process brings to Estonia and its people.

The Committee consisted of 12 members from all political parties and members of almost all other standing Committees.

In the course of the accession meetings of Chairpersons of the Committee on European Affairs, called 5 +1 were held. The meetings were attended by six countries - Estonia, Hungary, Poland, Cyprus, the Czech Republic and Slovenia.

### ★ *Cyprus*

The Cyprian Parliament was responsible for monitoring the negotiations between the EU and Cyprus in a way that the Government informed the Committee on European Affairs about the course of negotiations and the process of accession through the process of submitting relevant documents. The Committee took stands that were afterwards seriously considered by the Government.

The Committee on Foreign Affairs that existed in the Parliament of Cyprus was renamed to the Parliamentary Committee on Foreign and European Affairs. After that, it was expanded in terms of membership and competence so that it could effectively engage in legislative and other activities associated with harmonization of the national legislation with *acquis communautaire*. The Committee had 19 members then and in this way it became the largest Parliamentary Committee.

Upon the recommendation of the Committee on Elections, on 14 June 2001 the plenum divided the Parliamentary Committee on Foreign and European Affairs into two committees - the Committee on Foreign Affairs and the Committee on European

Affairs. Responsibilities of the former Committee on Foreign and International Affairs related to the European road of Cyprus were transferred under the competence of the Committee on European Affairs, which consisted of 15 members.

*The Committee on European Affairs* was responsible for the oversight of the negotiation process between the EU and Cyprus. In order to be able to perform this function, the Committee was briefed on the negotiations and the overall process of accession by the Government which submitted all relevant documents to this Committee.

The Committee had the Coordinator for Harmonization (previously s/he was named the Head of Delegation for Negotiations on the Cyprus Accession to the European Union) and Minister of Foreign Affairs and other Government officials inform them about the negotiating positions in various chapters, as well as about the development of the negotiation process and progress of each chapter.

The Committee presented to the Coordinator for Harmonization their views on many aspects of the negotiation process, before making final decisions. Later the Parliament informed the Government about their views and the Government would take these into serious consideration.

The Committee was exclusively responsible for the analysis of laws and regulations in order to harmonize national legislation with the EU legal order. There was a practice of applying shortened procedure in order to meet deadlines for the adoption of legislation. Within this procedure for harmonization the Committee considered and forwarded to the plenum for harmonization 1,148 laws and other regulations.

Within parliamentary control conducted in the accession process, after the approval of each of the law proposals to be harmonized, the Committee was conducting the oversight and listed obligations of the Government regarding the implementation of laws and examined on regular basis, whether the aforementioned obligations were actually implemented. Also, based on the input obtained from the executive power, the Committee was conducting the oversight of the execution of obligations that the Republic of Cyprus has taken and which pertain to the legislation that was to be approved, and reminded the executive power of their obligations, if and when any significant delay was noticed.

The Committee on European Affairs was connected with the European Parliament and Parliaments of the EU member states and candidate countries for the EU accession. The Committee also attended numerous conferences and meetings such as COSAC. In order to fully exercise this role, the Committee was provided assistance by professional services, particularly by the Service for European Affairs and Service for International Affairs.

When it comes to communication with citizens, the Committee formed a special sub-committee that was assigned to inform the public about the issues related to the European Union, with particular emphasis on how the accession to the European Union would affect lives of citizens. This practice began within in the debate at the national level, whose topic was the future of Europe, and it continued through numerous workshops and seminars on this topic.

*Below are presented answers to a part of the questionnaire related to the role of the Parliament and Parliamentary Committees in the EU accession process given by the House of Representatives of the Republic of Cyprus.*

#### **4. ROLE OF THE PARLAMENT**

**1. Was the relation between the Parliament and the Government, in the accession negotiation process, regulated with special legislation?**

No.

**2. Did the Parliament adopt a document with a purpose to regulate its role in the process of European integration?**

No.

**3. Was any trilateral agreement, between the Parliament, the Government and the civil sector, adopted - regarding the European integration process?**

No.

