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# INTERNATIONAL CONFERENCE ON THE FORMER YUGOSLAVIA



Palais des Nations, 1211 Geneva 10

Office of the Co-Chairmen

## CRYPTO FAX TRANSMITTAL

PAGE 1 OF 45

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FROM: THORVALD STOLTENBERG

DATE: 19 JANUARY 1995

SUBJECT: Z-4 DOCUMENT

1. The Z-4 met yesterday and made some modifications to the text I had earlier asked you for comments on. The modified text is attached for your urgent comments.

2. Changes in this version compared to the previous text (that of 13 December) appear in the following provisions:

Article I.1	paras 1, 2
Article II.1	paras 1 (d) (ii)
Article IX.1	para 1
Article XII.1	--
Article XII.2	para 1
Article XII.3	paras 1(c), (f), (g), (h)
Article XII.3	paras 1(d)
Article XIII.1	title, paras 2, 3

### Testimonium Clause

Annex A	titles
Annex F	paras 5, 7.

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3. The text has been renumbered throughout. The numbers indicated above are the new ones.

Regards.

0174-4516

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18 January 1995

**DRAFT AGREEMENT ON THE KRAJINA,  
SLAVONIA, SOUTHERN BARANJA  
AND WESTERN SRMIUM**

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DRAFT AGREEMENT ON THE KRAJINA,  
SLAVONIA, SOUTHERN BARANJA  
AND WESTERN SIRMIIUM

The representatives of the Government of the Republic of Croatia and the representatives of the Entity designated as the Republika Srpska Krajina (RSK)

Hereby Agree as follows:

**PART ONE:  
CONSTITUTIONAL AGREEMENT ON  
THE KRAJINA**

Chapter I Establishment of the Serbian Krajina

Article I.1 Boundaries

- 1 There shall be established the autonomous Serbian Krajina (herein referred to as "the Krajina"), to consist of the territory indicated on Map 1 in Annex A.<sup>1</sup>
- 2 At any time after the entry into force of the present Agreement, the boundaries of the Krajina may be changed by agreement between the Government of the Republic of Croatia (to be reflected in appropriate legislation) and the Legislature of the Krajina. During a period of six months from the entry into force of the present Agreement, the Implementation Commission provided for in paragraph 2 of Article XVII.1 is empowered to change the boundaries for a distance not exceeding two kilometres from their location in accordance with Map 1 in Annex A, provided that it acts by consensus after hearing representatives of the Governments of the Republic of Croatia and of the Krajina.

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<sup>1</sup> This territory will be a single continuous territory comprising the Serb majority areas of the United Nations Protected Areas (UNPAs) Sectors North and South, as defined in the 1991 census, with due consideration to geographic and economic factors.

<sup>1A</sup> January 1995: Draft Agreement on Krajina, etc.



3. There shall be no border controls at boundaries between the Krajina and other parts of the Republic of Croatia.

Article I.2 Applicability of Laws and Governmental Acts

1. Laws adopted by the Croatian Sabor shall apply in the Krajina only to the extent that they fall within the exclusive responsibility of the Central Government as specified in paragraph 1 of Article II.1 or are delegated to that Government pursuant to paragraph 3 of that Article, or they are approved by the Legislature of the Krajina.

2. The Constitution of the Republic of Croatia and any laws applicable to the Krajina in accordance with paragraph 1 shall be faithfully enforced and applied by the competent organs of the Krajina Government.

3. All actions taken by a competent governmental authority of the Republic of Croatia shall be accepted as valid by the governmental authorities of the Krajina, and all actions taken by a competent governmental authority of the Krajina shall be accepted as valid by the governmental authorities of the Republic of Croatia.

Article I.3 Flags and Emblems

1. The Krajina may adopt its own emblem and flag, which may be displayed on its territory, including at all its boundaries, in accordance with laws adopted by the Legislature of the Krajina.

2. The flag and emblem of the Republic of Croatia may be displayed within the Krajina on or at premises occupied by institutions of the Croatian Government, as well as at international borders.

3. Individuals within any part of the Republic of Croatia shall be free to display the emblem and flag of the Republic of Croatia and of the Krajina.

Article I.4 Language

The Legislature of the Krajina may provide for the use of the Serbian language and the cyrillic script, provided that the interests of minorities in the Krajina are duly protected in accordance with Chapter XI.

Article I.5 Domicile

Any citizen of the Republic of Croatia who is domiciled in the Krajina shall be entitled to receive from the Krajina Government documentation recording such domicile, to be issued in accordance with regulations agreed to with the Government of the Republic of Croatia.

Chapter II Division of Governmental Responsibilities  
between the Central and Krajina Governments  
in respect of the Krajina

Article II.1 General Division

1. The Government of the Republic of Croatia (herein sometimes the "Central Government") shall, in respect of the Krajina, have exclusive responsibility for the following, except as otherwise specified in or allowed by the present Agreement:

- (a) Conducting foreign affairs, taking into account Article II.2;
- (b) The defence of the Republic of Croatia against external threats;
- (c) Citizenship of the Republic of Croatia, subject to Article XI.3;
- (d) Regulating, provided that the Krajina shall not be treated less favourably than other parts of Croatia:

- (i) international commerce, including customs;
  - (ii) domestic trade across the boundaries of the Krajina, including the use of principal road arteries and the railroads;
  - (iii) finance;
  - (iv) intellectual property;
  - (v) product standards;
  - (vi) communication;
- (e) Issuing and regulating currency, subject to Article II.3;
- (f) Allocating electronic frequencies for radio, television and other purposes, provided that there shall be allocated to the Krajina at least as many frequencies as it currently uses as well as for at least one television station.
- (g) postal activities;
- (h) protecting the environment, except to the extent that there are no impacts beyond the boundaries of the Krajina.

