

# The Process of the Establishment of Independence of the Republic of Croatia and the Foundation of Its National Policy in Culture and Art

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# COMMENTARIES

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## The Process of the Establishment of Independence of the Republic of Croatia and the Foundation of Its National Policy in Culture and Art

**Abstract:** Two goals motivate the authors of this essay. The first is to examine the legal, historical and political context of the establishment of independence of the Croatian State at the time the Yugoslav crisis was originating. Following up on this issue in the second segment of our analysis we present a framework of the new Croatian cultural policy, which is essentially conditioned by historical events. This constitutes an overview of the founding of the new Croatian national cultural policy since the 1990s, focused on the primary sources of recent Croatian cultural and legal infrastructures in the new context of its European integration.

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**Keywords:** establishment of the independent and sovereign Republic of Croatia (1990-1995; the origin of Croatian politics in culture; legal sources of Croatian Law related to culture; Croatian cultural policy

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## Legal and Historical Framework of the Process of the Establishment of the Republic of Croatia – (The Christmas Constitution of 1990 and the Cultural and Arts Policy)

The major constitutional decisions of the Croatian Parliament (*Sabor*) in 1991 must be considered within the wider historical context of the watershed events which took place during the end of 1980s and the beginning of the 1990s. This was a time of radical changes in the entire system of international relations and the end of bipolarity and the Cold War, which led to the collapse of the Soviet State and its political and economic system and which, in turn, led to new reformist demands in many Central European States. The position of the United States also changed. It became a unilateral actor in international relations, and began to speak about finding and defining a so-called New World Order.<sup>1</sup> At the same time, these events were accompanied by trends aimed at the strengthening of European institutions, such as the reformist moves of the European Economic Community (later known as the European Union – EU), as well as the strengthening of organizations such as the OECD (of special significance is the Charter of Paris of 1990).<sup>2</sup> Due to space limitations, it is not possible in this article to delve more deeply into these questions, which have been widely discussed elsewhere.<sup>3</sup>

Croatia faced the events surrounding the fall of the communist system in somewhat different circumstances than other Central European countries. Its formal legal position, in keeping with the 1974 Constitution of the Socialist Federal

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<sup>1</sup> For more on this, see R. Vukadinović, *Postkomunistički izazovi europskoj sigurnosti – od Jadrana do Baltika* [The Post-communist Challenges on the European Security – From the Baltic to the Adriatic], Ziral, Mostar 1997.

<sup>2</sup> Charter of Paris for a New Europe, 21 November 1990, <http://www.osce.org/mc/39516> [accessed: 15.09.2015].

<sup>3</sup> E. di Nolfo, *Storia delle relazioni internazionali 1918-1999*, Laterza, Roma – Bari 2005, pp. 1347-1411; P. Calvocoressi, *World Politics Since 1945*, Longman, London 1996; C. Pleshakov, *Berlino 1989: la caduta del muro. La guerra civile che ha portato alla fine dell comunismo*, Corbaccio, Milano 2009; P. Kenney, *The Burdens of Freedom: Eastern Europe since 1989*, Zed Books, London – New York 2006; H. Kissinger, *Diplomacy*, Simon & Schuster, New York 1994, p. 762 ff., G. Sabbatucci, V. Vidotto, *Il mondo contemporaneo. Dall 1848 a oggi*, Laterza, Roma – Bari 2008, p. 601 ff.

