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## EUROPEAN BRATSTVO I JEDINSTVO? SLOVENIA'S BILATERAL RELATIONS WITH CROATIA THROUGH THE LENS OF EU MEMBERSHIP

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### ABSTRACT

*This article looks at the impact of EU membership on the bilateral relations between Slovenia and Croatia. The analysis centres around policy issues of conflict and cooperation and how they were accentuated, contained, processed, or boosted by the EU membership of both countries. Further, the EU accession process of Croatia and Slovenia is scrutinized as to its implications on bilateral issues and the lessons learnt for EU enlargement in the Western Balkans with regard to the resolution of bilateral disputes.*

**Key words:** Slovenia, Croatia, bilateral relations, cooperation, open issues, European Union

## BRATSTVO I JEDINSTVO EUROPEO? LE RELAZIONI BILATERALI DI SLOVENIA E CROAZIA ATTRAVERSO LA LENTE DELL'APPARTENENZA ALL'UNIONE EUROPEA

### SINTESI

*Questo articolo osserva l'impatto dell'adesione all'Unione europea sulle relazioni bilaterali tra Slovenia e Croazia. L'analisi si focalizza sulle questioni politiche di conflitto e cooperazione e su come queste siano state accentuate, contenute, elaborate o potenziate dall'appartenenza di entrambi i Paesi all'UE. Inoltre, il processo di adesione all'UE di Croazia e Slovenia viene esaminato per quanto concerne le sue implicazioni sulle questioni bilaterali e le lezioni apprese per l'allargamento dell'UE nei Balcani occidentali in merito alla risoluzione delle controversie bilaterali.*

**Parole chiave:** Slovenia, Croazia, relazioni bilaterali, cooperazione, questioni aperte, Unione Europea

## INTRODUCTION

Looking at the balance sheet of EU membership, one may draw on several criteria with regard to the domestic impact: economic, financial, political, societal, and perhaps also in terms of domestic perception or awareness. This article, however, draws more on an external dimension: the bilateral relations with Slovenia's southern neighbour Croatia and a set of issues that can be related to the European Union in this regard.

This article deals with the EU context in a broader sense and, where appropriate, also covers the period before Slovenia joined the European Union in 2004. The first section looks at the process of independence from Yugoslavia and moments where the interests of Slovenia and Croatia had been aligned, at odds, or coordinated. The second part covers both countries' differing paths of accession to the EU. The subsequent section deals with bilateral contemporary issues of cooperation and conflict at policy level. The fourth part looks at the transformative power of the EU, and the last heading deals with the positions on EU enlargement in the Western Balkans followed by conclusions.<sup>1</sup>

Historically, it is worth noting that the bilateral relations between Slovenia and Croatia have been embedded in a multi-fold process of transition. For some periods of time in the more recent history, the two entities have been part of larger political units: during the Habsburg Empire from the fifteenth century (with parts of Slavonia under Ottoman rule until the seventeenth century) up until 1918, in the inter-war period (initially the Kingdom of Serbs, Croats, and Slovenes before becoming Yugoslavia in 1929), and after World War II as constituent Republics of Socialist Yugoslavia (the late SFRY) until 1991. During the violent disintegration of Yugoslavia, both Republics became independent states in 1991.<sup>2</sup> As from 2004 and 2013 respectively, Slovenia and Croatia have been Members of the European Union (EU), a *sui generis* regional organisation with supranational and intergovernmental elements.

## INDEPENDENCE FROM YUGOSLAVIA: DIVERGING INTERESTS, TACTICS, AND A JOINT ACCOMPLISHMENT NONETHELESS

The way to independence from Yugoslavia in 1991 is sometimes seen as inevitable and pre-determined when events are put into perspective *ex post*. To avoid a deterministic view, however, it is useful not to read the unfolding of events backwards as this would make us subject to the phenomenon of hindsight bias<sup>3</sup> thus becoming less able to grasp the atmosphere and the context of the decisions taken at

1 This article is an extended and revised version of this author's contribution on the Slovenian-Croatian bilateral relations in Kaeding & Udovič (2024).

