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**OPINION ON THE CROATIAN CONSTITUTIONAL LAW
AMENDING THE CONSTITUTIONAL LAW OF 1991**

**adopted by the Venice Commission
at its 43rd Plenary Meeting
(Venice, 16 June 2000)**

on the basis of the Report prepared by

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On 28 April 2000, the Parliament of the Republic of Croatia considered at first reading a “Draft Proposal of the Constitutional Law on Amendments to the Constitutional Law on Human Rights and Rights of Ethnic or National Communities or Minorities”. Having been asked by the Parliamentary Assembly to follow the developments in the revision of the said Constitutional Law of 1991 and its implementation, the Venice Commission considered the same draft in order to submit to the Croatian authorities its comments and observations. On 3 May 2000 the Croatian Government forwarded the draft Constitutional Law (together with two other draft laws on the use of minority languages and on education in minority languages) to the Venice Commission requesting its comments.

It is recalled in this respect that, in the framework of the procedure for the accession of Croatia to the Council of Europe, the Venice Commission recommended that the suspended provisions of the 1991 Constitutional Law on Human Rights and Rights of Minorities be revised as soon as possible in order to ensure that persons belonging to minorities are guaranteed rights in the field of local autonomy in accordance with the European Charter of Local Self-Government and Recommendation 1201 (1993).

On its accession to the Council of Europe, Croatia undertook to carry these recommendations into effect (see Assembly Opinion No. 195 (1996) on Croatia's request for membership of the Council of Europe, para. 9.vii). Furthermore, under Committee of Ministers Resolution (96) 31, such membership is subject to the requirement to co-operate with the Council of Europe, *inter alia* in applying the Constitutional Law on Human Rights and Freedoms and the Rights of National and Ethnic Communities or Minorities.

The Venice Commission's Rapporteurs examined the draft constitutional law as a matter of urgency. On 10 May they submitted to the Government of Croatia and to the Parliamentary Assembly of the Council of Europe a preliminary report (CDL (2000) 31). They found that the draft constitutional law, as such, did not seem to offer an adequate response to the political needs of minorities in Croatia. In addition, they regretted that despite the commitment of the Croat authorities and the Commission's reiterated availability no consultation had taken place at an earlier stage of the Constitutional Law's drafting.

However, on 11 May 2000, the Parliament of the Republic of Croatia adopted the draft without substantial changes (CDL (2000) 35). It is however to be noted that in a “Conclusion” adopted at the same meeting, the Parliament instructed the Government “to prepare a new draft of the Constitutional Law on the Rights of National Minorities so that it can be introduced before the Parliament in the next six months”.

Finally it should be noted that on 22 May 2000, fourteen representatives of the House of Counties requested the Government to initiate proceedings before the Constitutional Court to challenge the conformity of adoption of the new Constitutional Law with the Constitution of Croatia. They claim that the House of Counties was not consulted prior to the adoption of the new Constitutional Law as it ought to be pursuant to Articles 127 and 137 of the Constitution.

Two other laws (on use of and on education in minority languages, CDL (2000) 32 and 36) were adopted on the same date, thus constituting a “package” of minority legislation. The Commission understands that for reasons of rationalisation of legislative work these laws were introduced and considered together by the legislator. However it finds no objective reason why the new Constitutional Law should be regarded as connected to or as a prerequisite for the

adoption of the two other laws. It recalls in this respect that the constitutional basis for these two laws is to be found in Articles 5 to 12 of the Constitutional Law of 1991 which were not suspended in 1995 and were consequently already in force when the laws were discussed and adopted.

The Constitutional Law of 1991, its suspension and its revision

The 1991 Constitutional Law conferred *inter alia* specific rights of representation and participation in public institutions (parliament, government and supreme judicial bodies) to all minorities representing more than 8% of the population; these provisions were designed mainly to protect the largest minorities in Croatia by granting them effective representation at different levels of the legislative, executive and judicial institutions. Although there are 16 minorities present in Croatia, only the Serb minority was concerned by these provisions. Minorities representing less than 8% of the population were granted five seats to the Parliament of the Republic of Croatia.

By Constitutional Law adopted on 20 September 1995 all provisions relating to the special rights of minorities amounting to at least 8% of the population have been suspended. This also applied to provisions granting special status to districts with a majority of Serbs. The reason put forward for this suspension is that, following population movements, there are no longer units where the Serb minority would be a majority and that, consequently, the prerequisite for the implementation of the provisions at stake was not met.

The Venice Commission expressed the view that the relevant provisions of the Constitutional Law of 1991 should be revised with a view to ensuring an effective participation of minorities in public life (CDL(96)26).

In October 1996, the Government of the Republic of Croatia established a commission entrusted with the task to examine and to propose the revision of the Constitutional Law and the Venice Commission appointed some of its members to participate in the work of the above-mentioned commission. The members of the Venice Commission met the Croatian Commission for the Revision of the Constitutional Law in Zagreb in March and May 1997. Following these meetings

- a consultative body (now called «Council of National Minorities») was set up, where representatives of minorities sit and discuss with Government representatives and officials questions concerning minority protection policy. Mrs Zoricic Tabakovic, chair of the Council participated in the 36th Plenary meeting of the Venice Commission (Venice, 11-12 December 1998)
- the Venice Commission addressed to the Croatian authorities, in June 1997, a memorandum containing the orientations and conclusions concerning the revision of the Constitutional Law (see Venice Commission 2nd Report on its co-operation with Croatia (CDL-INF (98) 7)).
- the Croatian authorities agreed to elaborate a draft Law on the Revision of the Constitutional Law which would be the basis for the further work on revision.