Republic of Yugoslavia (SFRY),<sup>4</sup> included some relatively clear elements of statehood (defined, of course, by standard Socialist ideology), and even some characteristics of subjectivity under international law. But the disintegration of the entire Yugoslav social, governmental and economic system, which had been weakened during its search for new reformist solutions, reached a dangerous turning point when it became tied in with Greater Serbian policies. Originating in intellectual circles, Greater Serbianism became sublimated into the Communist Party's leading establishment, gathered around the new main leader of the Serbian Communists, Slobodan Milošević. In certain instances, the protagonists of Greater Serbianism expertly cloaked themselves under the banner of saving the Yugoslav community, relying on the forces of the Yugoslav People's Army (JNA). The Croatian leadership, which sought to make maximum use of the constitutional position of the Socialist Republic (SR) of Croatia, did not at first have enough force and determination to successfully meet the challenges posed by the recurring provocations of Milošević. Still, it began to implement the initial constitutional revisions required for a radical change in the existing system, one headed toward its democratization and liberalization. This became especially obvious in the legal reformist moves aimed at the introduction of a multiparty system, the announcement and organization of elections, and the call for constituent meetings of the Croatian Parliament.

From a constitutional perspective, the new democratic government significantly accelerated the path toward the establishment of Croatian statehood, and these steps would act as the basis for the adoption of key constitutional decisions by the Croatian Parliament in 1991. Following the formation of the new democratic government (after 30 May 1990), amendments to the Constitution of the SR of Croatia (25 July 1990) abandoned the socialist attributes found in State symbols, as well as in the general characteristics of the organization of government. The strengthening of executive power (a Government replaced the former Executive Council of the Parliament) led to the separation of powers among the three branches of the government, in contrast to the prior emphasis on the principle of the government's unity.<sup>5</sup>

The pinnacle of the constitutional process of establishing the Croatian State is without doubt the adoption of the Constitution of the Republic of Croatia,<sup>6</sup> the so-called "Christmas Constitution" (22 December 1990). The Constitution accepted the position of the Republic of Croatia within the Yugoslav State, setting forth in both its transitional and final provisions possible scenarios in case of a breach of the fundamental interests of the Republic. It also clearly spelled out the desire of the

<sup>4</sup> Ustav Socijalističke Federativne Republike Jugoslavije [Constitution of the Socialist Federal Republic of Yugoslavia], 21 February 1974, *Dopisna Delavska Univerza*, Belgrade 1974 [English translation].

<sup>5</sup> For sources, see A. Milardović, *Dokumenti o državnosti Republike Hrvatske* [Documents on the Statehood of the Republic of Croatia] Alinea, Zagreb 1992.

<sup>6</sup> Ustav Republike Hrvatske [Constitution of Croatia], 22 December 1990, *Narodne novine* [Official Gazette], No. 56/90, as amended.

Croatian Republic to be constituted as an independent and sovereign State. While Article 140 of the Constitution states that the “Republic of Croatia remains within the SFRY”, two provisions of the Constitution clearly reflected the determination to establish the State’s independence. Firstly, the Constitution gave the Parliament the power to undertake such a decision (which in fact it did through its acts in June and October 1991); and secondly, it anticipated the possibility of coming to an agreement with the other Yugoslav republics concerning a new constitutional arrangement. Taking into account the complexities surrounding the Yugoslav crisis the Parliament, in Paragraph 140, listed the possible dangers and threats to the territorial integrity of the Republic of Croatia, including its placement in an unequal position within the Yugoslav State or a threat to its interests (by anybody in the Federation or from other republics or provinces). In this Paragraph, which is subordinate to the first Paragraph of the Article, the Republican organs became specifically charged with adopting special acts to protect the interests of the Republic. These acts were further spelled out in the Constitutional Law for the Implementation of the Constitution of the Republic of Croatia, which temporarily suspended a number of sections of the Constitution (e.g., foreign affairs, defence).<sup>7</sup>