2. The Government of the Krajina shall have all responsibilities with respect to the Krajina that are not covered by paragraph 1 above, and in particular the following, except as otherwise specified in or allowed by the present Agreement:

- (a) Education;
- (b) Culture;
- (c) Housing;
- (d) Public services;

- (e) Business;
- (f) Charitable activities;
- (g) Energy;
- (h) Local land use;
- (i) Protection of the environment of the Krajina, subject to subparagraph 1(h);
- (j) Natural resources;
- (k) Radio and television;
- (l) Social welfare;
- (m) Tourism;
- (n) Certificates of Domicile in the Krajina, subject to Article I.5;
- (o) Creation of corporations and other judicial persons;
- (p) Police, subject to Chapter VI;
- (q) Taxation, subject to Article II.4.

3. The Central and the Krajina Governments may agree to delegate from one to the other or to administer jointly or in a coordinated manner any of their respective responsibilities. They may establish joint commissions for this purpose.

#### Article II.2 International Agreements and Representation

1. The Government of the Krajina may enter into agreements relating to education, culture, charitable activities, radio and television, and tourism with other entities or states with predominantly Serb populations and may enter into trade and business agreements with such entities or states subject to

subparagraphs 1(d)(i-ii) of Article II.1, provided any such agreements are not inconsistent with the interests of the Republic of Croatia.

2. The Government of the Krajina may enter into other international agreements with the approval of the Central Government, which approval shall not be withheld unreasonably.

3. The Government of the Krajina may send representatives to states and international organizations.

#### Article II.3 Currency

1. The Central Bank of Croatia shall issue special currency (notes and coins) for the Krajina, whose value shall be on par with the currency it issues for the rest of the Republic of Croatia and whose designation and design shall be determined by the Government of the Krajina.

2. Banks and other financial institutions throughout the Republic of Croatia shall be required to accept both forms of currency issued by the Central Bank of Croatia. Legal tender for payments due within the Krajina shall be the currency issued for the Krajina, and for payments due within other parts of Croatia shall be the other currency issued by the Central Bank. Individuals shall, subject to any contractual or other requirements, be free to use either or both forms of such currency.

#### Article II.4 Taxation

1. The Central Government shall not impose and the Krajina Government may impose taxes on:

- (a) property located in the Krajina (including estate and inheritance taxes);
- (b) transactions carried out within the Krajina (including sales, value added and excise taxes);

- (c) income earned within the Krajina by natural persons domiciled therein (including social insurance taxes);
- (d) income earned within the Krajina by judicial persons established under the laws of the latter.

2. The Central and the Krajina Governments may enter into agreements to prevent or to mitigate the evasion of taxes and double taxation consequent on the provisions of paragraph 1.

3. The Central and the Krajina Governments may enter into agreements for transferring between them any taxing authority specified in paragraph 1 and for the corresponding transfer of governmental responsibilities pursuant to paragraph 3 of Article II.1.

### Chapter III Structure of the Krajina Government

#### Article III.1 Legislatura

1. The Legislature of the Krajina shall be elected democratically on a proportional basis, for a period of 4 years. All citizens of the Republic of Croatia domiciled in the Krajina, who are over the age of 18 may vote in elections for the Legislature and may be candidates for seats in the Legislature.
2. The Legislature may adopt laws relating to:
  - (a) Matters that are within the responsibility of the Government of the Krajina;
  - (b) The organizations and functioning of all organs of the Krajina Government, including all necessary budgetary arrangements and the raising of taxes required therefor.

Article III.2 President

1. The President of the Krajina shall be elected democratically for a period of 5 years. All citizens of the Republic of Croatia domiciled in the Krajina, who are over the age of 18 may vote in elections for the President and may be candidates for that office.

2. The President of the Krajina shall be responsible for the execution of:

- (a) Those provisions of the present Agreement that are within the responsibility of the Government of the Krajina;
- (b) All laws and decrees of the Central Government that are applicable to the Krajina;
- (c) All laws adopted by the Legislature of the Krajina;
- (d) All decrees promulgated by the President of the Krajina.

3. The President of the Krajina may promulgate decrees as authorized by laws of the Central Government applicable to the Krajina or by laws adopted by the Legislature of the Krajina.

4. The President of the Krajina shall appoint such Ministers as provided for in laws adopted by the Legislature of the Krajina, who shall be approved by that Legislature and shall have duties, responsibilities and powers as provided in such laws. Any Minister may at any time be removed by the President, and shall be so removed on a vote of no confidence by the Legislature. The Ministers shall form the Cabinet of the Krajina, which shall meet under the chairmanship of the Minister designated by the President and shall have duties, responsibilities and powers as provided by law or decree.

Article III.3 Courts

1. The judicial power in the Krajina shall be vested in such courts of first instance and such appellate courts as are specified in laws adopted by the Legislature of the Krajina, which laws shall specify the respective jurisdictions of these courts, as well as the salaries and other terms of service of the Judges. The Judges of all courts of the Krajina shall be nominated by the President of the Krajina and approved by a majority of the Legislature, and shall serve until age 70 unless they resign or are removed for cause by the Judges of the same court acting by consensus.

2. Decisions of the appellate courts of the Krajina may be appealed to a special chamber of the Supreme Court of the Republic of Croatia whose members shall be appointed by the President of the Special Constitutional Court from among the Judges of the Supreme Court of Croatia and of the highest appellate court of the Krajina, in consultations with the President of the High Judiciary Council of Croatia and the President of any corresponding body of the Krajina.