2 For a comprehensive account of the multiple Yugoslavia, cf. Ramet (2006).

3 Hindsight bias refers to the interpreting of past events as inevitable and logical. Roese and Vohs (2012, 412–413) distinguish three types of hindsight bias: memory distortion, inevitability, and foreseeability.

the time (Bieber, 2014, 3). As regards the dissolution of Yugoslavia, irrespective of the simultaneous declarations of independence of Slovenia and Croatia on 25 June 1991 and a previous solid and long-standing shared concern about the state of the economy and regional development in Yugoslavia, the emancipation from the SFRY was not a joint exercise of Slovenia and Croatia from the very beginning. It is true that allowance must be made for the fact that Ljubljana and Zagreb as economically advanced Republics had become disgruntled over time with the performance of the system of allocation of federal grants as aid for the underdeveloped regions in the country, predominantly in Bosnia-Herzegovina, Kosovo, Macedonia, and Montenegro. By way of example, the largest infrastructure project in socialist Yugoslavia, the construction of the Bar-Belgrade railway line and the port of Bar, would have been financed largely by the federal state coffers with an overall cost of around USD 450 million for the 496 kilometres railway line alone (Kežić, 2011). Slovenia and Croatia fiercely opposed the project (it nonetheless came about) which, in their view, was against the interests of the existing Adriatic ports of Koper/Capodistria and Rijeka and also delayed the planned Zagreb-Split highway. It led Slovenia to invest in regional roads rather than the highways between Ljubljana and the border to Austria and southbound (Ramet, 2006, 279–282).<sup>4</sup>

The road to independence, however, was not free of controversy between Zagreb and Ljubljana. After the Communist Party of Yugoslavia's (CPY) Congress in January 1990 (which triggered the end of one-party rule), Slovenia was actively preparing for secession from Yugoslavia managing to win the *de facto* consent of the leadership of Serbia for secession (Ramet, 2006, 374; Jović, 2008, 265), whilst Croatia initially was wary of Slovenian independence and had no such plans itself, largely because it supported the new federal reform government of Ante Marković, a Croat, saw a Yugoslavia without Slovenia as a considerable weakening of the Croatian position vis-à-vis Serbia (Meier, 1995, 221, 241–242; Jović, 2008, 253), and had been virtually absent from the SFRY constitutional debate in the 1980s (Jović, 2023a).

The intentions behind the joint Slovenian-Croatian confederal proposal of 2 October 1990 remain unclear to this day.<sup>5</sup> Whilst some see it as a tactical move mainly to show good will and buy time (Jović, 2008, 252, 274), others contend it was a sincere offer of a common market including monetary union and also but not primarily to appease the Serbian leadership (Meier, 1995, 280) after the Jugoslav National Army (JNA) had confiscated most of the weaponry of Croatia's Territorial Defence (TO) units<sup>6</sup> (Ramet,

4 For the role of the pan-Yugoslav Highway of Brotherhood and Unity, where 200,000 volunteers contributed to its construction, through the lens of collective identity and architecture, cf. Korolija & Pallini (2020).

5 The unification of Germany on 3 October may yet help explain the date of the proposal.

6 The TO of Slovenia had been under Slovenian command since mid-July 1990 (cf. e.g. Meier, 1995, 282) – a fact that proved crucial during the Ten-Day War in Slovenia in July 1991.

2006, 373–374; Jović, 2008, 259).<sup>7</sup> Unity of Slovenia and Croatia over the joint proposal proved limited and fragile, and the Slovenes were particularly irritated by Tuđman linking a prospective confederal Yugoslavia to border changes in Bosnia-Herzegovina (cf. e.g. his interview in *DER SPIEGEL*, 8 November 1990<sup>8</sup>), whilst the mood in Zagreb was that Slovenia had been very selfish in preparing its own independence – which would practically also include new border posts, something that might not go down well amongst the population in Croatia (Jović, 2008, 274).<sup>9</sup>

In the end, independence was coordinated between Slovenia and Croatia only at very short notice at the highest political level on 15 June 1991, and the two sides agreed to proclaim independence ten days later on 25 June 1991 (Ramat, 2006, 392; Meier, 1995, 311), whilst Kučan is reported to have been concerned at the low level of preparations in Zagreb (Meier, 1995, 311). After independence, Kučan and Tuđman only met three times until the end of 1999 although regular meeting intervals had been agreed on in the first place (Jović, 2023a). It is important to note, nonetheless, that relations and collaboration at local level on the ground have been very close since.

## DIFFERENT TRAJECTORIES OF EU ACCESSION AND THE MOTHER OF DISPUTES

Slovenia was able to almost fully escape the violent dissolution of Yugoslavia save for the Ten-Day War in July 1991. It may be said that Slovenia was able to consolidate its statehood in a relatively short period of time. With regard to EU accession, Ljubljana's road to Brussels proved almost free of bilateral issues, too, with the exception of the dispute over the maritime and land border with Croatia. This territorial dispute, however, was only tackled during Croatia's own accession to the European Union several years later; more on this below.

