


Conflict Studies Research Centre



Croatia at a Crossroads: The EU-ICTY Debate

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Key Points

- * There is little the Croatian government can do in the short term regarding the Gotovina case
- * Only full cooperation with ICTY can unlock the EU accession process – assuming the EU stance remains unanimous
- * While EU accession has received political consensus, this is not true of the Gotovina case, despite its strategic implications – political maturity or lack of capacity?
- * Cancellation of accession negotiations sends a strong signal to Croatia, but its prolongation can have serious consequences, especially economic
- * Genuine reform and capacity building of governance and security sectors is urgently needed
- * Conditionality may work in the Gotovina case, but may not influence the factor of reconciliation

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The current EU-ICTY debate goes to the fundamentals of Croatian society, its problems and relations with the West. The country and its leadership should have expected the decision by EU Foreign Ministers not to continue with accession negotiations. However, hopes were high that the EU would once again turn a blind eye and accept Croatian ‘explanations’ or ‘excuses’, dependent on which side of the fence one sits. The question is a delicate one in terms of domestic policy, with explanations sought at several levels.

Was Croatia calling the EU’s bluff or just miscalculated? Whichever view is taken, the EU was right to postpone negotiations regarding membership. This stance is not only a radical confirmation of the feasibility of CFSP-ESDP, but it is justified by simple logic at all levels. If the fundamental issue in terms of membership is peace and stability in the region, then the horrors of the past wars in the Balkans, only 10 years ago, must be taken seriously. All states in the region, including Croatia, must take responsibility for actions and the people must be reconciled with the past. The bottom line is that General Ante Gotovina is not in The Hague and that one of the basic conditions of democratic society, governance and EU membership - the rule of law - has not been met.

For those that argue that such a postponement only plays into the hands of the nationalist right-wing forces, it can only be said that they are not familiar with the specifics of Croatia. Rather they apply experiences from the neighbourhood as a general rule, grouping all Former Yugoslav states in one basket.

The paper will focus on Croatia’s domestic aspects of the subject matter.

- **Government and party consensus on EU membership has been achieved but the government has little room to manoeuvre, considering public support for Gotovina;**
- **The fundamental question is civil-democratic control over the security sector, that is, oversight of the security services;**
- **Linkages with organised crime that date back to the war period 1991-95.**

Since the last vote of no-confidence regarding ICTY cooperation several years ago, the Croatian government has adopted a policy of full cooperation with the Court. At least on the EU question, a sense of political maturity can be sensed to be developing, with most opposition parties supporting government policy, based on the overriding consensus that integration into Euro-Atlantic processes is the best way forward for the country. Evidence of this is the creation of a ‘cross-party’ expert negotiating team with the EU, something that has not been easily achievable so far in other areas of strategic interest, including NATO membership. As the

Croatian Prime Minister (PM) said recently 'If we can not reach consensus on these issues domestically, how can we expect Europe to do it?'

However, this consensus is largely top driven, especially within the leading HDZ party. Moreover, it is often ill coordinated, even between the relevant government players, especially in the Public Relations sense. In most parties the local leadership, constituting the party base, has mixed feelings regarding ICTY cooperation, and nowhere is it as opposed to the official party line as within the HDZ, where the Tudjman legacy still remains strong. For example, only a few days ago at the same time as the PM Ivo Sanader was in Europe defending his position to the EU, a member of his cabinet (B. Kalmeta) glorified General Gotovina in a public speech. Unless done intentionally for a purely domestic audience, it clearly shows a lack of coordination, leadership and consensus within the party. While most foreign observers noted a radical shift in HDZ attitude towards the centre driven primarily by the PM, few have noted his lack of success in persuading the party base to move in line, leading to over optimistic assessments of the PM's and the government's achievements. This clearly shows the PM's weak political standing, especially in terms of deliverables, and should not be underestimated in terms of all key policy decisions.

The question then is can the government execute on its promise regarding ICTY cooperation? The simple answer is NO. Statements by leading Croatian political figures, including those recently by the President, Stipe Mesic, are more to do with Public Relations than with policy and executive authority. Furthermore, this 'capability gap' is not seen as a weakness because of the lack of pressure from the electorate. Furthermore, now that accession negotiations have been cancelled, there is little the Croatian government can do, even if it found out the whereabouts of the General, as it would imply that these were known for some time, with obvious repercussions. This is reflected in the PM's statement that efforts to apprehend Gotovina will continue as previously, with no scope for increased activity to deal with the matter. The acceptance of the EU Task Force to evaluate the situation is in this sense probably the only way forward, but highly embarrassing and risky for Croatia, as it questions the credibility of the government and its executive authority.