The Croatian Constitution is based on the Western European democratic tradition, as well as on the rich Croatian legal tradition and State individuality. By analysing the Constitution it is possible to conclude that it contains several fundamental provisions relating to the national cultural and arts policy. Included are the classic constitutional principles of culture – freedom of scientific, cultural and artistic creativity. The Constitution defines the State as obliged to encourage and assist in their development. Scientific, cultural and artistic goods, as national spiritual values, are protected by the State. The Constitution contains the principle of guarantees of moral and property rights which are the result of scientific, cultural, artistic and other creative activities.<sup>8</sup> Such rights exist in the Constitution as indirectly linked to the presented basic principles: constitutional material rights (freedom of thought, conscience, the right to a healthy life, the general principles of freedom of education, university autonomy etc.). On the other hand there are rules on determining the competence of national authorities in the implementation of State policy on culture and arts. The Constitution, as well as special laws (in some cases constitutional laws) contain the rights related to the cultural autonomy of the national minorities in Croatia, as well as the obligation to protect Croatian emigrant communities, which represent a kind of national or ethnic minority in their host countries.<sup>9</sup> The analysis of other sources and issues related to the State’s cultural and arts policy and legal infrastructure follow in the second part of this essay.

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<sup>7</sup> Concerning the means by which the Christmas Constitution was adopted, see D. Šarin, *Nastanak hrvatskoga Ustava* [The Establishing of the Croatian Constitution], *Narodne novine*, Zagreb 1997.

<sup>8</sup> Constitution of Croatia, op. cit., para. 68.

<sup>9</sup> I. Josipović, *Pravne i organizacijske odrednice hrvatske kulturne politike* [Legal and Organizational Guidelines for Croatian Cultural Policies], “*Zbornik Pravnog fakulteta u Zagrebu*” 1997, Vol. 47, pp. 565-567.

The major Croatian constitutional decisions, which represented the basis for the establishment of the Croatian State as a subject of international law, were adopted in 1991. Extremely difficult diplomatic conditions, which remained completely at odds with Croatian national interests, required the Parliament to take complex and unique steps in connection with independence. This, in part, made the establishment of Croatia's legal and factual sovereignty more complicated, as well as more arduous.

The first extraordinary event on the road toward independence and the constitutional establishment of a free and sovereign Croatian Republic was the Decree (*Odluka*) of the President of the Republic of Croatia concerning the holding of a referendum, issued on 25 April 1991.<sup>10</sup> The Decree established a referendum on 19 May 1991 which presented two questions to voters:

1. Are you in favour of the Republic of Croatia, as a sovereign and independent State which guarantees the cultural autonomy and all civil rights of Serbs and members of other nationalities in Croatia, entering into a federation of sovereign States with the other republics (in accordance with the proposal of the Republic of Croatia and the Republic of Slovenia to resolve the SFRY State crises)?
2. Are you in favour of the Republic of Croatia remaining in Yugoslavia as a unified federal State (in accordance with the proposal of the Republic of Serbia and the Socialist Republic of Montenegro to resolve the SFRY State crisis)?

The announced results of the referendum confirmed the undeniable desire of the great majority of Croatian people concerning the independence and sovereignty of the Republic of Croatia.<sup>11</sup> With respect to the first question, 2,845,521 votes were in favour, representing 93.24% of all voters. A somewhat lower number voted against the second referendum question. This represented not only a further affirmation of the voting public's approval of the path taken by the Croatian State's leadership to establish an independent and sovereign Croatian Republic, but also a clear demand by the citizens of the Republic for its full independence.

The end of May and early June 1991 marked the complete breakdown of all discussions among the leaders of the Yugoslav republics. Constant provocations by local Serbs and the Yugoslav Army on the ground threatened to escalate an extremely dangerous situation into open conflict. The political situation remained murky, while constant meetings between the Presidents of the Yugoslav republics failed to lead to an acceptable solution.<sup>12</sup> During this period, President Tuđman and

<sup>10</sup> Odluku o raspisu referenduma u Republici Hrvatskoj [Decree of the President of the Republic of Croatia Concerning the Holding of a Referendum], 25 April 1991, Narodne novine [Official Gazette], No. 21/91.

<sup>11</sup> According to the referendum results collected from 7,691 polling stations, out of 3,592,827 registered voters, 3,051,881, or 83.56%, voted in the referendum.

