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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

**PROVISIONAL COURT OF HUMAN RIGHTS
OF CROATIA**

**DOCUMENTS OF THE MINISTRY OF JUSTICE
WORKING GROUP
(March 1996)**

**The Republic of Croatia
Ministry of Justice
Working Group on the Provisional Court of Human Rights**

Re: Provisional Court of Human Rights in Croatia

The Working Group on the Provisional Court of Human Rights has discussed problems related to establishment of the Provisional Court of Human Rights in the Republic of Croatia and has delivered the following opinion:

I Law

[1] Articles 60 and 61 of The Constitutional Act on Human Rights and Freedoms and the Rights of National and Ethnic Communities or Minorities in the Republic of Croatia (Official Gazette (Narodne novine) No. 34/1992 - consolidated text, hereinafter: the Constitutional Act) provide for judicial protection of human rights before a Court of Human Rights to be established by an international treaty concluded between all States in the territory of former Yugoslavia. Pending establishment of such a Court, the Republic of Croatia undertook to establish an Provisional Court of Human Rights.

[2] Pursuant to Article 60 of the Constitutional Act, jurisdiction of an Provisional Court would extend to:

**- cases involving protection of human rights and freedoms;
- cases concerning rights and status of ethnic and national communities or minorities which are guaranteed by (a) the Constitution of the Republic of Croatia, (b) international treaties which are binding on the Republic of Croatia, (c) the Constitutional Act itself, and (d) other legislation in force in the Republic of Croatia.**

[3] Constitutional Act on Suspension of Application of Certain Provisions of the Constitutional Act on Human Rights and Freedoms and the Rights of National and Ethnic Communities or Minorities in the Republic of Croatia (Official Gazette No. 68/95) has inter alia suspended the above mentioned Articles 60 and 61. As exercise of certain rights guaranteed by the Constitutional Act is made subject to the 8% ratio of participation of a particular national and ethnic community or minority in the entire population of the Republic, suspension was extended until proclamation of results of the first census of population.

[4] The census was originally planned for 1996 (Population Census Act, Official Gazette No. 73/95), but was subsequently called off (Abrogation of the Population Census Act, Official Gazette No. 16/1996).

[5] Resolution (93) 6 of the Committee of Ministers of the Council of Europe refers to control of respect for human rights in European States not yet members of the Council of Europe. The resolution calls for possible "...[s]etting up by European states which are not yet members of the Council of Europe and which so desire, as a transitional measure, within their internal legal system of a body responsible for the

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control of respect for human rights that takes into account the substantive provisions of the European Convention of Human Rights." (emphasis added)

II Facts

[6] Other States which used to be a part of former Yugoslavia did not participate in establishment of a Court of Human rights to which Article 60 of the Constitutional Act refers to.

[7] In his letter of November 18th 1993 addressed to Mme. Catherine Lalumiere, then Secretary General of the Council of Europe, Mr. Mate Granić, the Minister of Foreign Affairs of the Republic of Croatia has stressed "...[t]hat there are no political and legal obstacles to incorporate the human rights protection mechanism in the Croatian legal system, as envisaged in Resolution (93) concerning the non-member states of the Council of Europe..."

III Analysis

[8] Due to lack of co-operation of other States formerly being republics of SFR Yugoslavia, the Court of Human Rights was not established, and is not likely to be established in the near future.

[9] The Resolution (93) 6 refers to substantive rules of the European Convention of Human Rights (EHRC). At the same time, the Constitutional Act refers to four different sources of substantive rules (see [2] supra).

[10] The EHRC is not legally binding in the Republic of Croatia. However, the Constitutional Court refers to its substantive rules in its judicature, and reviews Croatian legislation in the light of its provisions. (see the Bulletin of the Constitutional Court of the Republic of Croatia 48 (1993) at p. 42.)

[11] In that respect, implementation of the Resolution (93) 6 would abridge the time gap until Croatian admission to the Council of Europe and ratification of the EHRC. Such a solution is not without problems. Integrity of a legal system requires that legal rules are universally applied by all courts. Provided substantive rules of the EHRC are applied by a Control Body envisaged by the Resolution (93) 6, and not by all regular courts and the Constitutional Court, would deprive individuals of legal protection on lower levels of judicial procedure. This may be overcome only by admission of the Republic of Croatia to the Council of Europe and ratification of the EHRC. Namely, when Croatia once becomes a party to the Convention, the Constitutional Court shall apply its self executing provisions as a part of internal legal order. The same is true for regular courts.