Article III.4 Independence of Officials

No members or officers of the Legislature, the President, the Ministers, the Judges or any other organs of the Krajina Government shall require for their appointment the approval of any officer or organ of the Central Government, and no such officer or organ may remove any member, officer or official of the Krajina Government, provided that they may be removed by the Special Constitutional Court on conviction of a crime resulting in imprisonment.

Article III.5 Transitional Arrangements

1. The elections provided for in paragraph 1 of Articles III.1 and in paragraph 1 of Article III.2 shall be held no later than one year from the entry into force of the present Agreement.



2. For a transitional period until the elections referred to in paragraph 1 have been held, but in no event for more than one year from the entry into force of the present Agreement, the functions of the organs and officials provided for in Articles III.1-3 shall be performed by the corresponding organs and officials now performing such functions in the Krajina.

Chapter IV Participation of the Krajina in the  
Central Government

Article IV.1 Elections

1. Citizens of the Republic of Croatia who are domiciled in the Krajina shall participate in the same way as all other citizens in the selection of members of the Central Government, including the elections to the Croatian Sabor and of the President.
2. For the purposes of elections to the Chamber of Counties of the Croatian Sabor, the Krajina shall consist of two counties, whose boundaries and designation<sup>2</sup> shall be established by the Legislature of the Krajina.
3. Until new elections to the Croatian Sabor, the Legislature of the Krajina shall appoint ten members to the House of Representatives of the Sabor and nine<sup>3</sup> members to the House of Counties.
4. All persons serving in either Chamber of the Croatian Sabor who declare themselves as having Serb nationality shall constitute the Serb Caucus of the Sabor.

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<sup>2</sup> Although the Croatian term for "county" is "zupanja", the Krajina Government shall not be obliged to use the latter term.

<sup>3</sup> In accordance with paragraph 2 of Article VI, the Krajina will be entitled to six members of the Chamber of Counties; the transitional arrangement here proposed would temporarily add two seats for Sector East and one seat for Sector West.

Article IV.2 Appointments to Central Government Offices

In appointments to any offices and posts of the Central Government, including that of Minister and of Judges, citizens of the Republic of Croatia who are Serbs domiciled in the Krajina shall be considered on the same basis as all other citizens of Croatia, and such domiciliaries shall be represented in such offices and posts in the same proportion as they constitute of all citizens. At least one member of the Krajina Government shall be named a member of the Central Government.<sup>4</sup>

Chapter V Demilitarization

Article V.1 Demilitarization of the Krajina

1. The Krajina shall not establish, maintain or permit the formation of any military force.
2. The demilitarization of the Krajina shall start no later than three years after the entry into force of the present Agreement, and shall be completed no later than five years after such entry into force. All weapons removed from the Krajina shall be destroyed by or under the supervision of UNPROFOR.
3. Except as provided in paragraph 3 of Article V.2, the military forces of the Central Government shall not enter into any part of the Krajina, except at the specific invitation of the President of the Krajina.

Article V.2 Border with Bosnia and Herzegovina

1. The Government of the Republic of Croatia shall endeavor to enter into an agreement with appropriate authorities in Bosnia and Herzegovina for the demilitarization of their mutual border.

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<sup>4</sup> This provision conforms to the final paragraph of Article 18 of the Constitutional Law on Human Rights, etc. of Croatia.

2. Until an agreement for the demilitarization of the border with Bosnia and Herzegovina has been concluded, the Security Council of the United Nations may decide to station forces of the United Nations on that portion of the border that constitutes a boundary of the Krajina.\* With the approval of the Governments of the Republic of Croatia and of the Krajina, the forces of other international organizations or of states may be stationed on that portion of the border.

3. Should it not be possible to arrange for either the demilitarization of or the stationing of any international or foreign forces on any part of the Krajinan portion of the Croatian border with Bosnia and Herzegovina, the Government of the Republic of Croatia may station its military forces along such part of the border, provided that such forces shall not be stationed more than 5 kilometres from the international border.

#### Chapter VI Police Forces in the Krajina

##### Article VI.1 Regular Police

1. The police force of the Krajina shall be established in accordance with laws adopted by the Legislature of the Krajina and shall be under the control of the President of the Krajina through a Minister designated by the President.

2. The ethnic composition of the police force shall reflect that of the population of the Krajina, as indicated in the 1991 census until a later country-wide census has been completed, and any police units stationed in particular communities shall reflect the ethnic composition of these communities.

3. The police force shall be equipped with arms and vehicles of the same or equivalent types used by police in other parts of the Republic of Croatia.

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\* It is understood that neither the Croatian Government nor that of the Krajina can object to the deployment of UN forces.

Article VI.2 Border Police

Posts at official crossings along the border of the Krajina with Bosnia and Herzegovina shall be manned by border police of the Republic of Croatia. Patrols along that border shall be carried out by joint units of Croatian and Krajinan border police.

**PART TWO:  
ARRANGEMENTS CONCERNING  
SLAVONIA, SOUTHERN BARANJA,  
WESTERN SIRMIMUM AND OTHER AREAS**

Chapter VII Governance

Article VII.1 General

All areas, except for those covered by Part One, that are under United Nations protection pursuant to resolutions 743 (1992) and 762 (1992) of the Security Council of the United Nations (herein the "Part Two Areas") shall be subject to governance by the Government of the Republic of Croatia in accordance with the provisions set out or referred to in this Part.

Chapter VIII Transitional Provisions

Article VIII.1 International Forces and Monitors

1. Subject to decisions of the Security Council of the United Nations, or the competent organs of other international organizations acceptable to the Governments of the Republic of Croatia and of the Krajina, UNPROFOR or other international forces, as well as civilian monitoring units, shall be stationed in all or parts of the Part Two Areas for a transitional period of at least five years, for the purpose of ensuring the full and faithful implementation of Part Two and of the applicable

provisions of Part Three of the present Agreement, as well as of the "Vance Plan" as set out in Annex III to the Secretary-General's report to the Security Council of 11 December 1991 (S/23280).

