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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

**LETTER FROM THE CIVIC COMMITTEE FOR HUMAN RIGHTS
OF CROATIA
SENT TO THE COMMITTEE OF MINISTERS**

GRADANSKI ODBOR ZA LJUDSKA PRAVA

CIVIC COMMITTEE FOR HUMAN RIGHTS
COMITE CIVIQUE POUR LES DROITS DE L'HOMME
AUSSCHUSS DER SÜRGER FÜR MENSCHENRECHTE

To: The Council of Ministers

Dear Sirs,

In the view of the next foreign affairs ministerial meeting (6th June) to discuss Croatia's admittance to the Council of Europe, we take the liberty of drawing your attention to a point neglected in the past four years.

It pertains the Temporary court for Human Rights, which, in spite of its legal basis provided by the Croatian Parliament in 1991, has not yet been enacted (please consult the enclosed "Brief Chronology").

Whenever there is a discussion on human rights, the ethnic minorities' rights come into forefront. However, our experience is that much of individual human suffering could have been ameliorated if not prevented had this Court been in operation. Its main advantage would manifest

- a) in its being a permanent link between the European and Croatian judiciary for human rights,
- b) with the activities on the spot,
- c) in its preventive actions (in contrast to the War-Criminal Court in Den Haag).

The present legal procedures at our disposal are both lengthy, cumbersome and hence not sufficiently efficient (the Office of the Ombudsman proved complete failure in the past four years with the eventual resignation, but no replacement yet).

The Civic Committee for Human Rights exposed the deadlock with this Temporary Court on several occasions when the representatives from European bodies were exploring the conditions for Croatia's reception into E.U.:

17 Jan. The Rapporteurs of the Council of Europe Parliamentary Assembly.

27 Feb. The session of the Sub-Committee for Human Rights of the Parliamentary Assembly of the Council of Europe, at which session S.M. handed over personally the document to Mr Gunnar Jansson, who was only observing the session as the representative of PHARE.

16 Mar. Three Rapporteurs of the Foreign Relations Committee of the European Parliament.

27 Mar. The European Parliament Delegation for the South-Eastern countries of Europe (headed by Mrs Doris Pack).

There was no follow-up as concerns further inquiries through the Civic Committee for Human Rights.

End of Sep. There was a (regular) meeting (on the island of Brioni) of the representatives of Constitutional Courts from European countries. The Civic Committee for Human Rights took this opportunity to ask the President of the Croatian Constitutional Court (who was one of the two chairpersons) to put on agenda the Temporary Court for Human Rights.

No public statement was issued (to the best of knowledge) about the Temporary Court. However, and that is most disturbing, there was a (second-hand) quotation of what one of the Croatian Constitutional Court's judges (Zdravko Bartov_ak) said (*Skobodna Dalmacijs*, 3 October): "... (he) is not certain that this (Temporary) Court (for Human Rights) should exist separately to protect human rights of minorities ...".

This statement is to be viewed in the context of the final decisions of the Parliament (strongly opposed by the opposition) before it was dissolved for the oncoming elections, to change the Constitution in such a way that the articles dealing with minorities' rights be deleted (because "there are no minorities any more in Croatia with more than 8% of the population"). This, of course, affects the law about the formation of the Temporary Court for Human Rights, if not completely "dissolving it", although there is nothing in its name to suggest its limitations to the right of minorities only (the human rights have obviously the widest possible meaning).

**Brief Chronology
of the (doomed) Temporary Court for Human Rights**

1991

At the end of this year the Croatian Government agreed to comply with the request of the Badinter's Commission for an extension of the Croatian Constitution.

1992

The Croatian Parliament voted for an extension of the Constitution in order to provide for the legislature concerning the Temporary Court for Human Rights (named "Temporary", as it was expected to be the first among the newly formed states in the Balkans), as requested by the Badinter's Commission.

A bill to the above effect was passed and published in the Official Gazette *Narodne Novine*, No. 34, p. 838 on 17 June.

By the end of this year and beginning of the next, repeated inquiries were made within the parliamentary structure as to the nomination of two judges into the said Court, while the other three (including the Court's President) were to be nominated by the Parliamentary Assembly of the Council of Europe.

1993

The only response from the relevant ministries was (3 February) that "... the nomination of the two Court's judges will take place after some more pressing business will have been accomplished ..." (because of the war).

On 26 February a letter by several MPs was directed to the President of Croatia, Dr Franjo Tudman, asking for his intervention (no response).

1994

On 27 July a letter by Sinila Mari_i_ describing the deadlock with this Court was sent and soon published in the local daily *Vjesnik*, but there was no official (nor unofficial) response whatsoever in the public.

By the end of August, German Foreign Minister, Mr Klaus Kinkel, was visiting Zagreb. At his invitation some NGOs presented their cases. So did S.M. of the Civic Committee for Human Rights. After the meeting at the highest state level (on the island of Brioni), Mr Kinkel said for the Press: "... Croatia should put into function this Temporary Court for Human Rights as one of the mechanisms which are now missing ...".

1995

We therefore ask you to include the establishment of the Temporary Court for Human Rights in the Republic of Croatia as one specific condition for accepting Croatia in the Council of Europe.

Zagreb, 28 May 1996