The official government explanation for the EU decision is best reflected in the statement by the new Minister for Foreign Affairs and European Integration, Kolinda Grabar-Kitarovic, explaining that 'the Foreign Ministers did not reach a decision to delay negotiation, but rather there was a lack of consensus for their initiation'. Furthermore, she has stressed that the negotiations, *per se*, are not as important as is the continuation of efforts on the domestic scene in terms of reforms and preparations leading towards closer ties with Europe. While these assertions sound good on the domestic scene, many in the EU will be astonished by the lack of seriousness with which the recent decision was addressed. While prominent political leaders did appear on TV putting on a brave face, few concrete measures are visible, grounds for real concern.

It is surprising that after so much time since the ICTY first mentioned Gotovina, no *modus vivendi* has been found with the Court and the Croatian side has not been able to 'please' Carla Del Ponte, Chief Prosecutor of the Court. In this sense certainly, the Chief Prosecutor was right to state that Croatia is not fully cooperating. Messages coming from Zagreb are mixed, again not only showing confusion but lack of political maturity, direction or consensus. For example, while the Gotovina case forces the meeting of the National Security Council, and the

former General is *de facto* the most wanted person in Croatia, simultaneously the Ministry of Defence is still paying his pension contributions and it was only last week that his assets were frozen, after the information first surfaced in the press.

Lack of control over the security services is a major problem, easily seen in recent affairs that clearly showed this sector to have undergone little reform since the 1990s, except in name and organisation. Change has been only implemented when forced from the top-down, especially from outside and in this case NATO being the principal agent. There is little inclination for domestic initiative. Recent changes in the President's Office might help to address some of these weaknesses, but again, only if there is widespread political consensus, or interest, to implement new policies. Otherwise, all this Office will continue to do is play an oversight role over related Ministries, which have for so long been used to playing in their own back yard. In practical terms the most immediate needs to address are the security services, especially intelligence, the monitoring of borders, especially maritime interdiction and organised crime.

The fundamental problem for the government has been its PR campaign, especially in the early days. One of the biggest mistakes has been its early commitment to dates, which were in any case beyond its control. Little effort was invested into applying lessons learned from recent EU accessions and unnecessary political exposure created. Since then, there has been some improvement in PR, but messages coming from the leadership are still ill-coordinated and sometimes even contradictory. Related to the Gotovina case, it surfaced only last month that the former General has a criminal record in France. At one point it was suggested the authorities were preparing the groundwork for Gotovina's arrest. However, soon those hopes faded and observers were only left surprised that no one thought it relevant to mention this crucial fact before.

The EU decision will certainly play into the hands of the eurosceptics and set back government efforts to promote the EU as the best possible option for Croatia. However, fortunately for the political leadership, the Croatian public largely agrees that Croatia should be in Europe, and this setback should be only minimal in real effect, unlike in Serbia where the electorate is more evenly split on the decision.

At the practical level the fundamental question is with whom does the problem regarding ICTY cooperation, or the apprehension and transfer of General Gotovina, lie? The answer is not as straightforward as may seem, and here is the essence of the problem. At the top of the ladder of responsibility is the National Security Council, headed by the president and the PM. Immediately below comes the Public Prosecutor's office followed by a string of intelligence and security services. The most important in this respect should be the VBA (Military Intelligence) and the OA - POA (Intelligence & Counter Intelligence). Other relevant Ministries (Ministry of Justice - Department for Cooperation with the ICTY, Ministry of Finance and the Ministry of Interior) also share responsibility in the Gotovina case. However, while this is the official ladder of responsibility, at the practical level it will be intelligence services and the special police that will be responsible for most of the work on the ground.

A further factor to consider is the logical involvement of those forces within society, which is fairly small in Croatia, that during the war accumulated vast fortunes and now dislike any change in Croatia's politico-economic standing. In other words, it could be argued that the reason why Croatia is in its current position is because it

is in the interest of someone powerful enough to pull the strings even at the highest levels.

- ***The public is largely in favour of EU, but more so for Gotovina***
- ***The press is largely supportive of government policy, minimalist in its assessments of its faults, with most blame placed on ‘outside forces’.***

All recent surveys conducted on the subject of EU membership give a 60-80 percent level of support toward closer integration, the percentage fluctuating due to daily political occurrences. However, the same surveys give General Gotovina and his refusal to surrender to the ICTY over 80 percent. While this attitude has saved the government from falling, it has simultaneously prevented it from fully cooperating with the ICTY.