[12] Article 3 of the Resolution (93) 6 states that "[t]he law applicable by the Control Body shall include the substantive provisions of the European Convention on Human Rights." However, the principle of legal certainty requires the law to be determined. Therefore, other legal rules applicable by such a control body have to be specified by implementing legislation.

[13] However, it is self evident that the aim of the Resolution was not to extend neither the jurisdiction of the control body, nor the scope of applicable law beyond that which is applied by the Commission and the Court of Human Rights. Otherwise the level of protection would decrease when a State becomes a party to the EHRC. (See Article 5 of the Resolution (93) 6). That was clearly not an intention of the Resolution (93) 6.

[14] As it is specified by Article 45 EHRC, "The jurisdiction of the Court shall extend to all cases concerning the interpretation and application of the present Convention which the High Contracting Parties or the Commission shall refer to it in accordance with Article 48." (emphasis added)

[15] This leads to a conclusion that the Resolution (93) 6 refers to substantive provisions of the EHRC, and has nothing to do with interpretation and application of other three legal sources mentioned ad [21] supra which are in exclusive jurisdiction of Croatian courts, and the Constitutional Court of the Republic of Croatia.

[16] It should also be mentioned that the Constitution of the Republic of Croatia contains a broad catalogue of human rights (Chapter 3), and that the Constitutional Act is considered to have elaborated those constitutional rights in more detail. (Article 2 of the Constitutional Act). In addition, international treaties which are ratified and published form a part of Croatian internal legal order and Courts are bound to apply them directly. (Constitution, Article 134, Law on Courts, Article 5, Official Gazette No. 3/1994). All rights and freedoms specified in the above mentioned legal sources may be protected by Croatian courts, and ultimately, by the Constitutional Court pursuant to the Constitutional Complaint procedure.

[17] Also, once Croatia becomes a party to the EHRC, decisions of the Constitutional Court, which is the fourth and the highest level of national protection of human rights shall be reviewable by the Commission and the Court of Human Rights. Mechanisms of the EHRC will provide for the fifth level of protection of human rights.

[18] The same would apply to the eventual Provisional Court of Human Rights. However, the time factor plays a significant role. Judicial procedure comprising of four levels of protection is time consuming and presently lasts about four years. E.g. a constitutional complaint from a Municipal Court Decision of September 15th 1988 was decided by the Constitutional Court on October 7th 1992 (Decision U-III-169/1991, Official Gazette 72/92). This is a typical situation.

[19] It follows that violations of fundamental human rights committed today would be decided by the Constitutional Court in year 2001. That would amount to exhaustion of domestic legal remedies and enable the Provisional Court to proceed.

[20] It is more than clear that Croatia is expected to have the EHRC ratified by that time.

IV Conclusion

[21] Mechanism envisaged by Article 60 of the Constitutional Act, and mechanism envisaged by the Resolution (93) 6 are two distinct mechanisms which are not interrelated.

[22] Mechanism envisaged by Article 60 of the Constitutional Act is designed as a multilateral instrument to be concluded between States. On the other hand, mechanism envisaged by Resolution (93) 6 is meant to be concluded between an individual State and appropriate bodies of the Council of Europe. This is supported by fact that the Constitutional Act was enacted before the Resolution (93) 6. Moreover, Article 60 refers to European Union and not to the Council of Europe.

[23] The Court of Human Rights was planned to be established by a multilateral convention "between all the states created on the territory of former SFR Yugoslavia." It should be reiterated that two States formerly being constituent republics of SFR Yugoslavia, namely Slovenia and Macedonia, have become members of the Council of Europe. There are no indications that Serbia and Montenegro are prepared to participate in establishment of a Court of Human Rights.

[24] Absence of participation of "all the states created on the territory of former SFR Yugoslavia" renders introduction of a Court of Human Rights described in Article 60 of the Constitutional Act on Human Rights and Freedoms and the Rights of National and Ethnic Communities or Minorities in the Republic of Croatia impossible.

[25] As far as Resolution (93) 6 is concerned, there seem to be no legal obstacles for introduction of a Control Body pursuant to Article 1 thereof.

[26] However, due to expected admission of the Republic of Croatia to the Council of Europe, setting up of such a Control Body seems impracticable.

