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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

(VENICE COMMISSION)

**Participation of the Venice Commission Rapporteurs
in the meeting of the Council of National Minorities
Zagreb, 5 May 1999**

NOTE BY THE SECRETARIAT

Following an invitation by Mrs ZoricicTabakovic, Chair of the Council of National Minorities in the Republic of Croatia, the Venice Commission decided to appointed two of its members to participate to a meeting of this council in Zagreb, on 5 May 1999. Messrs G. MAAS GEESTERANUS and F. MATSCHER, Rapporteurs of the Venice Commission on the revision of the Constitutional Law of 1991 on Human Rights and Rights of National Minorities, participated in the meeting held in the premises of the Jewish Community of Croatia in Zagreb.

The Council of National Minorities

The Council of National Minorities was established in 1997 on a de facto basis, following a proposal by the Venice Commission in the framework of the revision of the Constitutional Law of 1991 (Constitutional Human Rights and Rights of National Minorities). The Council is a co-ordinating and advisory body acting in the field of the protection of national minorities in co-operation with the Croatian legislative, executive and judicial bodies and with international organisations. It is composed of

representatives of minorities associations registered in the territory of Croatia. With the exception of the Italian minority, it seems that all national minorities are represented in the Council. The Council holds its meetings on a monthly basis.

The meeting of 5 May 1999

The meeting of 5 May dealt almost exclusively with the revision of the Constitutional Law of 1991. Representatives of the Ministry of Foreign Affairs, of the Ministry of Justice, of the Governmental Office for Minorities and of the OSCE Mission in Croatia were also present.

The members of the Council raised several points concerning, in particular,

- the process of revision of the constitutional law of 1991;
- the legal status of the Council of National Minorities;
- its relations with the authorities;
- the representation of minorities in the government and the administration;
- the electoral rights Croat citizens abroad;
- the exercise of electoral rights by members of minorities;
- the mandate of minority representatives in the Parliament;
- the use of minority languages;
- the exercise of minority education and cultural rights.

Numerous members of the Council complained that they were not sufficiently informed of the action taken by the authorities with regard to their submissions and proposals.

The electoral law reform was a worry for them and they felt that it might affect rather than re-enforce their actual constitutional rights.

Slovenes and Bosniacs felt that the constitutional amendment of December 1997 (revising the "list" of minorities in the preamble of the Constitution) deprived them of their "vested rights".

Equally, they stressed that education in minority language and culture was based on former Yugoslav legislation (of 1979) that was no longer suitable in the context of Croatia, as an independent State.

Several members of the Council noted that worrisome signs of anti-Semitism became frequent in the Croat society.

Messrs Maas Geesteranus and Matscher noted that the revision of the Constitutional Law in co-operation with Council of Europe experts and with representatives of the minorities was one of the commitments of Croatia when this State acceded to the Council of Europe. The urgency of the revision was underlined by the Venice Commission and by the Parliamentary Assembly on several occasions and Croatian authorities recently indicated that the revision would be completed by the end of October 1999, at the latest. The Venice Commission had addressed to the Croatian Parliament in 1997 a Memorandum 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. The points set out in the Commission's Memorandum can form the basis for the revision.

The Commission's Rapporteurs stressed 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.

A summary of the submissions of the members of the Council is appended to this report.

<Assessment

Almost two years after the Venice Commission Memorandum on the revision of the Constitutional Law was addressed to the Croatian authorities, most of the points made in it remain valid.

The Council of National Minorities was indeed established, but the legal basis of its very existence and functioning is uncertain. The Council has the status of non-governmental organisation and this explains why not all minorities are represented in this body and why its consultative competencies are unclear. Legislative action is required to clarify the functioning and the competencies of this body and, where appropriate, to indicate the duties of governmental authorities towards it.

In the Rapporteurs' view, the Council of National Minorities should be involved in the drafting of the revised Constitutional Law along with the Venice Commission as soon as possible. As elections are approaching, consultations on the very sensitive issue of minorities' representatives in the Parliament, will become difficult and, consequently, the chances of reaching a consensus will diminish.>