**4. Was there an established practice to give priority to the legislative proposals to be harmonized with the EU *acquis*, and adopt it in shortened procedure?**

Yes.

**5. What was the role of the Parliament during the accession negotiation process:**

- a) Consultative role
- b) Supervisory role
- c) Both – consultative and supervisory roles

**6. Did the Parliament give/adopt drafts of the negotiation positions?**

No.

**7. If, during negotiations, occurs a change in bargaining positions, was there a new mandate from Parliament sought?**

No.

**8. Did the Government submit to Parliament periodic reports on the progress of the negotiation process?**

Yes.

**9. Did the Government submit to Parliament all documents related to the negotiation process which was in its possession?**

Usually, yes.

**10. Did the Government timely submit to Parliament drafts of the negotiating positions or merely informed the Parliament after completed negotiations?**

The Committee on European Affairs of the House of Representatives expressed its position to the Coordinator for Harmonization on many aspects of the accession process before final decisions were taken and the Coordinator conveyed the position of the Committee to the government which, as a rule, took them seriously into consideration.

**11. Did the Parliament practice hearings of the leading representatives in the negotiation process?**

Yes.

**12. Was the inobservance of Parliament's recommendations by the Government politically punishable?**

No.

#### **4.1. PARLIAMENTARY COMMITTEE**

**1. Was, within the Parliament, a parliamentary committee formed which was assigned to the questions related to the negotiation process?**

Yes.

**2. Were the experts and the representatives of the NGO sector, academia and syndicates members of that Committee?**

No.

**3. Did the Committee deliver its proposals and views concerning the negotiating position?**

Yes.

**4. Was the Committee timely introduced with the negotiation positions, or with drafts of the negotiation positions, during the process?**

Usually, yes.

**5. Did the Committee make its own reports about the progress in the accession negotiation process?**

Yes.

**6. Did the Committee:**

a) Introduce NGOs and other representatives of the civil sector with the negotiation positions

No.

b) Introduce NGOs and other representatives of the civil sector with basic/partial information?

No.

★ ***Croatia***

General consensus among the relevant Croatian political parties was achieved by adopting the Joint Statement of all Political Parties on the Beginning of Negotiations between Croatia and the EU, which was adopted in December 2004. Subsequently, in January 2005 the Declaration on the Fundamental Principles of Negotiations on Full Membership in the European Union was adopted as well as the Decision on the Establishment of the National Committee for Monitoring the Accession Negotiations. The procedures that were used during the negotiations were defined by special acts of the Government, such as the Procedure for the Preparation and Adoption of Negotiating Positions of the Republic of Croatia in Negotiations for the EU Membership and the Decision on Amendments to the Procedure of the Preparation and Adoption of Negotiating Positions of the Republic of Croatia in Negotiations for the EU membership.

During the negotiation process with the EU, the Parliament had a consultative and oversight role.

The Government of the Republic of Croatia and Head of the state delegation were obliged to submit to the Parliament at least twice a year, the report on the progress of negotiations.

Also, the Government was obliged to submit twice a year to the Parliament the reports on the use of pre-accession assistance. Head of Delegation for Negotiations submitted to the National Committee at least quarterly regular reports on negotiations.

In December 2001 in amendments to Articles 136 and 161 of the Rules of Procedure, the Croatian Parliament established a detailed procedure in terms of legislative alignment with the *acquis*.

Amendments to Article 136 established the difference between legislation which is harmonized and other proposed legislation. Namely, law proposals which are harmonized with the EU law contain the symbol P.Z.E.

Amendments to Article 161 stipulate that law proposals, which are harmonized with the *acquis*, are adopted in the shortened procedure, if requested so by the proposer, unless the competent body proposes to discuss the law proposal in the first reading because of contradictions with the Constitution and legal system.