On 12 December 1997 the Parliament of the Republic of Croatia adopted amendments to the Constitution whereby, among others, the list of minorities expressly mentioned in the preamble of the Constitution was amended in such a way as to delete the mention of "Muslims" and "Slovenes" and to include "the Germans, Austrians, Ukrainians and Ruthenians". The Commission had not

been able to assess the possible effects of this amendment on the work of the Croatian commission for the revision of the Constitutional Law and on the composition and the activities of the Council of National Minorities. However, it became clear later, when the electoral law was adopted, that this amendment had negative effects on the representation of the minority groups whose mention in the Preamble was deleted (see below).

On 29 April 1999, the Parliamentary Assembly, by its Resolution 1185 (1999) on the honouring of obligations and commitments by Croatia «regrett(ed) that little progress (had) been made by Croatia in honouring commitments and obligations related to the fundamental principles of the Council of Europe (democracy, rule of law and human rights)» and called on the Croatian authorities, *inter alia*, to «adopt a constitutional law revising the suspended provisions of the 1991 constitutional law ... in compliance with the recommendations of the Venice Commission and taking into account new realities, by the end of October 1999 at the latest ».

Following an invitation by Mrs ZoricicTabakovic, Messrs G. Maas Geesteranus and F. Matscher participated in a meeting of the Council of national minorities in Zagreb, on 5 May 1999 (see Document CDL (99) 34). During the meeting the urgency of the revision was underlined and reference was made to the Memorandum addressed by the Venice Commission to the Croatian Parliament in 1997 indicating the main topics to be dealt with in the framework of the revision. These include the status of the Council of National Minorities and other minority institutions, the representation of minorities in the legislative bodies and the Government and guarantees for educational and cultural autonomy. It was generally accepted that the points set out in the Commission's Memorandum could form the basis for the revision. It was stressed further that early involvement of the Commission in the preparation of the revision would make co-operation easier and more effective. In this respect, the need was underlined to submit to the Commission as soon as possible any draft amendments to the Constitutional law of 1991, including provisions on the electoral rights of persons belonging to minorities. The Director of the Governmental Office for Minorities indicated that work on the revision was going on, but no draft had been finalised so far. As soon as finalised, the draft would be sent to the Venice Commission and to the Council of National Minorities for consideration. However, no draft material has been forwarded to the Commission until April 2000.

Moreover, some of the suspended provisions concerning electoral rights of minorities, including the Serb minority, were in fact reviewed by the adoption, on 29 October 1999 of the new Croatian electoral legislation. The draft election law provides for the representation in the House of Representatives of indigenous ("autochthonous") national minorities. Minorities have the right to elect five representatives in a national minority constituency in accordance with the following scheme: Italians, Hungarians and Serbs shall elect one representative each; Czechs and Slovaks shall also elect one representative; Ukrainians, Ruthenians, Jews, Germans and Austrians shall elect one representative. In order to achieve that all above mentioned minorities be represented, the representatives of Czechs and Slovaks, as well as the representatives of Ukrainians, Ruthenians, Jews, Germans and Austrians shall rotate. As a result of the above enactment the guaranteed representation of Serbs in Parliament was reduced from three to one. The amendment to the Preamble of the Constitution had also the effect of guaranteeing a representation by rotation to Germans, Austrians, Ukrainians and Ruthenians, whereas no representation whatsoever was guaranteed for Slovenes and Bosniacs ("Muslims").

The Constitutional Law on Amendments to the Constitutional Law of 1991

The Constitutional Law makes the following substantial proposals:

First, it provides that all previously suspended provisions concerning special status districts are abolished.

Moreover, the Constitutional Law provides that other specific rights of minorities representing more than 8% of the population, i.e. rights to be proportionally represented in the Parliament and in the Government and in high judicial bodies are re-introduced. However their effective implementation shall only start after the proclamation of the results of a census to be held in the Republic of Croatia (The date of the census is not specified in the law but according to information received by the Commission at its Plenary meeting the end of 2001 would be the time envisaged).

Rights of minorities who do not represent more than 8% of the population are not affected.

Pursuant to the Constitutional Law, a new list of national minorities is included in Article 3 of the Constitutional Law of 1991 including again the Slovene and the Bosniac minority, as well as several other minorities, i.e. Albanian, Bulgarian, Montenegrin, Macedonian, Polish, Roma, Romanian, Russian, Turkish and Vlach minorities.

Assessment of the Constitutional Law

1. Article 1 of the new Constitutional Law amends Article 3 of the Constitutional Law on Human Rights and Rights of Minorities. This provision no longer guarantees “equality of national and ethnic groups or minorities” but “equality of the members of ethnic and national communities or minorities”.

This shows the will of the Croat constitution maker to depart from the concept of protecting minority rights as group rights and focus on protection of individual rights of persons belonging to minorities. However, Articles 4 and 5 of the Constitutional Law guaranteeing to minorities the right to self-organisation, to develop their relations with their “parent countries” in order to promote their national cultural development and the right to cultural autonomy remain unchanged.

The wording “equality of the members of the minorities” shows that the Law does no longer make any distinction between minorities on the ground of their numerical importance or on their “autochthonous” nature (cf. Preamble to the Constitution). Also the list of minorities is now given in a strict alphabetical order. To the contrary, in the Constitution Serbs appear in the beginning of the list.

The discrepancies between the list in the Constitution and the list in the Constitutional Law should not in principle raise any difficulty as both are regarded as indicative. However, the conclusion the legislator has drawn from the list of “autochthonous” minorities in the Constitution, namely that only these minorities have the right to be represented in the Parliament, may no longer be justified under the proposed amendment to Article 3 of the Constitutional Law.

2. Articles 2, 3 and 5-8 of the new Constitutional Law abolish all provisions concerning special status of districts where minority members represent the majority of the population (Articles 13, and 21 to 58 of the Constitutional Law of 1991), namely the districts of Glina and Knin with Serb majority according to the 1981 census. The explanatory report states that the special status districts are abolished "since in the present conditions in the Republic of Croatia a need for such a form of minority protection no longer exists".