[27] Protection of human rights in the Republic of Croatia would be best promoted by ratification of the EHRC what would enable (a.) application of its provisions by Croatian Courts, and (b.) recourse to mechanisms of protection envisaged by the Convention (the Commission and the Court of Human Rights.)

Prof. Dr. Smiljko Sokol

Prof. Dr. Budislav Vukas

Mr. Dubravka Šimonović

Ivana Imamović

Dr. Siniša Rodin

Slavko Zadnik

Constitutional Court of the Republic of Croatia

**No Su 37/1996-2
Zagreb, March 4, 1996.**

**Justice Ministry
Mr Tomislav Penic
Assistant to the Minister**

**Ref: Class
Distribution No**

In reference to your question of February 28, 1996, we would like to inform you that giving prior information of opinions about laws and other regulations, or their prior interpretation outside a concrete case does not lie within the competence of the Constitutional Court in the sense meant by Article 125 of the Constitution of the Republic of Croatia. Giving this kind of opinion would be outside the fundamental area of competence of this Court, that is, the evaluation of the constitutionality or legality of regulations

The meeting set for March 6 will be attended by the Senior Legal Adviser Ms Marija Salecic MA.

Yours faithfully,

Chief Secretary

Josip Bedrac

Republic of Croatia
Ministry of Foreign Affairs

Zagreb, December 13, 1995

Ms Ivana Imamovic
International Cooperation Section
Justice Ministry

Dear Colleague,

In reply to the communication from the Minister of November 3 of this year, in connection with the founding of the Provisional Court for Human Rights as envisaged by our Constitutional Law about Human Rights and Minority Rights, at this present time I would have this to say:

Today, four years after this law was passed, there is no longer any reason for the setting up of the Provisional Court. As compared with the time when the law was passed, and with all the time up to the middle of this year, the circumstances have changed very substantially. Tomorrow in Paris there will be the signing of a whole series of documents that ought to conclude the war in ex-Yugoslavia, bringing about the disappearance of the last reasons for the Republic of Croatia not to be accepted into the Council of Europe. With this acceptance we shall be able to be a member of the European Convention about the Protection of Human Rights, by which we will be subject to the international system of supervision of respect for the rights of man and thirty eight other European states. The circumstance that for some time still some areas of the extreme eastern part of our country will not be controlled by our government cannot be a reason for us not to be admitted into the circle of states that are bound by the European Convention.

Yours faithfully

Prof dr Budislav Vukas

Prof Dr Budislav Vukas

Mr Tomislav Penic
Assistant to the Minister

Justice Ministry, Republic of Croatia

March 4, 1996, Zagreb

In reply to your invitation expressed in your communication of February 22 this year I would have the following to say about my views.

A special human rights court composed of members selected by the European Union and by the republics of the former Yugoslavia was envisaged by the "Contractual Provisions for a Convention" (Chap. IV, Art. 7) of November 4, 1991, for the whole of the area of ex-Yugoslavia.

On the basis of this, admittedly not adopted, convention, the RC in its Constitutional Law about Human Rights and Liberties and about the Rights of Ethnic and National Communities or Minorities, of December 4, 1991, envisaged the creation of a Human Rights Court (Article 60). Since, however, at the time when our Constitutional Law was made the other states that were being created in the region of ex-Yugoslavia did not agree to the making of this Convention, and so not to the setting up of a Human Rights Court either, the RC in its Constitutional Law envisaged the setting up of a Provisional Human Rights Court. This Court was supposed to work until the Court envisaged by the draft of the Hague Conference was actually set up.

After the unsuccessful attempts of the Hague Conference on Yugoslavia, two former republics that had been spared the horrors of war were accepted as members of the Council of Europe. The Republics of Croatia and B/H were the victims of the aggression of Serbia and Montenegro, which never had any intention of accepting the solutions of the Hague.

For various reasons, primarily because of the resistance of part of the Serb minority in Croatia to the implementation of the Constitutional Law, the Provisional Court was never established in the Republic of Croatia. In the meantime almost all European states were accepted into the Council of Europe. And so the Council never put into practice its 1993 intentions of creating some supervisory mechanisms in the region of human rights for states which were not members of the Council; for there are almost no such states.