The Croatian Parliament took part in the accession negotiations through the work of the following working bodies:

- The Committee for European Integration
- The National Committee for Monitoring the Accession Negotiations
- Delegation of the Croatian Parliament to the EU-Croatia Joint Parliamentary Committee

*The Committee for European Integration* had the following responsibilities:

- to monitor harmonization of the legal system of the Republic of Croatia with the legal system of the European Union
- to monitor the execution of rights and duties of the Republic of Croatia arising from international agreements related to the EU Council,
- to monitor the programs of assistance and cooperation of the European Union,
- to cooperate and exchange experiences with the bodies in the European integration process.<sup>4</sup>

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<sup>4</sup> <http://www.sabor.hr/Default.aspx?sec=2349>

*Delegation of the Croatian Parliament to the EU-Croatia Joint Parliamentary Committee*

Political dialogue between the Republic of Croatia and the European Union was led through the EU-Croatia Joint Parliamentary Committee. This Committee represents a new form of cooperation between the two Parliaments and was established by the Decision of the European Parliament in March 2004.

Since Croatia became a candidate for the EU membership in June 2004, the Croatian Parliament started an active cooperation with the European Parliament and the parliaments of other candidate countries and EU member states. The most important activity is certainly related to the Conference of Speakers from the Parliaments of the European Union Member States, the Conference of Community and European Affairs Committees of Parliaments of the European Union and meetings of Chairpersons of Foreign Affairs Committees of the EU Member States.

*The National Committee for Monitoring the Accession Negotiations of the Republic of Croatia to the European Union*

On 19 January 2005 the Croatian Parliament adopted the Decision on the Establishment of the National Committee as a working body for monitoring the accession negotiations of the Republic of Croatia to the EU. The Decision on the Establishment of the National Committee was amended by the Decision on Amending the Decision on the Establishment of the National Committee on 9 March 2005.

The National Committee is a separate working body of the Croatian Parliament, which has competences in regard to monitoring and evaluation of the process of negotiations, as well as in regard to giving opinions and guidelines on behalf of the Croatian Parliament on the prepared negotiating positions. Also, the National Committee discusses the information on the negotiation process, reviews and gives opinions on the issues that arise during negotiations, reviews and evaluates the work of individual members of the Negotiation Team, and if necessary gives opinion on the harmonization of the Croatian legislation with the EU legal order.

Also, the National Committee through the Chairperson of the Committee holds consultations and exchanges information with the President of the Republic of

Croatia, Prime Minister and the Parliament Speaker. In addition, the Committee holds regular consultations with Head of Delegation and Chief Negotiator when it comes to the progress of the negotiation process. Also, the National Committee at least twice a year makes report on its work, which is then submitted to the Croatian Parliament.

The National Committee discusses proposals of negotiating positions, and after presenting their opinion, the Negotiation Team discussed it and thereafter it adopts the position. The final draft of the negotiating position is presented to the National Committee.

The Committee consists of 17 members: Chairperson (from the parliamentary minority), Deputy Chairperson (from the parliamentary majority), 11 members – MPs or representatives of political parties. The remaining four members represent the Cabinet of the President of Croatia, trade unions, associations of employers and academic community.

### ★ *Slovenia*

Slovenia is a country in which the Parliament had a very active and important role when it comes to the EU accession.

Functioning of Slovenia within the EU is regulated by Article 3a of the Constitution of the Republic of Slovenia. The relationship between the National Assembly and the Government is regulated by the Act on Cooperation between the National Assembly and the Government in EU Affairs which entered into force on 23 April 2004.

The most important tasks of the National Assembly referred to confirmation of the proposals of negotiating position of Slovenia in negotiations with the European Commission and to harmonization of legislation.

Namely, the National Assembly participates in the production of positions the Republic of Slovenia when it comes to the topics that will be under the competence of the Assembly having in mind their content in accordance with the Constitution and law. The National Assembly discusses draft positions within the deadlines provided by the EU institutions. The National Assembly also discusses amendments to the

Treaties on which the EU is based. At least once a year the National Assembly discusses the situation in the European Union and the position of the Republic of Slovenia within the EU.