<sup>12</sup> Even the newly announced Platform Concerning the Reorganization of the Yugoslav State, authored by A. Izetbegović and K. Gligorov, did not propose a solution which could give any indication that the crisis would be resolved. This compromise proposal, supported by certain leftist circles in Croatia and Slovenia,

the Slovenian President Kučan discussed questions concerning future bilateral relations after the proclamation of independence. All bodies of the Croatian government began to prepare for adoption of the act concerning the independence and sovereignty of the Croatian State.

At its meeting on 25 June 1991, the Croatian Parliament adopted the most important Constitutional acts proclaiming the independence and sovereignty of the Croatian State. These decisions are expressed in two acts: the Constitutional Decision Concerning the Sovereignty and Independence of the Republic of Croatia (the Constitutional Decision), and the Declaration Concerning the Proclamation of the Sovereignty and Independence of the Republic of Croatia (the Constitutional Declaration). One should also mention the Constitutional Law Concerning Amendments and Additions to the Constitutional Law for the Implementation of the Constitution of the Republic of Croatia (the Constitutional Implementation Law).<sup>13</sup>

Pursuant to the Constitutional Decision, the Parliament proclaimed the Republic of Croatia as an independent and sovereign State (Point I), and announced that the Republic would begin the processes necessary to disassociate itself from the other republics of SFRY and to seek international recognition (Point II). Pursuant to this act, the Parliament determined that international agreements which had been entered into and ratified by SFRY would be adopted by the Republic of Croatia to the extent that they did not contradict the Constitution and the legal system of the Republic, in keeping with international law concerning the succession of States with respect to treaties (Point IV). The Parliament further declared that only those laws adopted by it would be effective in the territory of the Republic, as would those laws of SFRY which the Parliament did not repeal, until such time as the process of disassociation had been completed. The Republic assumed all rights and duties which, under the Constitutions of the Republic of Croatia and SFRY, had been undertaken by the organs of SFRY, subject to the condition that such assumption would be governed by a Constitutional Law (Point V). The Constitutional Decision further declared that the boundaries of the State would be based on the international legal principle of *uti possidetis iuris* (which would later be affirmed pursuant to the positions taken by the Badinter Commission).<sup>14</sup> The borders of Croatia would correspond to the internationally recognized borders of the former SR of

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remained unacceptable to the leadership of the Croatian State, which already had a plan outlined for the proclamation of independence, and was even more unacceptable to Greater Serbian, Unitarian circles.

<sup>13</sup> All of these acts adopted on 25 June 1991: Ustavna odluka o suverenosti i samostalnosti Republike Hrvatske [Constitutional Decision Concerning the Sovereignty and Independence of the Republic of Croatia], 25 June 1991; Deklaracija o proglašenju suverene i samostalne Republike Hrvatske [Declaration Concerning the Proclamation of the Sovereignty and Independence of the Republic of Croatia], 25 June 1991; Ustavni zakon o izmjeni i dopuni Ustavnog zakona za provedbu Ustava Republike Hrvatske [Constitutional Law Concerning Amendments and Additions to the Constitutional Law for the Implementation of the Constitution of the Republic of Croatia] 25 June 1991, are published in Narodne novine [Official Gazette], No. 31/1991.

<sup>14</sup> See Arbitration Commission of the Conference on Yugoslavia (Badinter Commission), Opinions Nos 1-10 (1991-1992), 31 ILM (1992) 1494, Opinions Nos 11-15, 32 ILM (1993) 1587.

Croatia within SFRY (Point VI). By accepting the principles of the Charter of Paris, the Croatian Republic guaranteed to all of its citizens all national and other rights and freedoms, a democratic system, the rule of law, and all other privileges of its constitutional and the international legal systems.

