

Venice, 20 June 1997
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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

MEMORANDUM

**ON THE REVISION OF THE
CROATIAN CONSTITUTIONAL LAW
OF HUMAN RIGHTS AND
RIGHTS OF MINORITIES**

The present Memorandum was adopted by the Venice Commission at its 31st Plenary Meeting (20-21 June 1997) following a proposal by the Commission's Group of Rapporteurs on the Revision of the Croatian Constitutional Law on the protection of Human Rights and Rights of ethnic or national communities or minorities, composed of Messrs Özbudun, Scholsem, Maas Geesteranus, Matscher and Ms Suchocka.

The Memorandum summarises the conclusions and proposals of the Group of Rapporteurs following their meetings with the Croat Commission for the Revision of the Constitutional Law, chaired by Mr. Seks, Vice-President of the Sabor, on 26 March and 19-20 May 1997 in Zagreb and with representatives of minorities.

1. The "Forum of Minorities"

The meetings revealed the need for regular consultation of the authorities with the representatives of minorities or communities. Such a consultation can easily be achieved within the framework of an institution (the "Forum of Minorities"), comprising representatives of the minorities, which could meet regularly and act as an informal consultative body for the authorities in the field of minority policies.

The Commission welcomes the initiative of the Croat authorities to convoke already at this early stage and on an ad hoc basis this "Forum". It further finds that the existence and functioning of this body should be provided by law, for instance, by the Revised Constitutional Law.

2. Inclusion of elements of the *"Letter of intent of the Government of the Republic of Croatia on the peaceful reintegration of the region under transitional administration"* in the Revised Constitutional Law

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". The Commission is of the opinion that the Revised Constitutional Law should

- set out the principle of representation of the Serb ethnic community notably from the region under transitional administration in State bodies and bodies of local self Government acting in the region;
- set out the framework for the functioning and competence of the "Joint Council of Municipalities" and of the "Council of the Serb Ethnic Community", 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;
- guarantee educational and cultural autonomy;
- set out the principle of proportionate representation of the Serb ethnic community and other national minorities in the Parliament;

3. Constitutional support for the participation of international advisers in the work of the Constitutional Court

In substitution for the Provisional Court of Human Rights provided for in Article 60 of the Constitutional Law of 1991 on Human Rights and Rights of National or Ethnic Communities or Minorities, the Commission has suggested that international advisers participate, on a transitional basis, in the work of the Constitutional Court when dealing with minority rights. This suggestion was successfully followed by the Constitutional Court. The Commission would welcome it if the current praxis could find a legal support, for instance, in the Revised Constitutional Law.