As for other important responsibilities of the Parliament, in 1999 a working calendar with dates reserved for debates on the legislation of the European Union was adopted and in 2002 the new Rules of Procedure of the National Assembly were adopted with the aim to shorten the legislative procedure.

The National Assembly took part in the accession negotiations through the following bodies:

- The Commission for European Affairs
- Delegation to the Joint Parliamentary Committee of the Republic of Slovenia and the EU
- The Committee on International Relations
- The Committee on European Affairs

*The Commission for European Affairs* was responsible for coordination of the European affairs within the National Assembly, with special emphasis on effective communication among the Committees such as the Committees of other Candidate Countries, etc.

*Delegation to the Joint Parliamentary Committee of the Republic of Slovenia and the EU* had competences in respect of overseeing the implementation of obligations under the Europe Agreement. Experts and administrative staff provided assistance to the Commission for European Affairs and the Delegation to the Joint Parliamentary Committee of the Republic of Slovenia and the EU while preparing analytical materials, monitoring of the events in Brussels and provision of assistance to the official delegation.

*The Committee on International Relations* confirmed proposals for negotiating positions. Also the Committee discussed the Progress Reports of Slovenia in the process of the EU accession, as well as priorities of each country's presidency in the Council of the European Union.

*The Committee on European Affairs* discussed general issues concerning the European integration and documents of the European Commission, coordinated operations of the working bodies responsible for the European integration, gave opinions and recommendations, and drafted reports analyzing the consequences of Slovenia's accession to the EU. Also, the Committee organized presentations of the survey of public opinion on some issues related to the process of the European integration, organized and coordinated support offered to Slovenia for its adaptation to the EU, oversaw the process of harmonization of regulations and the like.

### ★ **Poland**

In the Sejm, the Lower House of Parliament, three Committees were involved in the process of harmonization of legislation: the Committee for European Integration, the Committee for Foreign Affairs and the ad hoc Committee for European Legislation. In 1997 the Committee for European Integration was assigned with a more significant role when it comes to adopting the *acquis*. All three Committees played an important role in the harmonization of legislation, but their political roles were limited. In the Senate, in the Upper House, there are two Committees - the Committee for Foreign Affairs and European Integration, as well as the Committee for European Legislation.

Another important body was the Joint Parliamentary Committee of the EU and Poland, which enabled communication with Polish parliamentarians with the members of the European Parliament.

When it comes to important documents which regulate cooperation, in 2000 the Chairpersons of the Sejm and Senate, along with the Prime Minister, signed a trilateral agreement in order to accelerate the adoption of the *acquis*. This has enabled the creation of the already mentioned Committee for European Legislation in the Sejm and the equivalent Committee for European Legislation in the Senate.

At the national level, cooperation between the Government and the Parliament was established in 2004 with a legally binding Act on Cooperation between the Council of Ministers, the Sejm and the Senate on the issues of the Polish membership in the European Union. This Act was later amended to accommodate the new role of the Parliament as predicted the Lisbon Treaty.

Head of Negotiation Team presented the negotiating positions to the Chairpersons of the Sejm and the Senate, to the Chairpersons of the Committee for European Integration and the Committee for Foreign Affairs in the Sejm as well as to the Chairperson of the Committee of Foreign Affairs and European Integration in the Senate. Although he was not directly responsible for the harmonization of the Polish legislation with *acquis communautaire*, Head of Negotiation Team oversaw the process whenever it was considered to be necessary.

Also, Head of Negotiation Team, as well as the team members, participated in Parliamentary debates on the European integration, during which representatives of the Government informed others about the status and progress of the accession negotiations. Debates were open to the media.

The Sejm was regularly informed of progress of the process through the “Information on the process of negotiations” which was prepared by the Government’s Commissioner for the accession negotiations of Poland. This document contained the information about negotiations and harmonization of legislation and was updated every six months.

Members of Parliament could be consulted and were able to express their opinion, but did not participate in the preparation of negotiating positions. Also MPs were presented only summaries of negotiating positions and were not informed about the full content thereof.