The Constitutional Declaration contained the elemental principles and arguments in favour of the proclamation of sovereignty and the independence of Croatia. Thus, the Declaration discusses constitutional continuity, emphasizing Croatian statehood within the framework of the Yugoslav federation. The Constitutional Declaration consolidates the previously expressed foundations of the constitutional principles of the legal system of the Croatian Republic, as well as the path of overall future policies toward the remaining republics of SFRY. The last Point of the Declaration (Point V) sets forth the criteria for future cooperation with the Yugoslav republics, with the goal of creating a possible federation of sovereign States on a confederal basis.

The Constitutional Implementation Law brought into force those Constitutional provisions which had not been implemented after their adoption, which for the most part concerned matters related to international relations and defence. The Parliament repeated its fundamental support for the protection of the rights of people and minorities in its Charter on the Rights of Serbs and Other Nationalities in the Republic of Croatia.<sup>15</sup>

These decisions of the Croatian Parliament, adopted on the same day that Slovenia declared its independence, were to have important effects on the further radicalization of relations in the evolving Yugoslav crisis. The JNA began its aggression against Slovenia only a day later, while the crisis in Croatia would also soon escalate into an open war of aggression pitting Serbia and Montenegro, with the assistance of the JNA, against the Croatian Republic. The international community, in an attempt to influence the resolution of the crisis, pressured the Croatian leadership to impose a three-month moratorium on the previously-mentioned Constitutional decisions concerning Croatian sovereignty and independence, during which time an agreement could be negotiated among the Yugoslav republics. This was set forth in the 7 July 1991 Brioni Declaration.<sup>16</sup> The Brioni Declaration confirmed the basic principles for future relations among the Yugoslav republics, with the goal of resolving the crisis, and established an Observation Mission of the European Community for Yugoslavia (Annex II). The Declaration further set forth specific provisions concerning the preparations for negotiations (Annex I).<sup>17</sup>

<sup>15</sup> Povelja o pravima Srba i drugih nacionalnosti u Republici Hrvatskoj [Charter on the Rights of Serbs and Other Nationalities in the Republic of Croatia], 25 June 1991, Narodne novine [Official Gazette], No. 31/1991.

<sup>16</sup> Common Declaration (Brioni Declaration), 8 July 1991 (<http://www.ucdp.uu.se/gpdatabase/peace/Yug%2019910712.pdf> [accessed: 12.11.2015]), as cited in A. Milardović, op. cit., pp. 114-117.

<sup>17</sup> In the end, the Brioni Declaration was only partially implemented. Its main aim, to commence negotiations among the Yugoslav republics to resolve the crisis, never got started, while events on the ground re-



The conclusion of the Brioni moratorium, along with the above-mentioned circumstances, influenced the further steps of the Croatian government toward the goal of achieving full independence and cutting off all constitutional ties with the republics of the SFRY, as well as with the Federation itself. This is contained in the Croatian Parliament's 8 October 1991 Decision Concerning the Termination of Constitutional Ties (Termination Decision), which severed the bonds forming the basis of SFRY between the Republic of Croatia and the remaining republics and provinces of SFRY.<sup>18</sup> This represented the last act in the constitutional process of establishing an independent and sovereign Croatian State. Beginning on and after 8 October 1991, the Republic of Croatia effectively became a subject of international law, and this date is viewed as the beginning of the international life of the Republic. The declaratory act of international recognition would later only reaffirm the effective establishment of the legal status created on 8 October 1991.

Relying on the right of self-determination of the Croatian people, SFRY's 1974 Constitution, the legitimate decisions concerning the establishment of a sovereign and independent State, and confirming the expiration of the moratorium, the Croatian Parliament, in the initial two Points of its Termination Decision, broke all constitutional ties "on the basis of which [the Republic of Croatia] together with the other republics and provinces had created the present-day SFRY". Based on the Termination Decision, Croatia rejected the further legitimacy and legality of all organs of the Federation, and refused to recognize any legal action of any organ which acted in the name of SFRY. The Republic of Croatia thus announced that it would continue the process of disassociation from the republics, provinces and Federation, setting forth in the Termination Decision a position which would be soon affirmed by the international community – that Yugoslavia no longer existed! The Termination Decision also contained provisions which clearly reflected the determination of the Republic of Croatia to base its international relations (including with the other republics of the former SFRY) on the most widely accepted principles of international law.<sup>19</sup>