2. The Government of the Republic of Croatia shall cooperate fully with the international forces referred to in paragraph 1, for the purpose of facilitating the accomplishment of their functions.

#### Article VIII.2 Demilitarization

1. During the transitional period specified in paragraph 1 of Article VIII.1 the Part Two Areas shall be demilitarized, except that military forces of the Republic of Croatia may be stationed within 5 kilometres of international borders, and may use access routes to such borders in agreement with and under the supervision of the international forces referred to in that paragraph 1.

2. The demilitarization of the Part Two Areas shall start no later than one month after the entry into force of the present Agreement, and shall be completed no later than three months after such entry into force. All weapons removed from the Areas shall be destroyed by or under the supervision of UNPROFOR.

#### Article VIII.3 Monitoring of Police

During the transitional period specified in paragraph 1 of Article VIII.1 the composition and operations of all police forces operating in the Part Two Areas shall be monitored by a police component of the international forces referred to in that paragraph.

Chapter IX Special Governance and Power-Sharing  
for Eastern Slavonia, Southern Baranja and Western Sirmium

Article IX.1 Special Governance

1. During the first two years of the transitional period described in this part, unless another period is determined by the Security Council of the United Nations, Eastern Slavonia, Southern Baranja and Western Sirmium (herein the "Eastern Area"), to consist of the territory indicated on Map 2 in Annex A, shall, subject to the approval of the Security Council, be administered by the United Nations in accordance with the provisions of Annex F.

2. In addition to ensuring the peaceful governance of the Eastern Area and the implementation of the transitional arrangements in this part, the special task of the United Nations administration shall be to:

- (a) Encourage and facilitate the return of persons who were forced to leave their homes in the Eastern Area after 1 July 1991;
- (b) Arrange for elections of officials and legislators who will, in accordance with the law of the Republic of Croatia, govern or represent the Eastern Area after the end of the special transitional period specified in paragraph 1.

Article IX.2 Power-Sharing

At the end of the period of United Nations administration in accordance with paragraph 1 of Article IX.1, any villages, towns or municipalities within the Eastern Area that constitute Serb majority areas within the meaning of Article XI.1 shall have self-government in accordance with Article XI.3.

Chapter X Police Forces

Article X.1 Composition and Weapons

1. All police forces in the Part Two Areas shall have an ethnic composition reflecting that of the areas in which the force is operating, as indicated in the 1991 census until a later country-wide census has been completed.

2. The police force shall be equipped with arms and vehicles of the same or equivalent types customary for police forces in European states.

**PART THREE:  
COMMON PROVISIONS**

Chapter XI Human Rights and Fundamental Freedoms

Article XI.1 General

The application of the highest level of internationally recognized human rights and fundamental freedoms provided in the Constitution of the Republic of Croatia, in the Constitutional Law on Human Rights and Freedoms and the Rights of National and Ethnic Communities or Minorities in the Republic of Croatia, and in the instruments listed in Annex B shall be ensured throughout Croatia. In particular:

1. All persons within the Republic of Croatia shall enjoy the rights:

- (a) To life;
- (b) To liberty, with arrest and detention authorized only by law;
- (c) To equality before the law;

- (d) To freedom from discrimination based on race, colour, sex, language, religion or creed, political or other opinions, and national or social origin;
  - (e) To fair criminal proceedings;
  - (f) To freedom from torture and cruel or inhuman treatment or punishment;
  - (g) To privacy;
  - (h) To freedom of movement;
  - (i) To asylum;
  - (j) To protection of the family and of children;
  - (k) To property;
  - (l) To fundamental freedoms: free speech and press; freedom of thought, conscience, and belief; freedom of religion, including private and public worship; freedom of assembly; freedom of association, including to form and belong to labour unions and the freedom not to associate; and freedom to work;
  - (m) To education;
  - (n) To social protection;
  - (o) To health;
  - (p) To nutrition;
  - (q) To shelter; and
  - (r) To protection of minorities and vulnerable groups.
2. All citizens of the Republic of Croatia shall enjoy the rights:



- (a) To form and belong to political parties;
- (b) To participate in public affairs;
- (c) To have equal access to public service; and
- (d) To vote and stand for election.

Article XI.2 Return of Refugees and Displaced Persons

All refugees and displaced persons have the right to return freely to their homes of origin.

Article XI.3 Citizenship

1. Any person who was a citizen of the Socialist Republic of Croatia within the Socialist Federal Republic of Yugoslavia on 21 December 1990 shall as of that date be considered as a citizen of the Republic of Croatia.

2. Dual citizenship shall be allowed:

- (a) No citizen of the Republic of Croatia shall, without his consent, be deprived of that citizenship merely by acquiring the citizenship of the Federal Republic of Yugoslavia;
- (b) No citizen of the Federal Republic of Yugoslavia shall solely by reason of that citizenship be prevented from acquiring the citizenship of the Republic of Croatia or be required to renounce the former citizenship as a condition of acquiring the latter.

Article XI.4 Restoration of or Compensation for Lost Property

All persons shall have the right, to be implemented in accordance with legislation of the Republic of Croatia and, as applicable, the Krajina, to have restored to them any property of

which they were deprived in the course of ethnic cleansing or other unlawful acts and to be compensated for any property which cannot be restored to them. All statements or commitments made under duress, particularly those relating to the relinquishment of rights to land or property, shall be treated as null and void.