This abolition conflicts with the proposals made by the Venice Commission at various stages of its work on the implementation and the revision of the Constitutional Law of 1991. In its report on the implementation of the Constitutional Law (CDL (96) 26), adopted at the Commission's 27th Plenary Meeting, Venice 17-18 May 1996) the Commission had already considered the argument that the special status would be inadequate because of the change in the demographic conditions of the region. The Commission had expressed concern about the discouraging psychological effect that the suspension would have on minorities and displaced populations who would like to remain in or return to Croatia. The Commission had stated then that the Constitutional Law of 1991 without its special status provisions could not be said to constitute an adequate response to the situation after 1995. In the Commission's view a revision of these provisions was required but this should not amount to an abolition of any special status.

3. The Constitutional Law does not make any proposal for revision of the constitutional law.

The Commission had proposed in its Memorandum addressed to the Croatian authorities that the existence and functioning of the "Council of National Minorities", a consultative body comprising representatives of minorities and advising the authorities in the field of minority policies, should be provided by the Revised Constitutional Law.

As to the special status provisions the Commission made proposals in this respect on two occasions:

First, in its above-mentioned report on the implementation of the Constitutional Law of 1991, the Commission found the following:

"Although recent events are capable of justifying a revision of certain provisions of the Constitutional Law of 1991 (...) **this revision should not lead to the abolition of any special status but should rather institute a regime of local self-government adapted to the new situation.** In this respect, it is of course for the national legislature to determine the principal characteristics of that regime. However the new provisions should, in line with Recommendation 1201 (1993) and with the European Charter of Local Autonomy, guarantee that **concentrated minorities will enjoy the right to regulate and manage an important part of public affairs.**"

As regards in particular the situation of the Serb minority, the Commission indicated in its Memorandum on the revision addressed to the Croatian authorities in June 1997:

"The authorities of the Republic of Croatia should consider including in the Revised Constitutional Law the guarantees of political representation and educational and cultural autonomy which are included in the "Letter of intent" (Letter of the Government of the Republic of Croatia dated 13 January 1997 on the completion of

peaceful reintegration of the region under transitional administration (Danube region) in the Republic of Croatia”

The Commission indicated in the said Memorandum that the Revised Constitutional Law should set out the principle of representation of the Serb ethnic community notably from the Danube region in State bodies and bodies of local self Government acting in the region. It should also set out the framework for the functioning and competence of the "Joint Council of Municipalities" in accordance with the principles enshrined in the European Charter of local Self-Government, the Framework Convention for the protection of national minorities and Recommendation 1201 (1993) of the Parliamentary Assembly of the Council of Europe. Finally, the Revised Law should enshrine the principle of representation of the Serb ethnic community in the Parliament;

4. By virtue of Article 12 of the new Constitutional Law, Article 18 of the Constitutional Law is reactivated. This would allow minorities representing more than 8% of the population to be proportionally represented in the Parliament and in Government and High judicial bodies. However, in practice, this s re-activation is again suspended by virtue of Article 11 until the proclamation of the results of the (future) census.

The Commission does not overlook the importance of the reactivation of Article 18. As it stands, it guarantees a clear participation in political life to minorities provided that they are numerically important and this may have an encouraging effect to the return process of refugees. However, the practical effects of this provision will mostly depend on the general return policy of the Croat Government, including fair and speedy procedures concerning citizenship.

Moreover, it has to be recalled that the Commission was of the opinion that some rights should “be granted to concentrated minorities making up a substantial number of the population irrespective of the total percentage that such a minority represents at national level” (CDL (96) 26, para 22).

The new laws on use and education of minority languages

In addition to the new Constitutional Law, the Croatian Parliament adopted on the same date (11 May 2000) two laws : The law on the use of language and script of national minorities in the Republic of Croatia (CDL (2000) 32)and the law on the education in the language and script of national minorities (CDL (2000) 36).

The **law on the use of minority languages** provides for the official use of languages and script of national minorities by local administrative authorities in their official work and all their documents, in the relations between these authorities and the individual citizens, as well as before first instance State authorities and before courts of first instance. It further provides for equal use of minority languages and scripts in the display of topographic indications. The law provides for the “equal official use of national minority language and script” in the following cases:

- when the members of a particular national minority constitute the majority of inhabitants of a town or municipality;
- when this is envisaged by international agreements to which Croatia is a party;

- when municipalities and towns have so decided in their Statute, in accordance with the provisions of the Constitutional Law on Human Rights and Rights of Minorities and the Framework Convention for the Protection of National Minorities;
- when the county, in the area of which the minority language and script is in “equal official use” in particular municipalities and towns, has stipulated in its Statute that the minority language will be used in the work of its bodies.

The law contains several references to the Framework Convention for the Protection of National Minorities and this should in principle be welcome. Although the condition set for a mandatory “equal official use”, i.e. that the minority constitutes the majority in a town or municipality is rather strict¹, it leaves an important margin to local authorities to decide that a minority language or script will be in official use even when this condition is not fulfilled. Generally, it can be said that the law provides for a relatively large application of the equal official use of the minority language.

The **law on education in minority languages** provides that there will be education in minority language in pre-school institutions, primary and secondary schools and other school institutions. It provides extensive possibilities for education in a minority language and sets out the obligation of the State to fund minority language educational institutions. It is to be noted that the law stipulates that the minority culture curricula are adopted by the Ministry of education after opinion of the associations of the national minority concerned. School institutions with minority classes can use textbooks from the parent country subject to approval of the Ministry of education. Furthermore, provisions that required a declaration of belonging to an ethnic and national community or minority upon enrolment in a minority language educational unit (educational institution, class, tuition group) contained in a previous draft were removed from the law. To the contrary, the law provides that teachers in minority language units shall in principle belong to the respective ethnic and national community or minority themselves².