The RC satisfies almost all the conditions for being accepted into the Council of Europe, and, in my opinion, there is no point today in discussing the setting up of the Provisional Court. The Council of Europe needs to help Croatia to be accepted into this organization, and our country has to remove all those flaws that the Council finds objectionable. In any event, I believe that the acceptance of the RC into the Council is a matter of the near future, and that in this way the RC will be subjected to the regular process of the control of the respect for human rights on the basis of the European Convention about Human Rights.

Yours etc

Budislav Vukas

Dr Sinisa Rodin
Law Faculty, Zagreb
Chair of Constitutional Law
Trg marsala Tita 3

Zagreb March 5, 1996

Re: Communication of February 22, 1996, no. 514-04-02/01-96-14

Dear Mr Penic.

With reference to your communication I enclose an article of mine related to the problem that interests you. At the same time, I would comment that the foundation of the Provisional Court for Human Rights will be inconsequential in the light of Croatia's expected joining the Council of Europe in the near future.

The court, that is, will have its competence after the exhaustion of the regular course of law, or, after the Constitutional Court of the Republic of Croatia makes a decision as a result of a constitutional complaint. The procedure of exhausting the regular course of law is very lengthy. For instance:

A constitutional complaint brought against the decision of a commune court of June 3, 1988 and a district court of September 15, 1988, and the decision of the Supreme Court of March 27 was decided on only on October 7, 1992. The procedure lasted, from the alleged violation of constitutional law, in June 1988, until October 1992, or more than four years (Decision: U-III-169/1991 Nn 72/92).

The situation is similar in other cases, as can easily be ascertained from the Bulletin of the Constitutional Court.

From what has been said it follows that violations of basic constitutional rights that are committed, for instance, today, will be decided on in the Constitutional Court in four years time, in the year 2000 that is. Taking into account the time needed for the formulation of the required Laws, a realistic date would be in the year 2001. Only after this would all possible appeals have been resorted to and only then would the Provisional Court for Human Rights, insofar as it had been constituted by that date, be able to act in a given case. Of course, the Provisional Court would be able to proceed in cases initiated after its constitution. Even the European Court for Human Rights in Strasbourg is competent only in those cases of violations of human rights committed after the given state became a member of the European Convention for the Protection of Human Rights and Fundamental Liberties and thus made it possible for citizens to have the right of individual petition.

In view of this situation, it is in the interest of the Republic of Croatia to become a member of the Council of Europe as fast as possible, to ratify the European Convention and the appropriate protocols, and in this way to create all the conditions for the protection of fundamental rights at the European Court for Human Rights in Strasbourg.

Yours sincerely

Sinisa Rodin

I The Legal Basis for the foundation of the Provisional Court for Human Rights – Article 60 of the Constitutional Law about Human Rights and Liberties and about the Rights of Ethnic and National Communities or Minorities and the work so far undertaken towards the foundation of the Provisional Court for Human Rights.

Article 60 of the Constitutional Law about Human Rights and Liberties and the Rights of Ethnic Communities or Minorities in the Republic of Croatia of 1990 contains two sections relating to the establishment of the Provisional Court for Human Rights and one section relating to the foundation of a permanent Human Rights Court.

Article 60

Every citizen of the Republic of Croatia can turn to the Human Rights Court after exhausting all the available internal legal remedies in cases relating to the area of human rights and freedoms and the positions of ethnic or national communities or minorities that are guaranteed by the Constitution of the Republic of Croatia, by international conventions that bind the Republic of Croatia, by this law or other laws which are in force in the Republic of Croatia.

Until the Human Rights Court is set up on the basis of treaties between all the states that have arisen in the region of ex-Yugoslavia, a Provisional Court for Human Rights will be set up.

The Provisional Court as defined by the previous Paragraph will be composed of a president and four members who are of high moral character and who must possess qualifications that are sought for being selected for service high in the judiciary or who are recognized experts in law. The President and two members will be chosen by the Presidency of the European Community from among the citizens of its own members, and two members will be chosen by the Parliament of the Republic of Croatia from its own citizens.

Work undertaken towards the setting up of the Provisional Court for Human Rights.

In session on April 24 1995, the government of the RC decided to set in motion procedures for setting up the Provisional Human Rights Court on the basis of the provision of Article 60 of the Constitutional Law about Human Rights and Liberties and the Rights of National or Ethnic Communities or Minorities. According to this decision, the Ministry of Justice is charged with the preparation of the regulations necessary for the setting up of the Provisional Human Rights Court, and the Ministry of Foreign Affairs with the making of the formal request about and communication with the European Union's Presidency with respect to the setting up and appointment of members of the court.