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flected the need for defense from the now open aggression against the Croatian Republic. Croatia became forced to wage a defensive war (known as the Homeland War) against Serbia, Montenegro and the Yugoslav Army. Given the passivity of the international community, which even imposed an arms embargo on the Republic, conditions in Croatia at that time became extremely uncertain and critical. In its military operations, the aggressor violated basic provisions of international humanitarian law. The Croatian leadership, led from August 1991 by a coalition Government of Democratic Unity, faced the extremely difficult tasks of organizing the defense of the State, which in such unique and critical times opened up very complex questions (humanitarian assistance, questions concerning displaced persons and refugees, etc.).

<sup>18</sup> Odluku, Klasa: 021-03/91-05/07 [Decision Concerning the Termination of Constitutional Ties], 8 October 1991, Narodne novine [Official Gazette], No. 53/1991.

<sup>19</sup> In Croatian scientific and political circles the legal nature of these decisions is still discussed. For more, see S.F. Gagro, B. Vukas, Jr., *Pravna priroda i politička pozadina oružanih sukoba u Hrvatskoj i Bosni i Hercegovini* [Legal Nature and political background of the armed conflict in Croatia and Bosnia and Herzegovina], "Zbornik Pravnog fakulteta u Zagrebu" 2008, Vol. 58, pp. 1159-1199; Zbornik *Dan kada je nastala Država Hrvatska* [The Day when the State of Croatia Was Founded], Hrvatska Akademija znanosti i umjetnosti,

The Constitutional Law for the implementation of the Constitution demanded that the Yugoslavian federal legislation should be applied in the Croatian legal system under the condition of its harmonization with the Croatian Constitution. A period of one year was determined for the harmonization of Yugoslavian Law with the new Croatian Constitutional Law. This period was later extended to four years.

At the time, the Croatian legal infrastructure in the field of culture and education was already built on the basis of Croatian "Republican Law", in accordance with the Constitution of SFRY (1974) and the Constitution of the Republic of Croatia of 1974. Federal Yugoslav Law was adopted in the Croatian legal system according to the Law of Adoption of the Federal Laws in the Area of Education and Culture in the Republic of Croatia as its National Law.<sup>20</sup> With the adoption of this Law, the Federal Law on the registration of scientific, cultural, educational and technical cooperation with foreign countries, as well as The Federal Copyright Act were adopted into the Croatian legal system. Some of the provisions of the Federal Copyright Act were declared unconstitutional. In its Articles 2-6, this Law defined the modalities of its harmonization with the Constitution of the Republic of Croatia.

## The War as a Significant Factor in Defining a New Cultural Policy – Croatian Culture during the 1990s

The distinguishing factor with respect to the new Croatian policy in culture after the fall of communism, in comparison with other Eastern European countries, was the war of aggression against the Republic of Croatia. During their military campaign, Serbia and Montenegro committed many crimes against the civilian population, as well as organized crimes destroying the rich cultural heritage of Croatia. Specific examples of towns which suffered included Vukovar – a phenomenon of Croatian Central European identity along the Danube; and Dubrovnik – a world cultural heritage site under UNESCO protection. The aggressor also organized its war activities so as to target Croatian monuments under Croatian Control (for example the Cathedrals in Šibenik and Zadar, the National Theatre in Osijek, and many churches in Lika and Banovina Regions). The aggressor also systematically destroyed many religious and cultural monuments on the occupied territories.