Undoubtedly, it would be desirable to clearly state in the law some procedural details as to the negotiation of curricula and the approval of textbooks. For instance, the law does not contain regulations on the principles by which the Ministry shall be bound when passing the curricula according to Art.6 (2) or as to the representativity of the minority association consulted by the Ministry in this respect. There are also no rules as to the reasons for and the conditions under which the Ministry may refuse to approve textbooks from the parent country. Such provisions would contribute to legal security and prevent arbitrary decisions. Be that as it may, the Commission is of the opinion that in general the Education Law regulates successfully an area having key position in the protection of minorities and sets an appropriate framework to guarantee education in the minority language.

General assessment of the laws on use of minority language and on education in minority language

Although there are some critical points in both laws that may raise delicate issues in their implementation, in general it can be said that they grant a relatively high level of protection of

¹ For instance, the Italian Law on Historical Minorities only asks for a percentage of persons using the minority language of 15 %, the Slovak Law on the Use of Minority Languages for a percentage of 20 %.

² A similar provision in a previous draft was criticised by Council of Europe experts, as teachers belonging to the majority population should not be excluded from potential employment in schools for minorities.

cultural rights for national minorities, concerning the use of and education in their languages. This fact and the positive intention standing behind these laws are certainly very welcome.

However, these laws are not likely to fill the vacuum left by the abolition of the special status provisions.

It is to be stressed that no rules are adopted at the constitutional level to regulate or to set out the frame of an effective participation of minorities in public life nor are there any rules as to the establishment and competencies of bodies representing minorities at the local and national level.

Future steps

The Commission notes that in accordance with the Conclusion of the Sabor, the Government will have to present a new draft for the revision of the Constitutional Law on Rights of Minorities within six months from the Conclusion, i.e. by mid of November 2000. Whatever the legal value and the legal effect of this conclusion could be in Croatian domestic law, the Commission understands this as being a political commitment to reconsider the question of the revision of the Constitutional Law on Rights of Minorities and welcomes the fact that a committee, under the authority of Mr Ivanisević, Minister of Justice, has already started working on the revision. Recalling Croatia's commitments when acceding to the Council of Europe, the Commission reiterates formally its availability to co-operate with the competent Croatian authorities in this respect.

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Conclusion

In the Commission's opinion:

1. The new Constitutional Law does not "revise" the suspended provisions but clearly abolishes all special regime for important minorities in Croatia. Admittedly, it re-activates provisions concerning proportional representation of minorities making more than 8% of the population but this is again suspended until the results of a census to be held in the future.
2. The laws on use of minority language and on education in minority language grant a relatively high level of protection of cultural rights for national minorities, concerning the use of and education in their languages, but are not likely to fill the vacuum left by the abolition of the special status provisions.
3. The legislation considered still lacks as a whole rules at the constitutional level to regulate or to set out the frame of an effective participation of minorities in public life and rules as to the establishment, functioning and competencies of bodies representing minorities at the local and national level.

Finally, the Commission recalls that it expressed repeatedly its availability to co-operate with the competent Croatian authorities. It regrets that despite the commitment of the Croat authorities consultation did not take place at an earlier stage and reiterates again formally its availability to co-operate with the competent Croatian authorities in this respect in the coming months with a view to prepare a proposal to amend the Constitutional Law on Human Rights and Rights of Minorities as requested by the Parliament of the Republic of Croatia.

APPENDIX I

CONSTITUTIONAL LAW ON THE AMENDMENTS TO THE CONSTITUTIONAL LAW ON HUMAN RIGHTS AND FREEDOMS AND ON THE RIGHTS OF ETHNIC AND NATIONAL COMMUNITIES OR MINORITIES IN THE REPUBLIC OF CROATIA

Article 1

In the Constitutional Law on Human Rights and Freedoms and the Rights of Ethnic and National Communities or Minorities in the Republic of Croatia ("Official Gazette," No. 65/91, 27/92, 34/92, cleared text and 68/95), in Article 1, after sub-paragraph 6, a sub-paragraph is added, which reads:

“ – Framework Convention on the Protection of National Minorities of the Council of Europe.”

Article 2

Article 3 is amended and reads:

“The Republic of Croatia protects the equality of the members of the national minorities: Albanian, Austrian, Bosniac, Bulgarian, Montenegrin, Czech, Hungarian, Macedonian, German, Polish, Roma, Rumanian, Russian, Ruthenian, Slovak, Slovenian, Serb, Italian Turkish, Ukrainian, Vlach, Jewish and other ethnic and national communities or minorities and promotes their multi-directional development.”

Article 3

Article 13 is erased.

Article 4

In Article 15, Paragraph 1 the wording “in towns and other inhabited places outside the area of districts with special statute (Article 21)” is replaced with the wording: “In units of local self-government and administration.”

In Paragraphs 3 and 4, the wording “in towns and inhabited places outside the area of districts with special statute is replaced with the wording: “In units of local self-government and administration.”

Article 5

In Article 18, Paragraph 1 the word “Parliament” is replaced by the wording “Croatian State Parliament”.

Paragraph 2 is amended and reads:

“The members of ethnic and national communities or minorities, who make less than 8% of the population of the Republic of Croatia have the right to elect at least five and not more than seven representatives to the House of Representatives of the Croatian State Parliament,

in accordance with the Law on the Election of Representatives to the Croatian State Parliament.”

Article 6

In Article 20, Paragraph 2 the wording “i.e. districts” is erased.

Article 7

Chapter V and Articles 21 to 51 are erased.