Nonetheless, in its EU accession process, Slovenia had to face a sensitive bilateral issue with Italy. In 1993, Rome started blocking the opening of Ljubljana's EU accession talks over property seized by the former Yugoslavia after World War II which had also affected Italian citizens in Istria (*optanti*) who had left after the former Italian territories were ceded to Yugoslavia in 1954 (Geddes & Taylor, 2016, 934–936; Bučar & Udovič, 2023, 393). The matter was settled when Slovenia introduced, through an amendment to the constitution, the right for EU

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- 7 In the end, the proposal was only debated in the federal SFRY State Presidency, rejected by 6:2 votes, and thus not forwarded to the federal parliament (Ramat, 2006, 374–37; Jović, 2008, 252). A survey of scholarly assessments of the rationale behind the confederal proposal can be found in Ramet (2008, 38–39).
- 8 Whilst Tuđman advocated the prospective confederation, he also said that 'if you look at the map, you don't need to be a historian to see that Bosnia forms a geopolitical unit with Croatia. They belong together'.
- 9 Tuđman himself, however, according to Meier (1995, 311), was surprised that the practicalities of Slovenian independence would include new checkpoints at the border to Croatia.

citizens to purchase property in the country within four years from the beginning of the EU accession negotiations, a requirement of the EU single market rulebook and the free movement of capital which was mandatory for every EU Member State anyway (European Commission, 1997, 16). This right was extended immediately to EU citizens who had resided on Slovenian territory for at least three years, so that the Italian *optanti* were covered at very short notice. The Italian government on its part announced in early 1996 that it would surrender new property restitution claims for the *optanti* who had left Istria after 1954 – a matter that had been resolved anyway by the Italian-Yugoslav Treaty of Osimo in 1975. In June 1996, Slovenia's Association Treaty with the EU was signed and the bilateral issue with Italy thus cleared (Geddes & Taylor, 2016, 936; Bučar & Udovič, 2023, 393).

For Croatia, the path to EU accession was considerably rockier in that it was heavily affected by a violent state-building process: the bitter fighting and bloodshed on its own territory 1991–1995 and also by its involvement in the war in Bosnia-Herzegovina 1992–1995. Croatia only enjoyed full sovereignty over its entire territory since 1998 when the country's state-building process can be regarded as completed with the full reintegration of the territories in Eastern Slavonia (Koska & Matan, 2017, 131, 134). Additional delay in the EU accession process of Croatia was caused by the country's sovereigntist phase under Tuđman who had become a staunch opponent to multi-ethnic political entities, be it Yugoslavia, Bosnia-Herzegovina, or the EU, not least on the grounds that independence from Yugoslavia was a hard-won achievement against a millennium-long history of being part of multinational entities, which had limited or denied national sovereignty (Dolenec, 2013, 131–146; Jović, 2023, 123–124, 139).

Only after the democratic turn in 2000 and the subsequent reform governments of Račan and Sanader<sup>10</sup> did the country embrace the European path. Full cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY) proved a hard choice between national-identity and legitimacy considerations on the one hand, and the commitment to fulfil the political EU conditionality items for membership on the other (cf. Freyburg & Richter, 2010, 273–275). Accession negotiations with the EU would only start in late 2005 when Croatia was ready to extradite General Ante Gotovina to the ICTY.<sup>11</sup> At that time, Slovenia had already become an EU Member.

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- 10 As of the 2003 Sanader government, representatives of the minorities were part of all Croatian governments until very recently. The Constitutional Law on Rights of National Minorities had been adopted in 2002 by the Račan government *inter alia* extending the number of seats in the national parliament for minorities representatives; cf. Koska & Matan (2017, 134). The established practice of including them in the government partly came to an end with the latest HDZ/DP government taking office in May 2024 when the Serbian minority party was excluded at the request of DP; cf. Euronews (2024).
- 11 Somewhat face-saving (from the perspective of the Croatian government) was the fact that Gotovina was arrested in Spain thus avoiding a humiliating extradition from Croatia.

Three years later, one particular bilateral issue with Slovenia affected the Croatian accession negotiations very seriously: the dispute about the common state border. Historically, it is a by-product of the dissolution of Yugoslavia where the borders of the SFRY Republics became international borders at the moment of independence.<sup>12</sup> In late 2008, Slovenia decided to take advantage of its veto power as a Member State in calling for a resolution of the border dispute with Croatia. Zagreb perceived this as an act of blackmailing by its northern neighbour, and there is little doubt that the dispute became a loaded issue for both the Croatian accession talks and the bilateral relations. There had been various bilateral attempts to resolve the border dispute between 1993 and 2007,<sup>13</sup> including an initialled agreement from 2002 (known as Drnovšek-Račan or Račan-Drnovšek referencing the then two prime ministers), the ratification of which failed in Croatia after it had been ratified in Slovenia.<sup>14</sup>