Article XI.5 Compliance of Governmental Organs

All governmental organs and administrative agencies of the Republic of Croatia and of the Krajina shall apply and conform to the rights and freedoms provided in the Constitution and the Constitutional Law referred to in Article XI.1, and to those otherwise specified in the present Chapter, or in instruments listed in Annex B.

Article XI.6 Human Rights Treaties

1. The Republic of Croatia shall as soon as possible become a party to each of the international treaties listed in Annex B.
2. All governmental organs and administrative agencies of the Republic of Croatia and of the Krajina shall cooperate with any supervisory bodies established by any of the instruments listed in Annex B.

Article XI.7 Human Rights Court

The Republic of Croatia shall make arrangements with the Council of Europe for the establishment of a Human Rights Court of Croatia in accordance with Resolution 93(6) of the Committee of Ministers of the Council and as specified in Annex C hereto.

Article XI.8 Ombudsmen

The Government of the Republic of Croatia shall provide for the appointment of Ombudsmen to assist in implementing the rights and freedoms specified in this Chapter. For an initial period of at least three years and as long as appropriate legislation has

not yet been adopted by the Croatian Sabor with the concurrence of the Serb Caucus of the Sabor, the provisions relating to the initial appointment and functions of the Ombudsmen shall be as set out in Annex D.

Chapter XII Self-Government and Administration  
of Areas with Minority Populations

Article XII.1 Minority Population Areas

Wherever in a village, municipality or town the majority of the population is Croat within the Krajina or Serb within any Part Two Area (herein a "minority population area"), the provisions set out in this Chapter shall apply in order to ensure the maximum degree of self-government for such local majority.

Article XII.2 Boundaries of Minority Population Areas

1. Notwithstanding any provision of the Law on Local Self-Government and Administration of 29 December 1992 (herein the "Self-Government Law") or the Law on the Territories of Counties, Cities and Municipalities of the Republic of Croatia of 29 December 1992, the boundaries of a minority population area shall be drawn so as to include as many members of the group for which the area is to be established without thereby reducing their proportion below 60%.
2. A minority population area may not consist of two or more non-contiguous areas.
3. In establishing the boundaries of minority population areas, account shall be taken of the views of persons who might be included or excluded from the area in question.
4. The boundaries of minority population areas may be changed as a result of an official census.

5. Disputes concerning the boundaries of minority population areas shall be resolved by the Special Constitutional Court established by Article XIII.1.

Article XII.3 Provisions Governing  
Minority Population Areas

1. The Self-Government Law shall apply to minority population areas, with the following exceptions:

- (a) All minority population areas shall be considered as units of local government and self-government;
- (b) All references to the Constitutional Court of the Republic of Croatia shall be deemed to be to the Special Constitutional Court established by Article XII.1.
- (c) All appointment of officials of or serving in minority population areas, including teachers, shall be made as specified in the Constitution and applicable laws of Croatia, provided that when such appointments are not made by the authorities of that area, then such authorities may file a reasoned objection with the appointing authority and if no solution satisfactory to both authorities can be found then the matter may be referred by either to the Special Constitutional Court. Appointments shall as far as feasible be made from among domiciliaries of the minority population area in which they are to serve, and the ethnic composition of each group of such officials shall as far as feasible reflect that of the area.
- (d) Article 65 of this Law shall apply only if the local unit is part of the same minority population area as the municipality or town or city referred to in that Article.
- (e) Articles 71 and 82, and the third paragraph of Article 83, of the Law shall not apply.

- (f) The dismissal of the representative body of a local self-government unit in accordance with Article 81 or of a municipal prefect or mayor in accordance with the third paragraph of Article 83 may be appealed by those concerned to the Special Constitutional Court and if so appealed shall not take effect until that Court has so decided.
- (g) The suspension of a general act pursuant to Article 80 of the Law may only be ordered, as a provisional measure, by the Special Constitutional Court.
- (h) Disputes referred to in the second sentence of the second paragraph of Article 87 shall be submitted to the Special Constitutional Court.

2. Before submitting a dispute or matter to the Special Constitutional Court pursuant to paragraph 1 above, the authorities or parties concerned shall make an effort to resolve any difference by common agreement. The Court may at any time require that further efforts be made to that end.

Chapter XIII Special Constitutional Court  
for the Krajina and the Part Two Areas

Article XIII.1 Establishment, Competence and Procedures

1. There shall be established a Special Constitutional Court for the Krajina and the Part Two Areas (herein the "Special Constitutional Court" or the "Court") to which shall be submitted for final disposition all disputes arising under the present Agreement (excepting matters decided pursuant to paragraph 2 of Article XVII.1), including any disputes relating to the interpretation or implementation of any of the provisions of the Constitution of the Republic of Croatia, the Constitutional Law on Human Rights and Freedoms and the Rights of National and Ethnic Communities or Minorities in the Republic of Croatia, or any other law and legislative decree amended or supplemented pursuant to the present Agreement or required for its implementation.

2. Except as otherwise provided by the present Agreement, disputes may be submitted to the Special Constitutional Court by the President of the Republic of Croatia or by its Prime Minister, by the President or the Legislature of the Krajina and by the Chairman of the Serb Caucus of the Sabor.

3. The Special Constitutional Court shall establish its own procedures, which may include provisions for the establishment of chambers and for the hearing of appeals from the decisions of such chambers.

4. All costs of the Special Constitutional Court, including that of the salaries of the Judges, which shall not be lower than those of the judges of the Constitutional Court of Croatia, shall be borne by the Republic of Croatia.

#### Article XIII.2 Composition

1. The Special Constitutional Court shall consist of:

- (a) Two judges of the Constitutional Court of Croatia, designated by the President of that Court;
- (b) Two judges of the highest or senior appellate court of the Krajina, designated by the President of that Court;
- (c) Three judges who shall not be citizens of the Republic of Croatia or of any neighbouring state, appointed by the President of the Court of Justice of the European Union\*.