The Government’s Commissioner for the accession negotiations regularly attended meetings in the Sejm Committee for European Integration and the Foreign Affairs Committee, as well as the Committee for Foreign Affairs and European Integration in the Senate. At the meetings he presented Progress Reports on the negotiation process and answered the MPs’ questions.

### ★ *The Czech Republic*

The European Treaty as of October 1993 created the basis for the formation of the EU-Czech Republic Joint Parliamentary Committee, where the Czech senators and MPs as well as representatives of the European Parliament were equally represented. The Association Committee was assigned a specific mandate in relation to the Coun-

cil for Association. The Czech Republic was represented in this Committee by 15 MPs and five senators, and they actually made a Permanent Delegation of the Czech Parliament for Cooperation with the European Parliament.

In 1998 the *Committee for European Integration* which had 11 members was established. Namely, the Committee defined priorities in the Resolution “The Focus of the Committee” based on which it started dealing with aspects of the European integration.

At the very beginning, the Committee followed the process of the preparation of the Czech Republic for the accession to the EU, harmonization of legislation of the Czech Republic and the EU and was responsible for cooperation with parliamentary bodies from the EU member states. Later as of 2001 the Committee turns to monitoring of the reform of institutions of the European Union.

★ ***Latvia***

The Parliament of Latvia (Saeima) *the Committee for European Affairs* was established in October 1997. The role of the Committee referred to harmonization of the Latvian legislation with the EU legal order. In 2001 the Committee was awarded the role to represent Latvia in the matters related to the European Union, and it oversaw the negotiation process, provided political support for the integration of Latvia into the EU and developed cooperation with the European Parliament.

The Committee’s role has changed after Latvia’s membership in the EU and the competence of the Committee extended to approving national positions, the control of the use of EU funds, as well as the involvement of NGOs and civil society in the matter related to the EU legislation.

★ ***Hungary***

The Hungarian Parliament was directly involved through the Committee for European Integration in the implementation of the Association Agreement. The Parliament also directly participates in the process of harmonization of legislation, but it is only indirectly involved in the accession negotiations by being informed about them.

Before joining the European Union there was no law that would regulate the relationship between the Parliament and the Government.

During the negotiations there was a consensus between the Government and the Parliament. Namely, the Government's task referred to negotiations, while the Parliament had only a consultative role. Only after joining the EU, the relationship of these two institutions was governed by LIII on Cooperation of the Parliament and the Government in the EU Affairs from 2004, and by the Resolution 46/1994 (IX.30) OGY on the Rules of Procedure of the Parliament of the Republic of Hungary.

Generally, in the process of accession negotiations the Parliament discussed the Government's actions and MPs could express their opinions about the process, but their views were not binding.

Since 1999 there is a regular procedure that requires discussing topics related to the European Union once a year at a plenary session. Back then, for example, discussed was the Progress Report or the progress of the process of negotiations. The discussion was opened by the Minister of Foreign Affairs and it was concluded by the Prime Minister. However, in Hungary the accession process was driven by the strong role of the Hungarian executive power (professional civil servants and diplomats), under the political leadership of the Government of Hungary.

The Hungarian Government defined the main objectives and a plan of preparation for negotiations, and in 2000 the Joint Statement of Parliamentary Political Parties promoted the process of legal harmonization in the Parliament so that Hungary could fulfill the expected obligations in the accession process.

Within the Parliament the *Committee for European Integration*, which was of great importance for the process of negotiation with the EU was established. Some of the most important responsibilities of this Committee are related to: the research of any topics related to the EU, initiation of the adoption of laws, providing own suggestions and opinions. Also, the Committee monitored the process of accession and the Government's activities in this field, and it considered the chapters during the process of *screening* and organized hearings of the ministers who were to be appointed, as well as the persons who were the candidates for the ambassadors in the EU member states. In addition, the Committee

regularly reviewed the funds proposed by the budget which were intended for the process of integration.