Article 8

Chapter VI and Articles 52 to 57 are erased.

Article 9

Article 58 is erased.

Article 10

Chapter VIII and Articles 60 and 61 are erased.

Article 11

The title of Chapter X before Article 63: “X. Final Provisions” are amended and read: “X. Interim and Final Provisions.”

Article 12

The provision of Article 18, Paragraph 1, a part of the provision of Paragraph 4 pertaining to the manner of election and recall from duty of representatives as per Paragraph 1, and the provisions from Paragraph 5 shall be applied from the announcement of the results of the next census of the Republic of Croatia.

Article 13

Nothing in this Constitutional Law shall be interpreted as if implying any right to performing any kind of activity or performing an act contrary to basic principles of international law, and in particular sovereign equality, territorial integrity and political independence of states.

Article 14

The terminology in the Constitutional Law on Human Rights and Freedoms and the Rights of Ethnic and National Communities or Minorities in the Republic of Croatia shall be harmonised with the valid terminology of international organisations and international agreements.

Article 15

By the coming into force of this Constitutional Law, the Constitutional Law on the Temporary Non-application of Certain Provisions of the Constitutional Law on Human Rights and Freedoms and on the Rights of the Ethnic and National Communities or Minorities in the Republic of Croatia shall cease to be valid (“Official Gazette”, No. 68/95).

Article 16

By the coming into force of this Constitutional Law, the provision of Article 68, Paragraph 4 of the Law on Local Self-government and Administration (“Official Gazette”, No. 90/92, 94/93, 117/93, 5/97 and 128/99) shall cease to be valid.

Article 17

The Committee for Legislation of the House of Representatives of the Croatian State Parliament is authorised to determine and issue a cleared text of the Constitutional Law on Human Rights and Freedoms and on the Rights of the Ethnic and National Communities or Minorities in the Republic of Croatia.

Article 18

This Constitutional Law shall come into force on the day of its proclamation by the House of Representatives of the Croatian State Parliament.

Zagreb, 11 May 2000

**HOUSE OF REPRESENTATIVES
OF THE CROATIAN STATE PARLIAMENT**

Speaker of the House of Representatives
of the Croatian State Parliament
Zlatko Tomčić, B. Sc., signed

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Pursuant to Article 80 of the Constitution of the Republic of Croatia, and Article 113 of the Rules of Procedure of the House of Representatives, the House of Representatives of the Croatian Parliament, at its 4th meeting on May 11, 2000, in regard of the Constitutional Law on the Amendment to the Constitutional Law on Human Rights and Freedoms and the Rights of Ethnic and National Communities or Minorities in the Republic of Croatia, has adopted the following

CONCLUSION

The Government of the Republic of Croatia is obliged to prepare a new draft of the Constitutional Law on the Freedoms and Rights of National Minorities so that it can be introduced before the Parliament in the next 6 months.

HOUSE OF REPRESENTATIVES OF THE CROATIAN PARLIAMENT

**SPEAKER OF THE HOUSE OF REPRESENTATIVES
OF THE CROATIAN PARLIAMENT**

Zlatko Tomčić

APPENDIX II

THE LAW

ON THE USE OF LANGUAGE AND SCRIPT OF THE NATIONAL MINORITIES IN THE REPUBLIC OF CROATIA

I. BASIC PROVISIONS

Article 1

This Law shall regulate the conditions of official use of national minority language and script, thereby ensuring equality with the Croatian language and Latin script, in accordance with the Law.

Article 2

This Law shall not alter nor repeal the rights of the members of ethnic minorities obtained on the basis of the international agreements to which the Republic of Croatia is a party.

This Law shall not alter nor repeal the rights to the use of national minority language and script obtained according to the regulations applied prior to this Law's coming into effect.

Article 3

The provisions of this Law shall not be applied in the procedures held before central bodies of the state administration, commercial courts, before the Administrative Court, the High Magistrate's Court and the Supreme Court of the Republic of Croatia, as well as before the Constitutional Court of the Republic of Croatia, and other central bodies of the state authority, unless otherwise stipulated by a constitutional law or another law.

The provisions of this Law shall not be applied to the keeping of official registers, nor to the public documents serving their purpose abroad, unless otherwise stipulated by a special law.

II. CONDITIONS FOR EQUAL OFFICIAL USE OF NATIONAL MINORITY LANGUAGE AND SCRIPT

Article 4

Equal official use of national minority language and script shall be exercised in accordance with the provisions of the Constitutional Law on Human Rights and Freedoms and the Rights of the Ethnic and National Communities or Minorities in the Republic of Croatia, the Framework Convention for Protection of National Minorities of the Council of Europe and this Law under the following conditions:

1. when the members of a particular national minority constitute the majority of inhabitants in the territory of a municipality or town, in accordance with the provisions of the Constitutional Law on Human Rights and Freedoms and the Rights of the Ethnic and National Communities or Minorities in the Republic of Croatia, the Framework Convention for Protection of National Minorities of the Council of Europe and this Law,
2. when it is envisaged by international agreements to which the Republic of Croatia is a party,
3. when the municipalities and towns have stipulated it by their Statute, in accordance with the provisions of the Constitutional Law on Human Rights and Freedoms and the Rights of the Ethnic and National Communities or Minorities in the Republic of Croatia, the Framework Convention for Protection of National Minorities of the Council of Europe and this Law,

4. when the county, in the area of which, in particular municipalities and towns, the national minority language and script are in equal official use, has stipulated it by the Statute, in relation to the work of its bodies, within the scope of self-government.

The data from the census that immediately preceded the regulation of these issues by the Statute of a municipality or town shall be relevant for exercising equal official use of national minority language and script on the basis of Paragraph 1, Item 1 of this Article.