2. The President of the Special Constitutional Court shall be elected by a majority of all the Judges of the Court, from among those appointed pursuant to subparagraph 1(c).

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\* The President of that Court would have to be approached before the present Agreement is completed to determine whether he will assume that task. If not, other officials who might be approached are the President of the ICJ, the President of the European Court of Human Rights or the Chairman-in-Office of CSCE.

Chapter XIV Prosecutions Relating to Present Conflict

Article XIV.1 Domestic Prosecution

1. Neither the Republic of Croatia nor the Krajina shall prosecute, except as provided in paragraph 2, any person for crimes allegedly committed in connection with the conflict in Croatia after 1 August 1990.

2. Subject to paragraph 2 of Article XIV.2, prosecutions shall, however, be undertaken against any person accused of grave breaches of the Geneva Conventions of 1949, violations of the laws and customs of war, genocide or crimes against humanity<sup>7</sup> under any provisions of domestic law that permit such prosecution.

3. Trials of persons accused pursuant to paragraph 2 shall exclusively be conducted in a War Crimes Tribunal for Croatia which shall be established by and operate under the supervision of the Special Constitutional Court. Prosecution in the Tribunal may be conducted by prosecutors appointed for that purpose by either the Government of the Republic of Croatia or of the Krajina.

Article XIV.2 International Prosecution

1. All organs of the Governments of the Republic of Croatia and of the Krajina shall cooperate with the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 established by resolution 827 (1993) of the Security Council of the United Nations, in collecting or allowing the Prosecutor of the International Tribunal to collect evidence of crimes within the jurisdiction of that Tribunal, in making available witnesses and accused persons, and in any other way requested by the competent authorities of the Tribunal.

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<sup>7</sup> These are the same crimes to which the competence of the International War Crimes Tribunal for Former Yugoslavia extends pursuant to Articles 2-5 of the Tribunal's Statute.

2. Should the International Tribunal formally so request, the War Crimes Tribunal for Croatia shall defer to the competence of the latter Tribunal in respect to any proceeding.'

## Chapter XV Amendment of Constitution and Laws of Croatia

### Article XV.1 Adoption of Amendments

1. The Constitution of the Republic of Croatia, the Constitutional Law on Human Rights and Freedoms and the Rights of National and Ethnic Communities or Minorities in the Republic of Croatia, as well as other laws and legislative decrees shall be amended or supplemented as specified in Annex E, in order to implement the provisions of the present Agreement.

2. The amendments and legislation required to be adopted by paragraph 1 shall enter into force no later than six months after the signature of the present Agreement.

### Article XV.2 Further Changes in Amendments

The amendments and legislation adopted pursuant to Article XV.1, as well as existing provisions of the instruments referred to in paragraph 1 of Article XV.1 that are required for the implementation of the provisions of the present Agreement, shall not be amended or repealed without the approval of the Legislature of the Krajina and the concurrence of the Serb Caucus of the Sabor.

## Chapter XVI Indivisibility of Croatia

### Article XVI.1 No Change Intended

Nothing in the present Agreement shall be deemed to alter the indivisible nature of the Republic of Croatia specified in Article 1 of its Constitution.

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Based on paragraph 2 of Article 9 of the Statute of the International War Crimes Tribunal for Former Yugoslavia.



Chapter XVII. Final Clauses

Article XVII.1 Entry into Force and Implementation

1. The present Agreement shall enter into force after its signature on behalf of both parties, on a date one month after the entry into force of the amendments and legislation required to be adopted by paragraph 1 of Article XV.1 and the completion of the arrangements with the Council of Europe specified in Article XI.7.

2. Any questions concerning the time-table for or the methods of implementing the provisions of the present Agreement may be decided by an Implementation Commission consisting of one representative each of the Russian Federation, of the United States of America, of the United Nations and of the European Union, the latter two to be appointed by the Co-Chairmen of the Steering Committee of the International Conference on the Former Yugoslavia.<sup>9</sup>

Article XVII.2 Languages

The present Agreement shall be concluded in the English, Croat and Serb languages. In cases of inconsistencies, the English text shall prevail.

DONE THIS \_\_\_\_\_ day of \_\_\_\_\_ 1995, at \_\_\_\_\_, in three copies.<sup>10</sup>

\* It is envisaged that the Implementation Commission may be a continuation of the existing group that cosponsored the 29 March 1994 ceasefire agreement negotiations and the negotiating process for subsequent stages, including the preparation of this text.

<sup>10</sup> One each for the two parties and one for the United Nations.

A N N E X A

MAP 1: BOUNDARIES OF THE KRAJINA  
(Article I.1)

Article 1 Map

The boundaries of the Krajina shall be as indicated on the Map below.<sup>11</sup>

Article 2 Boundary Demarcation Commission

1. A Boundary Demarcation Commission shall be established for the physical demarkation of those parts of the boundaries of the Krajina that do not constitute an international border.
2. Not later than six months after the entry into force of the present Agreement, the President of the Republic of Croatia and the President of the Krajina shall each appoint one member of the Boundary Demarcation Commission. A third member, who shall be the Chairman of the Commission, shall be appointed by the two Presidents acting jointly or, if they are unable to agree, by the President of the Special Constitutional Court at the request of the President of either the Republic of Croatia or of the Krajina; the Chairman of the Commission shall not be a citizen of the Republic of Croatia.

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<sup>11</sup> As indicated in footnote 1, the territory of the Krajina is to be a single continuous territory comprising the Serb majority areas of UNPAs Sectors North and South, as defined in the 1991 census, with due consideration to geographic and economic factors.