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Zagreb, February 28<sup>th</sup> 2015. This essay doesn't cover the issues surrounding the international recognition of the Republic of Croatia. For more on these issues, see B. Vukas, Jr., *The Process of the Establishment of the Independence of the Republic of Croatia from the Perspective of International Law*, "Review of Croatian History" 2012, No. 1, pp. 11-35; B. Vukas, Jr. Vukas B., Jr. *State, Peoples and Minorities*, "Collected Courses of the Hague Academy of International Law" 1991, Vol. 231, pp. 293-309.

<sup>20</sup> Zakon o preuzimanju saveznih zakona iz oblasti prosvjete i kulture koji se u Republici Hrvatskoj primjenjuju kao republički zakoni [Law of Adoption of the Federal Laws in the Area of Education and Culture in the Republic of Croatia as its National Law], 28 June 1991, Narodne novine [Official Gazette], No. 56/91 in force from 8 October 1991.

Many artists participated in the Croatian Homeland War, and special military units of artists were formed and many art events were held for humanitarian purposes.

The circumstances of the war caused economic instability, presenting different priorities for the Croatian national policy. The economic transition and the instability of the international crisis gave rise to many difficulties in the creation of a coherent policy in culture and in its development.<sup>21</sup>

In the early 1990s, Croatia began to implement a new cultural policy, searching for solutions aimed at preserving its national identity and political freedoms, new cultural values, and political and democratic freedom, freed from the shackles of the Yugoslav communist, repressive and totalitarian model in which culture was a statement of the party and ideological will. Among other things, there was a call for cultural autonomy, and culture became key focus. In its provisions, the Constitution protects cultural development and cultural heritage as the nation's greatest assets. National laws (e.g. the Law on Cultural Funds), regulations, decisions, and by-laws formed the legal framework of the cultural policy of the time. War was not a thankless time during which to create a cultural strategy; rather the cultural policy was an expression of spontaneity, and its creation was led by artists aiming to change the valuable political and cultural policy relations. A major role in the preservation of cultural identity was also played by the Catholic Church which, as always throughout Croatian history, cared for its protection.

Special emphasis is put on the Catholic Church as the protector of cultural goods in this context because religious buildings and works of art were specifically targeted by the enemy, and the Croats have considered the Church to be an important factor of national identity for centuries.<sup>22</sup>

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<sup>21</sup> In his analyses on Croatian history, the Croatian historian Ivo Goldstein concluded: "Beside thousands of casualties, the war in Croatia also caused great destruction. Indirect damage (in tourism, transit traffic, investment etc) is practically incalculable, and it will cost about 20 billion dollars merely to rebuild that which was destroyed (The Croatian gross national products fell from 16 billion dollars before the war to about 8 billion dollars in 1992, which is considered the first post-war year). About 500 cultural monuments were destroyed or badly damaged, the most frequent targets being Catholic churches. Hospitals, schools, and nursery schools were also specifically targeted." I. Goldstein, *Croatia - A History*, Hurst Company, London 1999, p. 236.

<sup>22</sup> One of the "reasons" for the serious crimes against the objects of the Christian culture certainly stemmed from the special historical relations between the Croats, the Croatian States, and the Holy See which have developed over last thirteen centuries. Vatican diplomacy played an immeasurable role in the processes of international recognition of the Republic of Croatia during the pontificate of St. Pope John Paul II For more, see V. Cvrlije, *Vatikanska diplomacija* [The Vatican diplomacy], Školska knjiga, Kršćanska sadašnjost, Zagreb 1992, pp. 297-310; V. Cvrlije, *Sveta Stolica i Republika Hrvatska - Dvadeset godina diplomatskih odnosa (1992-2012)* [The Holy See and the Republic of Croatia - 20 years of diplomatic relations], Ministarstvo vanjskih i europskih poslova Republike Hrvatske, Libreria Editoriale Vaticana, Zagreb 2014.