The Justice Minister, on May 11, 1995, founded a Working Group of experts for the preparation of a draft of legislation in connection with the setting up of a Provisional Court for Human Rights, and calling upon the Council of Europe to name experts capable with their knowledge and expertise of helping to settle legal questions linked to the setting up of the Provisional Court for Human Rights and to the implementation of Resolution (93)6 of the Council of the Ministers of the Council of Europe.

A letter was sent via the MFA (communication of May 19, 1995) to Mr Furrer in connection with the setting up of the Provisional Court for Human Rights.

The permanent Human Rights Court

Article 60 Paragraph 1 of the Constitutional Law defines the competence of the permanent Human Rights Court as being to protect human and minority rights

and liberties guaranteed by:

- the Croatian Constitution
- international treaties the RC is a party to
- the Constitutional Law about Human Rights and Liberties and the Rights of National and Ethnic Communities and Minorities
- other laws in force in the RC.

From Article 60 Paragraph 2 of the Constitutional Law of the RC it can be concluded that the permanent Human Rights Court was supposed to come into being on the basis of a treaty of all the states that came into being in ex-Yugoslavia.

Today, some of the states that used to be part of the FSRY are members of the Council of Europe (Slovenia and Macedonia), and by this very fact are very likely not interested in making treaties that would set up a permanent Human Rights Court in them. From this it follows that there is no great likelihood of there being a treaty signed among all the states of ex-Yugoslavia about the setting up of Human Rights Courts.

The Provisional Human Rights Court

Paragraph 2 Article 60 of the Constitutional Law envisages the establishment of a Provisional Court to work until the foundation of a permanent Human Rights Court on the basis of a treaty among all the states that came into being in ex-Yugoslavia.

There is a question about the relation between the foundation of the Permanent Court and the Provisional Court, as follows:

- Is there any obligation to set up a Provisional Court, which was foreseen as a stop-gap measure until the setting up of the Permanent Court, when it is quite certain that the Permanent Court that was being thought about when this provision was made will never be able to be founded?

One of the possible answers is that since there is no possibility of setting up a permanent Human Rights Court, there is consequently no possibility of setting up the Provisional Human Rights Court, for it was functionally linked to the foundation of the Permanent Court.

The second possible answer suggests that the establishment of the Provisional Court was quite independent of the foundation of the Permanent Court to be founded on the basis of a treaty between all the states deriving from ex-Yugoslavia, basing its reasoning on the idea that every state ought to put into practice the obligations it has undertaken quite independently.

On the assumption that the setting up of a Provisional Court for Human Rights is an independent obligation, then the question arises about the "provisionality" of this character, and how long it is provisional for, and also about whether this Court will be necessary when Croatia is received into the CE. Paragraph 2 Article 60 orders that it is founded until the Human Rights Court is founded on the basis of a treaty among all the States come into being in the area of the ex-SFR of Yugoslavia". If a Provisional Court for Human Rights is set up when it is known that there can never be a Permanent Court it will necessarily lose its Provisional nature and become a Permanent Court, because the conditions for its abolition will never be fulfilled.

The Competence of the Provisional Court for Human Rights

The competence of the Provisional Court partially coincides with the competence of the Constitutional Court, because both of them are defined as being courts

of final instance after the exhaustion of all available internal legal means, and when it is a matter of the violation human rights and liberties guaranteed by the Constitution and laws of the RC. It is necessary to determine which of these two is the higher or final court.

The composition of the Provisional Court for Human Rights

The Provisional Court for Human Rights according to Article 60 Paragraph 3 of the Constitutional Law is composed of a President and four members. "The President and two members are chosen by the European Community Presidency from among the citizens of its member states, and two members are chosen by the Parliament of the Republic of Croatia."

It is questionable about who inside the EU would appoint members of the Court, and it is not clear what is the pointfulness of linking the protection of human rights with the EU system when it is the Council of Europe that has the primary role and the most highly developed system in this region in Europe.

2. The Provisional Court for Human Rights and international instruments for the protection of human rights that the RC is party to

The Republic of Croatia, by notification of succession, became a member of all international treaties of the UN in the area of human rights that had been ratified by Yugoslavia, and apart from that, as an independent state in 1995 ratified the facultative protocol to the International Pact about Civil and Political Rights, recognized the competence of the Human Rights Committee according to Article 40 of the Pact for the complaints of state against state and ratified the Second Facultative Protocol to the International Pact about Civil and Political Rights directed towards the abolition of the death penalty.