Article 5

In the territory of a municipality, town or county, equal official use of national minority language and script shall be exercised:

1. in the work of representative and executive bodies of a municipality, town or county,
2. in the proceedings before administrative bodies of a municipality, town or county,
3. in the proceedings before bodies of the state administration of first instance, before organisational units of central bodies of the state administration acting in first instance, before judicial bodies of first instance, public prosecutors' offices and public attorneys' offices of first instance, notaries public and legal persons with public powers, authorised to act in the territory of a municipality or town, which introduced minority language and script in the equal official use.

The bodies from Paragraph 1 of this Article shall provide for the use and recognise the validity of private legal documents written in the territory of the Republic of Croatia and when they are written in national minority language or script.

Article 6

Equal official use of national minority language and script, as a rule, shall be introduced for the entire territory of a particular municipality or town.

Exceptionally to Paragraph 1 of this Article, equal official use of national minority language and script may be introduced only in the part of the territory of a particular municipality or town when it may also be foreseen by the Statute, to a narrower extent than the rights determined by this Law, but the right to using one's own language may not be excluded in the procedures before the bodies as per Article 5, Item 3 of this Law, as well as the right to obtaining public documents also in national minority language and script.

Article 7

Municipalities, towns and counties, and the state bodies as per Article 5, Item 3 of this Law shall keep the originals of all cases, regulations, acts and documents in the Croatian language and Latin script.

A) Equal official use of national minority language and script in representative and executive bodies and in the procedure before administrative bodies of municipalities, towns and counties

Article 8

In municipalities, towns and counties in which national minority language and script is in equal official use, the work of municipal and town councils, and municipal and town administrations, as well as the work of county assemblies and administrations shall be conducted in the Croatian language and Latin script and the national minority language and script which are in equal official use.

In municipalities, towns and counties as per Paragraph 1 of this Article the following shall be provided in a bilingual or multilingual form:

1. inscription of the text on seals and stamps in the same font size;
2. inscription boards of bodies of representatives, executive and administrative bodies of municipalities, towns and counties, as well as legal persons with public authorities in the same font size;
3. inscription of the headings of acts in the same font size.

A councillor, member of the town administration or citizen in municipalities, towns and counties as per Paragraph 1 of this Article shall be entitled to be provided with the following in a bilingual or multilingual form:

1. delivery of materials for a session of municipal or town council and administration, as well as the county assembly and administrations;
2. record-taking and announcement of conclusions;
3. publication of official notifications and summons of representative, executive and administrative bodies of municipalities, towns and counties, as well as session materials for representative and executive bodies.

Article 9

In the municipalities, towns and counties in which a national minority language and script is in equal official use, the following shall be provided to the citizens in a bilingual or multilingual form:

1. issuance of public documents,
2. printing of forms used for official purposes.

Article 10

In the municipalities and towns in which a national minority language and script is in equal official use, the following shall be written in a bilingual or multilingual form, in the same font size:

1. written traffic signs and other written signs in traffic,
2. names of streets and squares,
3. names of places and geographic sites.

The Statute of the municipality or town in which a national minority language and script is in equal official use shall stipulate whether the rights as per Paragraph 1 of this Article will be exercised in the entire territory or only in particular places, and whether and in which places the traditional names of the places and sites shall be used.

The Statute of the municipality or town may stipulate that in the territory in which a national minority language and script is in equal official use, the names of all legal and natural persons performing public activity shall be written in a bilingual or multilingual form.

Article 11

The members of ethnic minorities whose language and script is in equal official use are entitled to the same rights in the procedures of first and second instance before the administrative bodies of municipalities, towns and counties as in the procedure before the bodies of state administration of first instance.

B/ Equal official use of national minority language and script in the procedure before state bodies of first instance and legal persons vested with public powers

Article 12

The bodies of state administration of first instance, organisational units of the central bodies of state administration acting in first instance, the judicial bodies of first instance, the Public Prosecutor's Office and the Public Attorney's Office of first instance and the legal persons vested with public powers, which are authorised to act in the territory in which, besides the Croatian language and Latin script, a national minority language and script is in equal official use, shall be obliged to instruct the party from the territory of the municipality or town, which have introduced the national minority language and script in equal official use, on the right of use of the national minority language and script in a procedure, and enter into the records a statement as to which language and script the party will be using in the procedure.

If the records of the procedure are not kept, the party's statement as to which language he/she would like to use or about a request for issuance of bilingual documents, shall be entered as an official entry.

Article 13

In the municipalities, towns and counties in which a national minority language and script is in equal official use, the first letter of the procedure shall be forwarded to the party in the Croatian language and Latin script and in the national minority language and script in equal official use.

The language and script in which the first party's submission is filed, or communicated, shall be considered the language and script which the party wishes to use in the procedure.

Article 14

When a party to a procedure opts for the use of the national minority language and script which is in equal official use, the body conducting the procedure shall be obliged, in accordance with the procedural regulations, to ensure the party's participation in the procedure in the language and script used by the national minority.

Dispatches of the acts in the proceedings in which the parties have opted for the use of a national minority language and script shall be delivered to the party, not only in the Croatian language and Latin script, but also in the language and script which the party is using in the proceeding.

Article 15

If the participants to a procedure have opted for the use of two or more languages and scripts which are in equal official use, the language and script on the use of which the parties to the procedure agree, shall be used in the procedure, besides the Croatian language and Latin script.

If the agreement as per Paragraph 1 of this Article is not reached, the national minority language and script used by the majority of participants to that procedure shall be used in the procedure, with the provision of an interpreter for the remaining participants to the procedure. If neither in the stated manner can the use of the national minority language and script used by the ethnic minority members be ensured, the procedure shall be conducted only in the Croatian language and Latin script, with the provision of an interpreter.