MAP 2: BOUNDARIES OF THE Eastern Area  
(Article IX.1, paragraph 1)

Article 1 Map

The boundaries of the Eastern Area shall be as indicated on the Map below.

ANNEX B

LIST OF HUMAN RIGHTS INSTRUMENTS TO BE INCORPORATED  
INTO THE PRESENT AGREEMENT  
(Article XI.1)

1. 1948 Convention on the Prevention and Punishment of the Crime of Genocide
2. 1948 Universal Declaration of Human Rights
3. 1949 Geneva Conventions I-IV on the Protection of the Victims of War, and the 1977 Geneva Protocols I-II thereto
4. 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms, and the Protocols thereto
5. 1951 Convention relating to the Status of Refugees and the 1966 Protocol thereto
6. 1957 Convention on the Nationality of Married Women
7. 1961 European Social Charter and the Protocol 1 thereto
8. 1961 Convention on the Reduction of Statelessness
9. 1965 International Convention on the Elimination of All Forms of Racial Discrimination
10. 1966 International Covenant on Civil and Political Rights and its 1966 and 1989 Optional Protocols thereto
11. 1966 International Covenant on Economic, Social and Cultural Rights
12. 1979 International Convention on the Elimination of All Forms of Discrimination against Women

13. 1981 [UN] Declaration on the Elimination of all Forms of Intolerance and of Discrimination Based on Religion or Belief
14. 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
15. 1987 European Convention on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
16. 1989 Convention on the Rights of the Child
17. 1990 Convention on the Rights of Migrant Workers and Members of their Families
18. 1990 Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Part IV
19. 1990 Council of Europe Parliamentary Assembly Recommendation on the Rights of Minorities, paras. 10-13
20. 1992 [UN] Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities
21. 1992 European Charter for Regional and Minority Languages

ANNEX C

COMPOSITION AND COMPETENCE OF THE  
HUMAN RIGHTS COURT OF CROATIA  
(Article XI.7)

Article 1 Council of Europe resolution

The Human Rights Court of Croatia (the "Court") shall operate within the framework of the mechanism established by the Council of Europe by resolution 93 (6) of its Council of Ministers, as that resolution may be amended from time to time.

Article 2 Composition

1. The Court shall initially consist of nine Judges:
  - (a) Two of the Judges shall be appointed by the High Judiciary Council of Croatia;
  - (b) One of the Judges shall be appointed by the corresponding organ of the Krajina;
  - (c) One of the Judges shall be appointed by the President of the Special Constitutional Court after consultation with representatives of other national and ethnic communities or minorities.
  - (d) Five of the Judges shall be appointed by the Committee of Ministers of the Council of Europe in accordance with the above-cited resolution. These Judges may not be citizens of the Republic of Croatia nor of neighbouring States.
2. The Judges appointed under sub-paragraphs 1(a)-(c) shall serve until age 70 and may only be removed, for cause, by a consensus of all the other Judges of the Court.

3. If the Court concludes that its business requires the participation of more Judges to avoid undue delays in the disposition of cases, the Government of the Republic of Croatia shall make arrangements with the Council of Europe for the appointment of additional Judges, in accordance with the above-specified procedures and proportions.

#### Article 3 Procedures and Organization

1. The Court shall regulate its own procedures and organization.
2. Each panel of the Court is to have the composition specified for the Court in paragraphs 1 and 2 of Article 2 of the present Annex.
3. The equality of the parties shall be ensured in every proceeding.
4. The Court shall allow written and oral pleadings in every proceeding pursuant to Articles 5 to 7 of the present Annex.

#### Article 4 Competence

The competence of the Court shall extend to any question concerning a constitutional or other legal provision of the Republic of Croatia or of the Krajina relating to human rights or fundamental freedoms, including those in the present Agreement or in any of the instruments listed in Annex B hereto.

#### Article 5 Submission of Appeals

Any party to a proceeding in which another court of the Republic of Croatia or of the Krajina has pronounced a judgement that is not subject to any other appeal (for a reason other than the lapse of a time-limit for which the moving party is responsible), may appeal such judgement to the Court on the basis of any question within its competence. The decision of the Court on such an appeal shall be final and binding.

Article 6 Appeals of Protracted Proceedings

1. An appeal may also be taken to the Court if a proceeding is pending for what it considers an unduly long time in any other court of the Republic of Croatia or of the Krajina.
2. The Court shall decide whether to accept such an appeal after a preliminary consideration of whether the proceeding in such other court had been pending too long and whether the subject of the appeal is within its competence.

Article 7 Stated Questions

Any appellate court of the Republic of Croatia or of the Krajina may, at the request of any party to a proceeding pending before it or on its own motion in relation to such a proceeding, address to the Court a question arising out of the proceeding if the question relates to any matter within the competence of the Court. The response of the Court is binding on the requesting court.

Article 8 Duration

The Court shall continue to function until the Republic of Croatia becomes a party to the European Convention on Human Rights and Fundamental Freedoms, unless the Council of Europe mechanism referred to in article 1 of the present annex ceases at some earlier date to be in force in respect of the Republic of Croatia.



ANNEX D

Initial Appointment and Functions of the Ombudsmen  
(Article XI.8)

I. GENERAL PROVISIONS

Article 1 Functions of Ombudsmen

1. The Ombudsmen are to protect human dignity, rights and freedoms as provided in any constitutional or other legal provision of the Republic of Croatia or of the Krajina relating to human rights or fundamental freedoms, including those in the present Agreement or in any of the instruments listed in Annex B hereto, and in particular shall act to reverse the consequences of the violations of these rights and liberties and especially of ethnic cleansing.