In the Republic of Croatia the Facultative Protocol to the International Pact about Civic and Political Rights is implemented by the competence of the Human Rights Committee being defined as being to receive and consider the statements of individuals that state they are the victims of the violation of some right set out in the International Pact about Civil and Political Rights, the result of some action, oversight or situation that have arisen after the Protocol came into force in the RC.

Ratification was done with the statement that in the Republic of Croatia the Facultative Protocol to the International Pact about Civil and Political Rights was implemented in such a way that the Human Rights Committee has no competence to consider the statements of individuals if the subject has been considered or is being considered in some other international proceeding.

In relation to the Provisional Court for Human Rights, the question arises as to whether if a question is being considered by it this constitutes an obstacle in the way of the same question's being considered by the Human Rights Committee, with respect to the international character of the Provisional Court for Human Rights .

3. The Provisional Court for Human Rights and the Resolution of the Council of Europe (93)6.

Arguing from the composition of the Provisional Court for Human Rights it can be concluded that there are more foreign judges in it than judges of the country in which it is established, and that therefore it does have an *international character*.

No single European country has this kind of court, and as far as we know, no other country in the world. Apart from this system being unknown, there are

no models for its setting up nor any possible ways of making comparisons.

The only model that can be found in international law for the setting up of this kind of court is the resolution of the Council of Ministers of the Council of Europe: Resolution (93)6: On the control of respect for human rights in European states not yet members of the Council of Europe (9.3.1993).

Article 1 of this resolution determines that at the request of a state that is not a member, the Council of Ministers after consultations with the European Human Rights Court and the Commission for Human Rights can appoint qualified persons to work in a court or other body set up by a state within its legal system, this court being competent for the control of the protection of human rights.

Article 4 of this resolution envisages determines that the details should be agreed on by way of treaty between the given state and the Council of Europe.

The Minister of Foreign Affairs of the RC on November 18, 1993, sent a *letter to the Council of Europe setting out the Republic of Croatia's readiness to be associated in a mechanism for the protection of human rights according to Resolution (93)6*. The question of the implementation of this resolution has been several times informally discussed among officials from the Council of Europe and officials of the Republic of Croatia, and an expert commission of the CE is in the preparatory phase.

4. The Provisional Human Rights Court and the ECHR

The Republic of Croatia has submitted an application for membership in the Council of Europe, and has expressed its readiness to ratify the European Convention about Human Rights (ECHR) and additional protocols and to make special declarations about accepting the jurisdiction of bodies set up according to the ECHR.

After the peace agreement in Dayton and for Eastern Slavonia the reactivation of the application for the admittance of the RC can be expected.

The prerequisite for the full implementation of the ECHR is the conformity of the internal legislation with the rules of the ECHR and it is necessary to undertake activities to test this conformity before joining. While this consideration is going on, one of the questions will be the relation between the Provisional Court for Human Rights and [its] organs and the ECHR. A basic question is whether the admission of the Republic of Croatia into the Council of Europe will mean the automatic abolition of the Provisional Court or not. In the event that the Provisional Court is not automatically abolished then there is the question of the relation of the Provisional Court and [ts] organs and the ECHR.

Conclusions

Since there is a series of ambiguities concerning the legal basis for the setting up of the Provisional Court for Human Rights, it is proposed that there should be an acceleration of the process with legal experts from the Council of Europe for expert assistance while setting up the Provisional Court and the linking of its setting up with Resolution (93)6 on the Control of Respect for Human Rights in European States not yet Members of the Council of Europe (9.3.1933) until the Republic of Croatia is admitted into the Council of Europe.

Subsidiary to this, if the admission of Croatia into the Council of Europe is likely in 1996, it is necessary to ratify the European Convention about Human Rights as soon as possible, and make a declaration according to Article 25, ECHR, by which individuals will be allowed to have access to the European Court for Human Rights. In this way the RC will become a part of a unified system for the

protection of human rights that is applied to almost all European countries, with a ramified judicial practice, and it would become completely unnecessary, with all the existing mechanisms for the protection of human rights to set up inside the internal legal system (with the emphasis on the role of the Constitutional Court and constitutional complaints) a Provisional Court for Human Rights with unclear competence and a position "somewhere between" the internal and the international legal systems.