In the course of 2009, the European Commission took on a mediating role after a failed attempt by the French EU Council Presidency at the end of 2008 to defuse the situation. Enlargement Commissioner Olli Rehn and his team came up with the idea of a judicial third-party resolution with a tailor-made mandate: arbitration. Subsequently, the Commission drafted an arbitration agreement (cf. e.g. Cataldi, 2013) and discussed it with the parties. Eventually, with the help of the Swedish EU Council Presidency, Slovenia and Croatia signed the arbitration agreement in November 2009<sup>15</sup> and the blockade of the Croatian accession negotiations was lifted. The arbitration procedure imploded, however, in 2015 (Croatia had joined the EU on 1 July 2013) due to unlawful contacts between the Slovenian government and the tribunal member appointed by Slovenia.<sup>16</sup> In response to this, the Croatian government unilaterally withdrew (based politically on an unanimous vote in the Croatian parliament) from the arbitration procedure.<sup>17</sup> The Tribunal on its part procedurally remedied the violation of the arbitration agreement (by replacing the two party-appointed tribunal members) and handed down a binding award under international law in 2017, which Croatia does not recognize, however.

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- 12 Some sections of the land border between Croatia and Slovenia (and elsewhere between successor states of Yugoslavia) became disputed due to overlapping cadastral records. It must be noted that the borders between the Yugoslav Republics have never been established by any federal or other legal act. The maritime boundary had to be delimited *de novo*, as the SFRY territorial sea had been integrated waters that were not separated by riparian Republics.
- 13 At a meeting in Bled in August 2007, the two prime ministers Sanader and Janša agreed to submit the dispute to the International Court of Justice (ICJ). However, the negotiations on the mandate for the Court stalled in the bilateral expert group in the following year.
- 14 For a detailed account, cf. Arnaut (2002), Sancin (2010), Dolenc (2013, 150–151), Bickl (2021, 133–146).
- 15 The political will and constructive attitude of the two prime ministers Jadranka Kosor and Borut Pahor and their advisors in the second half of 2009 was a key element in this silent-diplomacy operation.
- 16 The Tribunal consisted of three members jointly nominated by the parties and one party-appointed arbitrator each.
- 17 Legally, Croatia invoked a breach of the Vienna Convention of the Law of the Treaties (VCLT) (cf. Partial Award 2016, e.g. §85). The arbitration tribunal, however, having the inherent competence to decide on all procedural matters found no reason for the arbitration procedure not to continue.

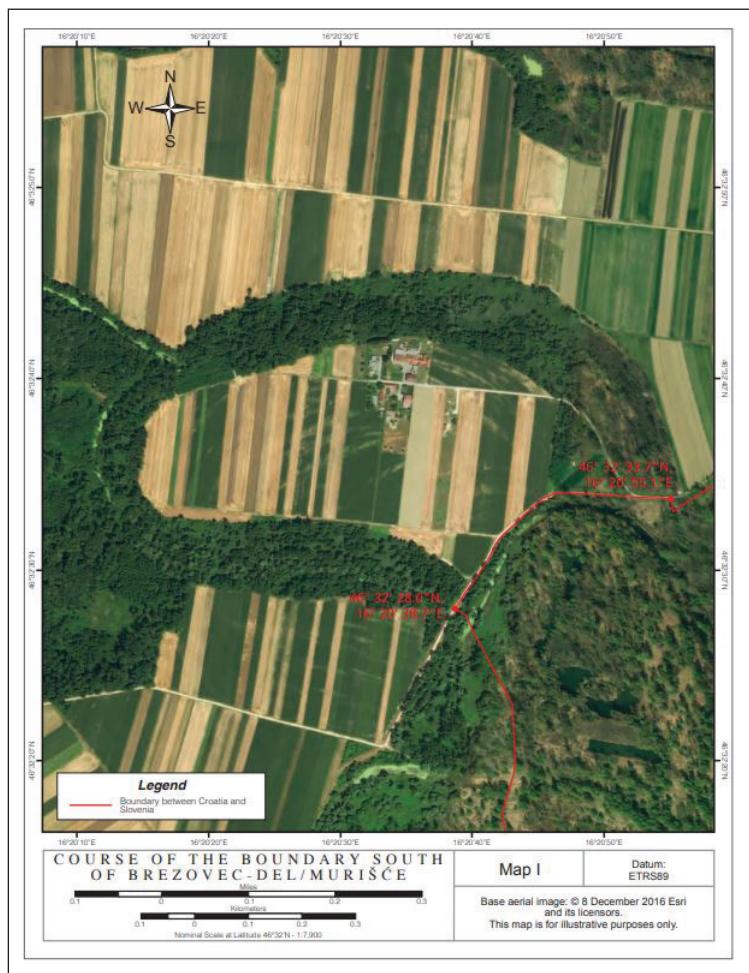


*Fig. 1: Prime ministers Jadranka Kosor and Borut Pahor in 2010. Photo by Stanko Gruden, STA (Wikimedia Commons).*