2. In carrying out their functions, the Ombudsmen must be guided by law and by the principles of morality and justice.

Article 2 Individual Functioning

Each Ombudsman shall exercise his functions individually, except as otherwise provided herein. Two or more Ombudsmen may cooperate in carrying out any of their functions.

Article 3 Independencia

The Ombudsmen are independent in carrying out their functions and no governmental organ or any other person may interfere with such functions.

Article 4 Appointment

1. There shall be four Ombudsmen: two Croat, one Serb, and one for other national or ethnic communities or minorities. Until

the Croatian Sabor adopts, with the concurrence of the Serb Caucus of the Sabor, a law relating to the appointment and functioning of the Ombudsmen, these shall be appointed and may be removed by the Chairman-in-Office of the Conference on Security and Cooperation in Europe (CSCE).

2. Each of the Ombudsmen shall, with the approval of the High Judiciary Council of Croatia, appoint one or more deputies.

3. The terms of service of the Ombudsmen and their deputies shall be the same respectively as those of the President and of Judges of the Supreme Court of Croatia.

4. Each Ombudsman shall also appoint additional staff within the framework of the budget approved therefor by the High Judiciary Council of Croatia.

## II. THE COMPETENCE AND THE POWERS OF THE OMBUDSMEN

### Article 5 Organs and Entities Subject to Monitoring

The Ombudsmen may follow the activities of any organ of the Government of the Republic of Croatia and of the Government of the Krajina, or of any governmental units subordinate thereto, as well as of any other institution or person by whom human dignity, rights or liberties may be negated or ethnic cleansing may be accomplished or its effects preserved.

### Article 6 Powers

In the course of carrying out his functions, an Ombudsman may examine all official documents, including secret ones, as well as judicial and administrative files, and require any person (including any official) to cooperate, in particular by transmitting relevant information, documents and files. Ombudsmen may also attend court and administrative hearings, as well as meetings of other organs and enter and inspect any place where persons deprived of their liberty are confined or work.

Article 7 Maintenance of Confidentiality

The Ombudsmen, their deputies and any other person who carries out inquiries pursuant to article 6 above, are required to maintain the secrecy of whatever they learn in the course of such inquiry, and must treat all documents and files in accordance with the applicable rules.

III. REPORTS OF THE OMBUDSMEN

Article 8 Annual and Special Reports

1. Each Ombudsman shall present an annual report to the President of the Republic of Croatia and to the President of the Krajina, to the Co-Chairmen of the Steering Committee of the International Conference on the Former Yugoslavia and the Chairman-in-Office of CSCE. These reports shall be published.
2. An Ombudsman may also present at any time special reports to any competent authorities.

IV. REGULATIONS OF THE OMBUDSMEN

Article 9 Adoption of Regulations

Each Ombudsman shall draw up, or the Ombudsmen may collectively draw up, regulations that specify their organization and the method of exercising their functions, which shall be promulgated in the Official Journal of the Republic of Croatia. These regulations may be changed by a law adopted by the Croatian Sabor with the concurrence of the Serbian Caucus of the Sabor.

ANNEX E

Texts of Agreed Amendments to Croatian Constitution and  
of Legislation to Implement the Present Agreement  
(Article XV.1)

[To be prepared, in the course of negotiating the Agreement.]

18 January 1992: Draft Agreement on Krajina, etc.

0174-4558

ANNEX F

Transitional Governance of the Eastern Area  
(Article IX.1, para. 1)

1. No military forces except those of the United Nations or of any other international agency invited by the Security Council shall be in the Eastern Area. Any military forces in the Area at the time of the establishment of the UN administration shall immediately be disbanded. The UN Administrator shall, in accordance with paragraph 7 below, organize the police to function in the Area.
2. The Secretary-General of the United Nations shall, after consultation with the parties hereto, appoint an Administrator for the Eastern Area, whom the Secretary-General may replace at any time.
3. The Administrator shall exercise all executive functions in respect of the Eastern Area, in addition to such other functions as are specified herein.
4. The Administrator shall establish an Advisory Council, to which he may initially appoint local official functioning in the area and the representatives of refugees and displaced persons from the area, which shall be replaced, as soon as feasible, by persons elected according to a procedure that the Administrator shall determine. He shall consult with such Council in carrying out his responsibilities.
5. The Administrator shall establish, and may from time to time change, the boundaries of local administrative districts, as well as the system of local governance, including courts and administrative agencies, taking account as far as he considers appropriate of the relevant provisions of the Constitution and legislation of the Republic of Croatia.
6. Except as otherwise determined by the Administrator, the law applicable during the period of UN administration shall be that applicable in other parts of the Republic of Croatia.

7. In accordance with the provisions of the present Agreement, to help facilitate the return of refugees and displaced persons in security, the Administrator shall organize and control a uniformed police force, which shall as soon as possible come to have a proportionally balanced ethnic composition; for this purpose the Administrator shall employ, as soon as feasible, as many non-Serb (Croat and other) police as necessary. He may in this respect be assisted by police forces or advisers made available at the request of the United Nations.

8. The international border of the Eastern Area shall during the period of UN administration be monitored by Croatian customs officials working in cooperation with military and police forces under the control of the Administrator.

9. The costs of any international elements of the UN administration shall be borne by the United Nations. All other costs of governance shall be borne by the Republic of Croatia or by the resources of the Eastern Area, for which purpose the Administrator may raise appropriate taxes and other revenues. During the period of UN administration, the Republic of Croatia may raise, with the consent of the Administrator, taxes in the Eastern Area and from its domiciliaries, for the expenses of the Eastern Area and for other purposes, provided that the proportional tax burden in the Area and on its domiciliaries does not exceed that in other parts of the Republic of Croatia.