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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

DRAFT CONSTITUTIONAL LAW
ON THE RIGHTS OF NATIONAL MINORITIES
IN THE REPUBLIC OF CROATIA

DRAFT

THE CROATIAN NATIONAL PARLIAMENT

- respecting democratic values and the general protection of human rights and fundamental freedoms, as well as the principles of the protection of national minorities established in international documents adopted under the auspices of the United Nations, the Council of Europe, the Organization for Security and Cooperation in Europe and the Central European Initiative, including multilateral and bilateral agreements to which the Republic of Croatia is a party;
- guaranteeing to members of national minorities and their communities all rights laid down in the Constitution of the Republic of Croatia, in international documents which are binding on the Republic of Croatia, as well as the rights they were realizing on a certain territory;
- respecting the right of members of national minorities to the preservation of ethnic, cultural, linguistic and religious distinguishing features which they wish to preserve (and which they realize as individuals or as a community), for the purpose of the protection of their minority identity;
- ensuring for the national minorities those political rights which have the purpose of preserving and promoting minority distinguishing features;
- encouraging understanding and tolerance between citizens as well as the development of a multicultural society;

herewith enacts

The Republic of Croatia shall ensure the realization of the rights of national minorities and their members which they enjoy individually, or in community with other persons, and especially the right to:

1. respect of the principle of non-discrimination in the enjoyment of human rights and fundamental freedoms,
2. possession and use of their own signs and symbols,
3. promotion of their own culture, and the preservation and protection of their own cultural heritage and tradition,
4. use of minority language and script in official use and public life,
5. education in minority language and script,
6. political representation at state and local levels and participation in public affairs,
7. access to the media and carrying out of media activities,
8. self-organization and association for the purpose of realizing common interests, as well as minority self-government,
9. manifest religion and establish religious institutions,
10. protection from any activity which endangers or may endanger their survival, the realization of rights and interests.

Article 4

The Republic of Croatia encourages the unimpeded cooperation of national minorities with the members of the same group in other states with whom they are connected by national, cultural or other affiliation, for the purpose of the promotion of their national, cultural and other development.

II. SPECIAL PROVISIONS

Signs and symbols of a national minority

Article 5

The signs and symbols of national minorities shall be possessed and used freely.

When the signs and symbols of national minorities are officially used, the appropriate signs and symbols of the Republic of Croatia shall be put along with them. When the anthem or a solemn song of a national minority is performed, the anthem of the Republic of Croatia shall be performed before it.

Statutes of local and regional self-government units shall regulate official use and the manner of use of national flag and symbols of national minorities, in accordance with law.

The Rights in the Field of Culture

Article 6

Members of minorities have the right to cultural autonomy.

Monuments and the entire cultural heritage of national minorities shall be a part of the cultural heritage of the Republic of Croatia.

The Republic of Croatia, as well as local and regional units shall care for the protection of the cultural identity and tradition of national minorities, and provide for support in accordance with financial abilities.

Article 7:

National minorities or members of national minorities may carry out publishing activity in the language and script of a national minority, in accordance with a special law.

Language and Script of National Minorities

Article 8

The language and script used by the members of national minorities are granted in free and equal use in private and public life, in accordance with a special law.

In local units where members of a national minority make up a majority of the population, the language and script of the national minority shall be in equal official use along with the Croatian language and Latin script.

In other local units the language and script of a national minority may be introduced into equal official use in accordance with a special law.

Education in the Language and Script of National Minorities

Article 9

The education and upbringing of members of national minorities in their language and script shall be ensured in accordance with a special law.

Political Representation and Participation in Public Affairs

Article 10

Members of national minorities shall have the right to participate in public affairs and they shall have access under equal conditions to all professions and positions.

In the discharging of public affairs of importance to the preservation and promotion of the life and work of national minorities, the members of national minorities shall be given preference under conditions of equality.

Article 11

Members of national minorities, along with the general and equal right to vote for members of the Croatian National Parliament, shall have the right to a certain number of members of Parliament in accordance with a special law.

Article 12

Members of the Serbian national minority shall have the right to proportional representation in the Croatian National Parliament.

All other national minorities shall have the right to 6 (six) members of Parliament.

The manner of their election shall be regulated in a separate law.

Article 13

Members of national minorities shall, along with the general and equal right to vote for members of representative bodies of the local and regional self-government units, have the right to elect a certain number of members of representative bodies in proportion to the percentage they make up within the total population of the unit, in accordance with a special law and statute.

Access to the media

Article 14

National minorities or members of national minorities shall have the right of access to the media.

The media shall have to publish/broadcast information and data related to the discrimination of a national minority or its members.

It shall be ensured that programs in the languages and script of national minorities are represented in the programming of Croatian Radio-Television, in accordance with a special law.