The agreement of the participants on the language and script in which the procedure will be conducted, besides the Croatian language and Latin script, shall be entered into the records or an official entry shall be made in the document, if the records of the procedure are not kept.

Article 16

The state administration bodies of first instance, organisational units of the central bodies of state administration acting in first instance, public prosecutors' offices and public attorneys' offices of

first instance, notaries public and legal persons with public powers shall be obliged to deliver all acts to all of the parties and other participants to a procedure, not only in the Croatian language and Latin script, but in the national minority language and script in equal official use, used by a party, or another participant to the procedure.

A party and other participants to a procedure send their submissions in the Croatian language or in the language and script they use, which is in equal official use.

Article 17

The state administration bodies of first instance, organisational units of the central bodies of state administration of first instance, judicial bodies of first instance, Public Prosecutor's Offices and Public Attorney's Offices of first instance and legal persons with public powers, deliver to the parties letters, submissions and dispatches of other acts of a procedure of the second instance in the Croatian language and Latin script and in the language and script which were in use in the procedure of first instance.

Article 18

State administration bodies of first instance, organisational units of the central bodies of the state administration, acting in first instance, judicial bodies of first instance, public prosecutors' offices and public attorneys' offices of first instance, notaries public and legal persons with public authorities, as well as those with their offices and branches in municipalities, towns and counties in which, aside from the Croatian language and Latin script, a minority language and script are in official use, shall, in the Croatian language and Latin script, bilingually or multilingually:

1. Issue public documents,
2. Print forms used for official purposes.

State administration bodies of first instance, organisational units of the central bodies of the state administration, acting in first instance, judicial bodies of first instance, public prosecutors' offices and public attorneys' offices of first instance, notaries public and legal persons with public authorities, as well as those with their offices and branches in municipalities, towns and counties in which, aside from the Croatian language and Latin script, a national minority language and script are in official use, shall, bilingually or multilingually:

3. Write the text of the seals and stamps, in the same size of font,
4. Write inscription boards,
5. Write headings of acts in the same size of font.

Article 19

The bodies conducting second instance procedures shall perform them in the Croatian language and Latin script.

Exceptionally to Paragraph 1 of this Article, if parties that have used national minority language and script in equal official usage in the first instance proceeding participate directly before a body of second instance, the proceeding shall be conducted as first instance proceeding.

Article 20

Legal persons with public powers for conducting affairs for members of ethnic minorities may use only the national minority language and script in mutual direct relations.

III. IMPLEMENTATION OF THE LAW

Article 21

The state administration bodies of first instance, organisational units of the central bodies of state administration acting in first instance, judicial bodies of first instance, public prosecutors' offices and public attorneys' offices of first instance, notaries public, legal persons with public powers, and municipalities, towns and counties in the territory of which a minority language and script is in equal official usage, shall provide a required number of staff who can conduct procedures and take necessary action also in the national minority language and script in equal official usage.

In the reports on work and solving of cases, the bodies from Paragraph 1 of this Article must separately show the number of cases conducted in national minority language and script in equal official usage.

Article 22

The funds for implementation of this Law and regulations adopted pursuant to the Law, shall be provided from the State Budget of the Republic of Croatia as of 1 January 2000.

Article 23

The implementation of this Law shall be supervised by the central state administration body authorised for the supervision of application of the laws regulating the system of the state administration the system of local self-government.

When executive and administrative bodies of municipalities, towns and counties that have introduced equal official usage of minority language and script act contrary to the provisions of this Law, the head of the body from Paragraph 1 of this Article shall request from the representative body to discuss the situation and take measures for legal action of executive and administrative bodies, as well as take other measures in accordance with the Law.

Article 24

If a municipality, town or county have not regulated the usage of minority language and script by its Statute, and are obliged to do so pursuant to provisions of this Law, or have regulated it contrary to the provisions of this Law, the head of the central state administration body from Article 23 of this Law shall suspend the application of the Statute, or specified provisions therein, and instruct on direct application of the Law and submit to the Government of the Republic of Croatia a proposal to initiate proceedings for assessment of conformity with the Constitution and legality of the Statute or another generic act of the municipality, town or county in accordance with the Law.

Article 25

Non-application of equal official use of a minority language and script in a municipality, town or county which has been introduced by their Statute, or its application contrary to the provisions of this Law in proceedings before bodies obliged to implement equal official use of minority language and script, shall represent a significant violation of the procedure.

IV. INTERIM AND FINAL PROVISIONS

Article 26

The head of the central state administrative body, authorised to monitor the application of this Law, may adopt more detailed regulations on the manner of application of this Law by the judicial bodies, bodies of state administration, bodies of municipalities, towns and counties, as well as legal entities with public powers.

The provisions of sublegal regulations shall be harmonised with the provisions of this Law within six months from the day of its coming into force.

Article 27

The provision of Article 4, Paragraph 1, Item 1 and Paragraph 2 of this Law shall not be applied until the publication of the official results of the first census after coming into force of this Law, but the provision of Article 4, Paragraph 1, Items 2 and 3 of this Law shall be applied to all municipalities and towns.

Article 28

Municipalities, towns and counties must harmonise their statutes with the provisions of this Law within six months from the day of its coming into force and forward them without delay to the central state administration body authorised to supervise the application of this Law.

Article 29

By coming into force of this Law, the Decree on the Manner and Conditions of Use of Minority Languages and Script in the proceedings before bodies of administration and organisations performing public authorities (“Official Gazette”, number 5/81) shall cease to be valid.

Article 30

This Law shall come into force on the eight day from the day of its publication in the “Official Gazette”.