The Slovenian government has subsequently attempted to enforce the arbitration award, but to no avail. It proved impossible to implement the award by means of EU law through an infringement procedure against Croatia before the Court of Justice of the European Union (CJEU) in 2018.<sup>18</sup> In a second attempt, Slovenia had supported the case of Slovenian fishers who, in 2022, had lodged an application before the European Court of Human Rights (ECtHR) for being fined by the Croatian police for fishing in waters that under the arbitration award are under the territorial sovereignty of Slovenia.<sup>19</sup> With the Croatian government welcoming the ECtHR decision and striving for a bilateral agreement on the border independent of the 2017 arbitration award (Croatian Ministry of Foreign and European Affairs, 2024), and the Slovenian government insisting on the implementation of the very arbitration award (Slovenian Ministry for Foreign and European Affairs, 2024), the dispute has remained in a legal-political limbo for the time being.

18 The CJEU declared the case inadmissible in 2020. Some scholars, however, argue that the Court has not sufficiently considered the link to the arbitration procedure in the EU Accession Treaty of Croatia (cf. e.g. McGarry, 2020). The European Commission (EC) had stayed neutral after Slovenia had filed the infringement procedure in March 2018 irrespective of the previous position of the EC legal service in July 2017 that the bilateral border dispute had a direct effect on EU law, and therefore the Union had jurisdiction in respect of this matter (European Commission, 2017).

19 The applications were declared inadmissible in May 2024. Croatian fishers had, in the same vein, filed applications for being fined by Slovenian authorities, cf. STA (2023).



*Fig. 2: The Slovenia-Croatia land border at the Brezovec - del Murišće hamlet according to the arbitration award (Permanent Court of Arbitration, Final Award, 29 June 2017, 135).*

## CONFLICT AND COOPERATION: INFRASTRUCTURE, FOREIGN-CURRENCY DEPOSITS, ENERGY POLICY

The relevance of the border dispute, however, a frozen conflict politically, has perhaps become less pressing. Croatia joined the Schengen Area (with free movement across whatever border-crossing with Slovenia) and the Euro in 2023 and has thus reached the innermost level of European integration. With regard to

the bilateral relations between Ljubljana and Zagreb in the area of infrastructure projects, there have been no discussions on major joint infrastructure projects recently. Repair work on several bridges in cross-border areas, for instance, cannot go ahead because their cross-border status may be disputed, with no agreement on whether decisions concerning the repairs should be made on a case-by-case basis or adopted as a package. There is an agreement, however, on a new bridge at the Kaštel-Dragonja border crossing, the most frequented one in Istria alongside Jelšane-Rupa further east, where the two sides have shared the repair and construction costs fifty-fifty and completed the works (N1, 2021; author's field notes July 2024). It is worth noting that the border on this part of the Dragonja River has not been in dispute.<sup>20</sup> With regard to both countries' northern Adriatic ports, Koper and Rijeka, cooperation has been limited and competition has been the norm (Barić et al., 2021, 36).

Alongside border disputes, there is another legacy from the dissolution of Yugoslavia: The issue of foreign-currency deposits and the compensation for the illegal use of them by the SFRY to cover its demand for foreign-currency reserves. The deposits were mainly held by citizens working abroad. At the time, these foreign-currency accounts were predominantly deposited with Ljubljanska Banka (LB), the country's largest commercial bank, and its subsidiaries in other Republics of the SFRY. In terms of bilateral disputes with Slovenia from the lens of Croatia, the foreign currency deposits issue was perceived as a major root-cause for bilateral tensions with Slovenia in the first two decades after independence.

It was not before 2014, however, when the European Court of Human Rights (ECtHR) handed down a landmark judgement in the most prominent case relating to LB and the foreign-currency deposits: In *Ališić et al. v. Slovenia*, the country was ordered to unilaterally cover all claims against LB. The Slovenian government subsequently set up a compensation scheme worth 385 million Euro (cf. Hojnik, 2016). In a previous case (*Kovačić et al. v. Slovenia*) brought before the ECtHR in 2006, the Court found in 2008 that the matter of compensation for so many thousands of individuals be solved by agreement between the successor States.