Self-organization and Association of National Minorities

Article 15

Members of national minorities are free to establish associations for the purpose of the protection and promotion of their national identity, and their ethnic, linguistic and religious characteristics, in accordance with the law.

Article 16

Associations of the same national minority may associate in different regional or functional forms of association for the purpose of the harmonization of their activities and promotion of the guaranteed rights of the national minority (hereinafter: "forms of association").

The forms of association shall be founded by the passing of a basic act on association, which shall establish the goals and the manner of the provision of resources for their realization. A form of association shall be deemed founded if an association has passed a decision on its founding, in accordance with its statute.

Article 17

Different forms of association of minority associations may acquire, in accordance with the law, the status of legal entity if this is established in the decision on association and in the basic act on its founding.

Article 18

Bodies of state administration shall cooperate with the association, or form of association of minority associations which gather the majority of members of a national minority or the majority of associations of national minorities, not excluding cooperation with the remaining associations and forms of associations on the realization of programs of interest for an individual national minority.

Minority Self-government

Article 19

National minorities may establish minority self-government in local and regional self-government units, in accordance with this Constitutional Act, for the purpose of the protection and development of national identity.

A national minority shall establish minority self-government if it makes up a majority of the population on the territory of a local self-government unit.

Minority self-government may be established also by national minorities which make up at least 25% of the population on the territory of a local self-government unit.

Local minority self-governments may establish regional minority self-government on the territory of more than one unit of local or regional self-government and national minority self-government, in the case of more regional self-governments of a certain minority.

Article 20

The minority self-government of an individual national minority shall become a legal entity as of the date of its founding.

The resources for the work of the minority self-government shall be provided for in the state budget, in accordance with the law, and from other resources.

Article 21

The bodies of local and regional self-government units shall have to ask for an opinion of a national minority self-government when proposing constituencies, drafting and passing plans of development and plans for environmental protection, and regarding other issues of interest for the national minority.

The bodies of local and regional self-government units shall have to consider the opinion of the minority self-government and provide reasons in a written form for their position, if it differs from the opinion obtained from the minority.

Article 22

The minority self-government of an individual minority may address the President of the Republic, the Prime Minister and the President of the Croatian National Parliament in relation to the issues especially important for that national minority, and discuss these issues with them, as necessary.

The minority self-government may propose measures and proceedings to the Government as well as legislative solutions which advance the position of the national minority.

III. THE BODIES FOR THE IMPLEMENTATION OF THE CONSTITUTIONAL ACT

Article 23

The working bodies of the Croatian National Parliament competent for the issues of national minorities shall follow the work of the Government of the Republic of Croatia and other bodies, in accordance with the Constitution and law, in the implementation of the rights of national minorities guaranteed in this Constitutional Act.

Article 24

The rights of national minorities guaranteed in this Constitutional Act and in special laws shall be implemented and their application shall be supervised by the central bodies of state administration, regarding questions within their scope of competence.

The Government of the Republic of Croatia shall coordinate the work of the central bodies of state administration in the implementation of this Constitutional Act and special acts which regulate the issues of importance to national minorities.

Article 25

The Government of the Republic of Croatia shall establish a special advisory body for the purpose of the consideration of individual issues which relate to the implementation of regulations on the protection of national minorities, as well as other issues of interest for national minorities.

Members of that advisory body shall be elected by an association of each individual national minority. If more than one association of the same minority has been founded, the members of that advisory body shall be elected by the minority association which gathers the majority of minority associations within that national minority.

In drafting laws and other regulations which address the issue of national minorities, the proponent shall have to obtain an opinion, which shall not be binding, from the advisory body of the Government of the Republic of Croatia.

Article 26

The Government of the Republic of Croatia shall establish a special expert body for national minority issues by a decree which shall regulate in more detail its name, scope of competence and organization.

The expert body from Paragraph 1 shall have to encourage the discussion on national minority issues, and obtain an opinion from the advisory body of the Government of the Republic of Croatia on individual issues of interest for national minorities.

IV. PROTECTION OF RIGHTS OF NATIONAL MINORITIES

Article 27

The bodies of state authority shall, *ex officio*, protect the rights of national minorities in question within their scope of competence, and shall have to undertake necessary measures for the protection of rights of national minorities, in accordance with the law.

Article 28

National minorities or members of national minorities shall have the right of access to the bodies of the Croatian National Parliament regarding issues on the protection and promotion of the rights of national minorities.

V. INTERNATIONAL COOPERATION

Article 29

The Republic of Croatia shall cooperate and consult, directly or through mixed committees, with the governments and institutions of interested states and international organizations for the purpose of the protection and the fullest possible realization of the rights of national minorities.

VI. FINAL PROVISIONS

Article 30

The rights of national minorities acquired before the date this Constitutional Act takes effect may not be restricted or changed by this Constitutional Act.

Article 31

This Constitutional Act shall enter into force on the date of its promulgation.