Posters and shrines with pictures of Gotovina are appearing with increased frequency all over Croatia, in many cases orchestrated by members of Croatian right-wing parties. While police in most cases remove these, initiating investigations and arresting those responsible, it is questionable how productive this policy is. One can ask: does not such action only increase his popularity and provide Gotovina with media coverage? The reason Gotovina is such an important figure in Croatia is not so much due to him personally, but rather the identification of his image with that of Croatia’s liberation war against the Greater Serbian idea. It goes to the roots of the birth of the New Croatian State, and its legal and moral justification.

The local press, semi-independent in its efforts to explain the situation to the public, has attempted to minimise this strategic blow to Croatian foreign policy. Some see it as part of a wider Western determination to place Croatia in the same group as Serbia-Montenegro, and thus delay its entry into Euro-Atlantic processes, while others blame the EU, and even the UK, directly. A current argument is that Croatia, as a regional role model, was chosen to be punished on this occasion just to show other countries in the region that the EU sticks to its principles, which can not be overlooked. Headlines such as “Gotovina or the EU” certainly drive the point home, but do not help objectivity nor critical analysis of the subject.

The regional angle is an interesting one and requires a separate study. However, it can be observed that while Croatia is largely supportive of regional initiatives when it suits her strategic policy or economic interests, at a lower, practical level it is pursuing a policy of stalling regional initiatives. A good example is the Adriatic Charter, which could serve as an ideal opportunity to bring all countries in the neighbourhood together on a more practical basis. From the Croatian perspective the initiative is seen only within a political framework, providing a severe handicap to its potential capacity.

Conclusion

History will remember the event as Croatia being the first country in EU history to have its accession negotiations cancelled or postponed. No matter how interpreted, it will definitely be a blow for Croatia’s standing. Though the country still remains within the outer borders of the ‘club’, it is something that could have easily been avoided early on. In the short term this blow is minimised by public support for Gotovina, but in the medium term it may prove more damaging. Sadly the latter seems more probable, as the government is left little option to manoeuvre apart

from Gotovina surrendering voluntarily or possibly irrefutable evidence emerging that he is not within the borders of Croatia. However, as often seen in the Balkans, logic is superseded by random acts or surprise moves, which but are at this stage not worth debating.

While the government and the country in general is committed to Europe and every Croatian citizen considers himself part of Western Europe, at the same time few have realised the importance, not to say embarrassment, of the EU decision not to initiate accession negotiations. It is as if the Tadjman era has echoed its voice once again, and not much has changed since the mid-1990s. While many in Croatia, including those within Government are working hard to prepare the 'state' for Euro-Atlantic integration, the reality is that little has changed 'in depth' in Croatia.

In this context the question of conditionality and two opposing questions come into play: first, can the 'stick' in the case of Croatia reap dividends to motivate those involved to invest the admittedly significant political capital to address the Gotovina case adequately? Second, how does one apply the 'stick' against the impossible task of using conditionality to influence society in general that is broadly supportive of the EU accession process, but also aware of its post-conflict and 'victorious liberators' status in every respect.

In case of the latter the issue of reconciliation with the past is a fundamental prerequisite for the Balkans. It is something that has to be achieved not only if history is not to repeat itself, but also for the region to become a true partner and ally. It is something where the state can play a guiding, positive role, but not a leading one. Rather, the process has to be led bottom up from the masses and especially the younger generation. It forces not only the question of precedent, but also leadership by example. In this latter context, unfortunately it is something that can not be influenced from the outside, and in this sense the Gotovina case will actually work against it.

Ultimately one might ask the question: is there a fundamental difference between Croatia and Serbia? In simple terms Croatia sees itself as a victim of Serb aggression. But the question is: does this justify all actions and decision made during the 'liberation' struggle, or should those thought guilty be brought to justice? The latter should sound logical to the average Western reader. However, in Croatia it does not correspond to the reality of war experience. The answer is complex. In short, while Croatia is at every level (political, economic, social) one step ahead of Serbia, the question of reconciliation brings then back together again.

Options are limited for both the EU and the Croatian political leadership, as both have left little option to manoeuvre. The ICTY itself could solve the problem by accepting Croatia's 'full cooperation' argument, thus saving both parties' face. However, considering that only a few months ago the ICTY did give a positive note on Croatia's cooperation and has now reversed its judgement, EU consensus, based on the above arguments, needs to be maintained. It is, however, beyond the scope of this paper to explore the merits of this action.

Want to Know More ...?

See: Dr Amadeo Watkins, '*PfP Integration: Croatia, Serbia & Montenegro*',
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