In two separate judgements relating to Ljubljanska Banka in 2015 and 2020, the ECHtR declared two cases in which Slovenia sought to recover the debt of Croatian companies towards LB inadmissible (cf. Stavridi, 2021). This created a situation in which Slovenia was held liable for the repayment of foreign-currency deposits in LB subsidiaries on the territory of the former Yugoslav Republics while not being able to enforce LB's own debt claims against Croatian and other companies.

20 In the strip of land between the Dragonja-Kaštel border-crossing and the Plovanija-Sečovlje one further to the west, there are three settlements (Škrilje/Skrile, Bužin/Bužini, and Škudelin/Škodelin) on the left bank of the Dragonja historically claimed by Slovenia. The 2017 arbitration award stipulates the Dragonja River as the border.

In the area of energy policy, close cooperation in the operation of the Krško nuclear power plant has been the default mode since the block went into service in 1983.<sup>21</sup> The contract with the US provider Westinghouse dates back to 1974.<sup>22</sup> The plant's electricity production has been shared in equal parts (Croatian Ministry of the Economy and Sustainable Development, 2023; Senior Croatian Civil Servant 2023). Currently, the Krško plant covers 40% of Slovenia's and 17% of Croatia's energy demand (Bičak, 2023).<sup>23</sup> Slovenia has undertaken to phase out coal by 2033 and the current economic situation of the Šoštanj lignite power station with its record losses in operational electricity production has become untenable, so the government will have to step in to avert bankruptcy (STA, 2024). Whatever the consequences for the phase-out of coal in Slovenia or the reliance on energy imports, Slovenia has started preparations for a second reactor (JEK2) at Krško (Slovenian Ministry of the Environment, Climate, and Energy, 2023). Croatia's prime minister announced as early as in April 2022 that Croatia wishes to continue its participation also through the construction and use of the second reactor. This would help meet the country's CO<sub>2</sub> reduction targets (Radosević, 2022). Currently, the JEK 2 project is being developed by GEN Energija. According to the Slovenian government, the intention is to continue the cooperation with Croatia and to officially do so at the time of the investment decision.

The future Krško reactor project is currently managed by a dedicated State Secretary at the prime minister's office. The vision is that JEK2 is a promising approach also for the wider region of Southeast Europe in the context of achieving the net-zero goal of full decarbonization of electricity production by combining renewable energy sources with nuclear power (Levičar, 2023). Critics of nuclear power contend that the costs of producing electricity from nuclear will considerably exceed the costs of a large-scale installation of solar and wind power (Kus, 2023)<sup>24</sup> the percentage of which currently is still very low. Slovenia's largest share of renewables to date is from hydropower covering around one third of the country's electricity production (SURS, 2024).<sup>25</sup>

21 However, a temporary cut-off of electricity supply to Croatia on the part of Slovenia between July 2002 and April 2003 was subject to an investor-state arbitration procedure on the financial compensation. The award was handed down in December 2015, ordering Slovenia to cover the financial damage, cf. International Centre for Settlement of Investment Disputes (2015).

22 The contract was signed by the then parent companies Savske Elektrarne Ljubljana and Elektroprivreda Zagreb (International Atomic Energy Agency, 8 November 1974); cf. also next footnote. The contract was backed up by a USD 600 million loan from the US government in 1975 (Pirjevec, 2018, 412).

23 The Krško power plant is owned and operated by Nuklearna Elektrarna Krško (NEK), which is jointly owned by Croatia's Hrvatska Elektroprivreda (HEP Group) and Slovenia's GEN Energija.

24 The production of one megawatt-hour (MWh) from JEK2 would, according to Kus, amount to €170, compared to €55 for electricity generated with large wind farms and solar power plants.

25 In July 2024, the electricity production in Slovenia had the following allocation by source: nuclear 36.1%, hydro 32.9%, coal 18.6%, and solar and wind 12.4% (SURS, 2024). It should be noted however, that during wintertime the share of solar is considerably lower whilst the share of coal and nuclear tends to be higher.

## ON EQUAL FOOTING: CAN PARITY OF STATUS HELP SOFTEN TENSIONS?

Notwithstanding the different EU trajectories Slovenia and Croatia have experienced on their way to Brussels (a rather smooth accession here, and a rockier road with a heavy item of transitional justice and a forced resolution attempt for the bilateral border dispute there; more above under the second heading), both countries now enjoy parity of status. At the beginning of 2023, Croatia joined both the Schengen Area and the Euro and is now on equal footing with Slovenia at the same and innermost layer of EU integration.