Zagreb, 11 May 2000

**HOUSE OF REPRESENTATIVES OF THE
CROATIAN STATE PARLIAMENT**

Speaker of the
House of Representatives
of the Croatian State Parliament
Zlatko Tomcic, B.Sc., signed

APPENDIX III

THE LAW

ON THE EDUCATION IN THE LANGUAGE AND SCRIPT OF NATIONAL MINORITIES

Article 1

National minorities in the Republic of Croatia shall exercise the right to education in their language and script (hereinafter: education in national minority language and script) in accordance with the Constitution and the provisions of this Law.

This Law shall neither change nor repeal the rights of national minorities to education obtained pursuant to earlier regulations, and on the basis of international agreements of which the Republic of Croatia is a contracting party.

Article 2

The education in national minority language and script shall be conducted in pre-school institutions, primary and secondary schools and other school institutions (hereinafter: school institution with the classes in national minority language and script), as well as other forms of education (seminars, summer and winter schools etc.), in the manner and under the conditions stipulated by this Law.

Provisions of other laws and regulations shall be applied to the establishment and legal status of school institutions with the classes in national minority language and script and the administration of those institutions, only unless differently stipulated by this Law.

Article 3

A school institution with the classes in national minority language and script may also be established for a smaller number of students than the number determined for the beginning of work of a school institution with the classes in the Croatian language and script.

Article 4

If there are no conditions for the establishment of a school institution in accordance with Article 3 of this Law, the education in national minority language and script shall be conducted in a class department or educational group.

A class department and educational group from Paragraph 1 of this Article shall be established in the school institution with the classes in national minority language and script or school institution with the classes in the Croatian language and script.

A class department and educational group from Paragraph 1 of this Article shall also be established for a smaller number of students than the number of students stipulated for the establishment of a class department and educational group with the classes in the Croatian language and script.

Article 5

The title of an educational institution with the classes in a national minority language and script and the text of its seal and stamp shall be written in the Croatian language and Latin script and in the national minority language and script.

Article 6

The curriculum of education in national minority language and script, along with the general part, shall obligatorily contain a part, the content of which refers to the particularity of the national minority (mother tongue, literature, history, geography and cultural heritage of the national minority).

A part of the curriculum from Paragraph 1 of this Article, the content of which refers to the particularity of the national minority, shall be determined and adopted by the Ministry of Education and Sports, upon obtaining the opinion of the associations of the national minority.

Article 7

The enrolment in a school institution, class department or educational group in national minority language and script shall be conducted under the same conditions as the enrolment to a school institution with the classes in the Croatian language and script, in accordance with the decision on the enrolment.

In case a larger number of applicants should apply for the enrolment in the school institution, class department or educational group then stipulated by the conditions of the announcement for the enrolment, the students who are members of the national minority shall have priority.

Article 8

The students of a school institution, class department or educational group with the classes in national minority language and script, besides their language and script, shall obligatorily learn the Croatian language and Latin script according to the determined curriculum.

Article 9

In the territory in which equal official use of national minority language and script has been stipulated by the statute of municipality or town, the students of a school institution in which classes are held in the Croatian language and script shall be provided with the possibility of learning the language and script of the national minority.

Article 10

Education in a school institution with the classes in a national minority language and script shall be performed by teachers who are members of the national minority with full command of the language of the national minority, i.e. teachers who are not members of the national minority, but have full command of the language and script of the national minority.

Article 11

The pedagogical documentation of a school institution, class department or educational group with the classes in a national minority language and script shall be kept in the Croatian language and Latin script and national minority language and script.

Public school documents shall be issued in the Croatian language and Latin script and in the language and script of the national minority by the school institution from Paragraph 1 of this Article, in accordance with the law.

Article 12

At least a simple majority of the members of the management body of a school institution with the classes in national minority language and script shall be members of the national minority.

Detailed provisions on the composition, conditions and manner of appointment of the members of the management body of a school institution with the classes in national minority language and script shall be stipulated by the statute of the institution.

A person who is a member of the national minority, or who is not a member of the national minority if he/she has full command of the language and script of the national minority, may be appointed the principal of a school institution from Paragraph 1 of this Article.

Article 13

For performing tasks from its scope, pertaining to a school institution with the classes in national minority language and script, the Ministry of Education and Sport shall be obliged to provide the necessary number of advisors and school inspectors who are members of the particular national minority, or persons who have full command of the national minority language and script.

Article 14

The education of teachers for the requirements of a school institution with the classes in national minority language and script shall be provided at institutions of higher education in accordance with the law or they shall be enabled to master the content of the profession, in national minority language and script, in another manner.

Article 15

General regulations on textbooks shall be applied to the issuance of the textbooks in national minority language and script.

School institutions with the classes in national minority language and script may use textbooks from the parent country with the approval of the Ministry of Education and Sports.

Article 16

The state budget shall provide the funds necessary for the regular work of a public school institution, class department and educational group with the classes in national minority language and script.

A school institution with the classes in national minority language and script may obtain funds for its functioning from other sources as well, according to the law.

Article 17

The Ministry of Education and Sports shall adopt the curriculum from Article 6 of this Law, no later than six months from the coming into effect of this Law.

Article 18

The Minister of Education and Sports may adopt regulations on the manner of application of the provisions of this Law on school institutions in national minority language and script.

Article 19

School institutions with the classes in national minority language and script shall harmonise their general acts with the provisions of this Law no later than three months from the adoption of the acts from Article 17 of this Law.

Article 20

With the coming into effect of this Law, the Law on Education in the Languages of Minorities ("Official Gazette," No. 25/79) shall cease to be valid.

Article 21

This Law shall come into effect on the eighth day from the day of its publication in the "Official Gazette."

Zagreb, 11 May 2000-05-23

HOUSE OF REPRESENTATIVES OF THE CROATIAN STATE PARLIAMENT

Speaker
of the House of Representatives of the
Croatian State Parliament
Zlatko Tomcic, B.Sc., signed