Subcommittees for Integration were formed as well and they dealt with the issues related to the EU, harmonization of legislation and were involved in the negotiation process.

#### **4. ROLE OF THE PARLAMENT**

##### **1. Was the relation between the Parliament and the Government, in the accession negotiation process, regulated with special legislation?**

In the accession period Slovak parliament had these functions (specific mission):

- political-organizational function: promotion of objectives of the Slovak Republic resulting from the Association Agreement
- control function: in relation to government
- general: compliance with the accession procedure review
- specific: the role in the process of approximation of Slovak law to the Community law
- Informative function (inside and outside Slovak Parliament)

##### **2. Did the Parliament adopt a document with a purpose to regulate its role in the process of European integration?**

Yes.

- 1993: Association Agreement ratification
- 1996: document "The main tasks of the National Council in the process of Approximation of Slovak Law to Community Law" (core document)
- 1999: document "National Council and its role in a process of integration"
- 2001: "Euro-amendment" of the Constitution of the Slovak Republic
- 2003: referendum on Slovakia's accession to the EU (referendum statement)
- 2003: ratification of the Treaty of the Slovak Republic Accession to the EU

##### **3. Was any trilateral agreement, between the Parliament, the Government and the civil sector, adopted - regarding the European integration process?**

No.

**4. Was there an established practice to give priority to the legislative proposals to be harmonized with the EU *acquis*, and adopt it in shortened procedure?**

There were no specific priorities there. The most important was the introduction of the delegated legislation. According to art. 7, sec. 2 of the Constitution of the Slovak Republic it was enabled the issuing of approximate regulation of the Slovak government instead of acts. This was clarified in art. 120, sec.2 of the Constitution of the Slovak Republic and has been furthermore modified by Approximation of Government Regulation Act No.19/2002 Coll. Despite the fact that the National Council of the Slovak republic gave up some of its rights, it used its control mechanism. The Slovak government could do so only on the basis of the Approximative regulation plan for each year and was followed in respect of its competences.

**5. What was the role of the Parliament during the accession negotiation process:**

Supervisory role

**6. Did the Parliament give/adopt drafts of the negotiation positions?**

No, but it was regularly informed about the Government's negotiating position through the Committee for European Integration.

**7. If, during negotiations, occurs a change in bargaining positions, was there a new mandate from Parliament sought?**

No.

**8. Did the Government submit to Parliament periodic reports on the progress of the negotiation process?**

Yes – twice a year.

**9. Did the Government submit to Parliament all documents related to the negotiation process which was in its possession?**

Yes.

- 10. Did the Government timely submit to Parliament drafts of the negotiating positions or merely informed the Parliament after completed negotiations?**

Yes, but only through the Committee for the Committee for European Integration.

- 11. Did the Parliament practice hearings of the leading representatives in the negotiation process?**

Yes, but only through the Committee for the Committee for European Integration.

- 12. Was the inobservance of Parliament's recommendations by the Government politically punishable?**

It was not necessary.

#### **4.1. PARLIAMENTARY COMMITTEE**

- 1. Was, within the Parliament, a parliamentary committee formed which was assigned to the questions related to the negotiation process?**

Yes, the Committee for European Integration since 1994.

- 2. Were the experts and the representatives of the NGO sector, academia and syndicates members of that Committee?**

No, but since the meeting of the Committee was public these groups could participate.

- 3. Did the Committee deliver its proposals and views concerning the negotiating position?**

Yes.

- 4. Was the Committee timely introduced with the negotiation positions, or with drafts of the negotiation positions, during the process?**

Yes.

**5. Did the Committee make its own reports about the progress in the accession negotiation process?**

Not, the committee only dealt with relevant government reports.

**5. Did the Committee:**

- a) Introduce NGOs and other representatives of the civil sector with the negotiation positions
  - b) Introduce NGOs and other representatives of the civil sector with basic/partial information?
- Rather no, than yes.

*\* Answers provided by Mr Lubomir Fajtak, JUDr, Director of the Parliamentary Institute of the National Council, Slovakia*

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