Whereas the accession to the Euro can be seen as a reward of Croatia's sustainability of its public finances and its previous central bank's ability to defend the Kuna's close alignment with the Euro in the Exchange Rate Mechanism (ERM II), the accession to Schengen has a strong bearing on the bilateral relations with Slovenia. It can be seen as a win-win situation in several respects: First, the positive impact, albeit largely anticipated, on the bilateral economy. According to the Slovenian Public Agency for Entrepreneurship, Internationalisation, Foreign Investments, and Technology, bilateral trade almost doubled between 2017 and 2022 (SPIRIT, 2023). Second, the end of the controls on what used to be Schengen border-crossings between both countries can also be considered to have become a positive and dampening side-effect on the stretching out of bilateral tensions due to the border dispute: occasionally during tourist seasons, the Slovenian police would replace random checks by (non-mandatory) regular checks for road traffic into Croatia thus causing considerable delays for travellers to holiday destinations with the southern neighbour. By definition, northbound traffic from Croatia into Slovenia now on intra-Schengen crossings is no longer a structural bottleneck.<sup>26</sup> And third, very much in line with the positive effects on travel and tourism, the expiry of the Schengen border between the two countries has been positive for cross-border family relations and for many Slovenes who own property in Croatia.

Whilst it is true that some anxieties stemming from previous disputes, not least related to unequal status, seem to indeed have faded away to some degree, one can acknowledge a more general relaxation of relations at the diplomatic level. This concerns personal relations more recently, both in the technical and the political domain. Allowance must be made for the fact that bilateral conflicts matter less once both countries have joined the EU (Senior Croatian Civil Servant, 2023). Contacts between diplomats from both sides are now described as more comfortable due to Croatia and Slovenia being on an equal footing in terms of EU integration and an increasingly self-confident Croatia (Senior Slovenian Civil Servant A, 2023; Jović, 2023, 138). In some cases, personal relations at the

26 It must be noted, however, that Schengen controls for vehicles entering Slovenia northbound from Croatia were mandatory on a Schengen border, so all traffic from Croatia into Slovenia had to undergo standard checks for each and every vehicle.

political level have become almost amicable, also across party-political affiliations, as is currently the case with foreign ministers Tanja Fajon and Gordan Grlić Radman (Jović, 2023; Senior Slovenian Civil Servant B, 2023).

The more recent geopolitical situation has been of great importance, too. What can boost the internal cohesion of an international organisation such as the EU are external security threats. No matter whether we look at Russia, the Middle East, or China: In the face of a common external threat, internal bilateral conflicts tend to lose relevance in a European context (cf. Schimmelfennig, 2023, 190).<sup>27</sup> The same holds for extreme weather events and disaster relief, for instance. In the Slovenian-Croatian context, we have seen excellent neighbourly relations during the wildfires in the summer of 2022, also with increased multinational regional cooperation (European Commission, 2022), and the heavy floods after several days of torrential rain in August 2023 saw both sides coming together to help one another (Hina, 2023b).

#### ALL EYES ON THE WESTERN BALKANS: EVERYONE EMBRACING THE NEIGHBOURHOOD?

Croatia and Slovenia have a distinctive expertise with and experience on the Western Balkans region – as neighbours and former members of Yugoslavia in its different settings (1918–1991). With regard to enlargement, both Ljubljana and Zagreb share a pro-enlargement policy line, e.g. as members of the Friends of the Western Balkans Group together with Austria, Greece, Italy, Czechia, and Slovakia (Brzozowski, 2023). When it comes to pursuing national interests in the region, the picture is more nuanced, however. Slovenia has an interest in securing market access for its export-oriented companies, sees itself as a gateway to the region enjoying very good economic and political relations with all Western Balkans countries, and has virtually no unresolved issues with any countries in the region (except for the territorial one with Croatia). Nonetheless, Slovenia's achievement as the host of the 2021 Western Balkans Summit in Brdo pri Kranju, for example, remained limited as the EU Member States would not commit to any timeline for enlargement in the Western Balkans, a fact that still holds at the time of writing. In Croatia, where the economy is also closely integrated in the region, issues of national identity traditionally have a strong bearing, particularly concerning Bosnia-Herzegovina and its Croat community, and concerning Serbia e.g. with regard to missing persons after the 1991–1995 war.<sup>28</sup> In Croatia, EU membership has largely been framed in terms of de-Balkanisation (and de-Yugoslavisation previously) while recognizing that, as an EU member, Croatia actually enjoys more, not less influence on foreign

27 Research on e.g. domestic polarization in the US in the face of external threats seems to provide for more nuanced conclusions, cf. Myrick (2021).

28 For other open bilateral issues in the area cf. e.g. Petrović & Wilson (2021); Bickl (2023).

policy – which is where Europeanisation goes hand in hand with sovereignty (cf. Jović, 2023, 139).

There is one fundamental point that needs to be taken into account with EU enlargement: seen as a *process*, it offers ample opportunity to every Member State to exert maximum influence by leveraging its EU membership when dealing with Candidate Countries – as demonstrated by the Slovenia-Croatia case. What boded particularly ill more recently was Bulgaria's last-minute blockade of North Macedonia when issues of history, culture, and identity were favoured above the European interest substantially delaying the start of EU accession negotiations (cf. Kamberi, 2023). It is therefore not difficult to agree with Basheska (2022, 226) that 'allowing Member States to redefine enlargement criteria in line with their domestic preferences and politics does not only undermine the rule of law as a fundamental part of [EU accession], but also discredits the entire enlargement process'.

## CONCLUSION: SLOVENIA'S EU MEMBERSHIP AND THE LESSONS FOR EU ENLARGEMENT

In a geopolitical context where all eyes are on the EU accession process of Ukraine after the opening of accession negotiations in December 2023, the Western Balkans Candidate Countries are finding themselves yet again in a state of unpredictability and discouragement as for their own accession process. In the face of the non-existence of a timeline for merits-based EU accession, the laborious and often painful reform process will be hard to maintain.

Nevertheless, what then can we learn from Slovenia and Croatia's EU membership and its influence on their bilateral relations? Joint EU membership is undoubtedly a positive undertaking. Being 'in it' together can help decrease the salience of bilateral disputes, particularly when both countries enjoy the same level of EU integration. Second, the Slovenia-Croatia case is a stark reminder that the power imbalance between a Member State and a Candidate Country can be (ab)used to resolve a bilateral dispute in favour of the Member State through coercion and at the expense of sustainability. This can create both alienation and the risk of importing a frozen conflict. Third, although it would seem reasonable not to scrap the current merits-based approach to EU enlargement – also not with regard to Ukraine – it might make sense to avoid a scenario where countries joining one by one can make full use of their leverage of membership as a powerful tool to impose solutions to bilateral issues. It may rather be worth exploring whether it would make more sense to think about having some countries join in groups (which has happened in the past, albeit in much less bilaterally loaded settings), which would make these issues less toxic, giving silent diplomacy the opportunity to try to seek a solution ahead of accession within a robust dispute resolution framework (Bickl, 2021, 297–301).

There can be little doubt that the situation that EU newcomers are facing today is substantially different from the one in 2004 or 2013. Given the geopolitical focus on Ukraine (and Georgia and Moldova) and the de facto Western Balkans enlargement fatigue (which has not disappeared in some capitals despite the official rhetoric to the contrary), the sobering assessment is that the economic and political interests of EU Member States in the region are divergent (cf. Bartlett, 2023, 49–51). Some even argue that ‘integration without membership’ is becoming a reality (Radic Milosavljević & Petrović, 2024). At any rate, the EU enlargement process bears particular responsibility for improving rather than straining bilateral relations.

## EVROPSKO BRATSTVO I JEDINSTVO? BILATERALNI ODNOSI SLOVENIJE S HRVAŠKO SKOZI PRIZMO ČLANSTVA V EU

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### *POVZETEK*

Članek obravnava vpliv članstva v EU na dvostranske odnose med Slovenijo in Hrvaško. Analiza se osredotoča tako na pristopni proces k EU kot na sodobna politična vprašanja sporov in sodelovanja. Zgodovinsko gledano je vstop Slovenije v EU potekal precej nemoteno, medtem ko je bila hrvaška pot v Bruselj obremenjena z vprašanjem tranzicijske pravičnosti in, ne nazadnje, z dvostranskim mejnim sporom s Slovenijo. Med političnimi konfliktimi področji izstopata arbitražni postopek o mejnem sporu in devizne vloge v nekdanji Ljubljanski banki. Kar zadeva sodelovanje, je izrazit primer energetska politika in skupno delovanje jedrske elektrarne Krško. Poleg bilateralnih vprašanj je skupno članstvo obeh držav v EU poskrbelo za splošno sprostitev odnosov na politični ravni. Izkušnje, pridobljene pri širitvi EU na Zahodnem Balkanu v zvezi z reševanjem dvostranskih sporov, vključujejo potrebo po proaktivnem obravnavanju vprašanj in trdni mreži za reševanje sporov v zvezi s tem.

*Ključne besede: Slovenija, Hrvaška, dvostranski odnosi, odprta vprašanja, sodelovanje, Evropska unija*

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