**Table 1.** Destroyed and damaged facilities of the Catholic Church

Facilities	Completely destroyed	Badly damaged	Damaged	Total Casualties
Parish churches	65	100	101	266
Other churches	51	70	185	306
Chapels	88	79	87	254
Rectories and halls	66	85	135	286
Monasteries	7	24	49	80
Cemeteries	15	42	43	100
Crosses in the open	88	16	30	134
Total	380	416	630	1426

Source: Croatian Almanac 1998/99.

Protection was carried out on at least two levels; physical protection during wartime destruction, and protection aimed at preserving (restoring and protecting) cultural wealth in parts of the country that were not directly affected by the war.

However, despite the care that was taken, many cultural goods from the occupied territories were, if not destroyed, looted and have still not been returned to Croatia.

After the end of the war<sup>23</sup> in the mid-nineties, the cultural policy was marked by the creation of the National Program of Culture of the Republic of Croatia, which aimed to create a cultural development strategy. Special attention was given to forms of financing in culture, and the Ministry of Culture was focused on the protection of cultural heritage, promotion of cultural identity, and planning priorities in cultural activities. The National Report on the Cultural Policy of the Republic of Croatia was drafted in 1998 by a group of experts, and in the same year a report was published by European experts – *Croatian cultural policy: from barriers to bridges*. The strategy

<sup>23</sup> When speaking of the end of the Croatian Homeland War, it should be analyzed in the context of the Yugoslav Crisis. After the end of the brutal military aggression in 1991, and in the context of the EEC and UN peace missions and various peace initiatives in the very confusing Yugoslav Crisis (which included the aggression and the war on Bosnia and Herzegovina), the Croatia national police and military forces re-established their national sovereignty in their occupied Regions (in May and August of 1995). What followed was the beginning of the Process of Peaceful Reintegration of the Eastern Slavonia and Baranja Regions, which led to the finalization of the War in Bosnia and Herzegovina. The first major sign of stabilization in the region was the Dayton agreement of 1995, a form of a peace agreement which marked the creation and improvement of the Croatian-Serbian relationship, as well as the relations of Serbia towards Bosnia and Herzegovina. There are many papers on this Agreement and they offer a variety of conclusions. In sum, it can be concluded that the Agreement failed to provide for a significant transformation of Bosnia and Herzegovina toward democratization, nor for its accession to the European Union, although it was the main and the most significant document for the achievement of peace and stability in the region. After the finalization of the process of Peaceful Reintegration in the Eastern Croatian Regions, Croatian sovereignty was established on January 15<sup>th</sup> 1998. For more historical details, see I. Goldstein, op. cit., pp. 248-257; M. Tanner, *Croatia – A Nation forced in War*, 1<sup>st</sup> edn., Yale Nota Bene, Yale University Press, New Haven – London 2001, p. 221; S. Fabijanić Gagro, B. Vukas, Jr., *The Path of the former Yugoslavia Countries to the European Union: From integration to disintegration and back*, "Maastricht Journal of European and Comparative Law" 2012, Vol. 19, p. 300.

for cultural development was adopted in 2001, primarily emphasizing freedom in culture and its autonomous values. When speaking here of cultural autonomy, we must pause and considers its definition in relation to the other factors that affect it, as culture is a part of the institutional, legal and organizational framework. However, its prevalence and specificity allow for its existence outside the institutions.

### What is Culture and Cultural Policy?

According to Pope John Paul II, culture is that which makes a man, as a man, become a higher man.<sup>24</sup> Authentic culture is the culture of freedom which springs from the depths of the soul, from the clarity of the mind, and from selfless love. Without freedom there can be no culture.<sup>25</sup>

Culture assumes freedom and autonomy from politics, materialism, and conformism. The question arises: Is culture subordinated to the economy and politics, or is it their basis?<sup>26</sup> The submission of culture to politics and the economy hinders its autonomy, freedom in its functioning, and the unburdened creativity associated with freedom of expression. Culture does not then achieve its primary function, which consists in giving a new dimension to people's lives and opening up new horizons. Cultural policy then becomes rather an expression of political will, and thus a place for conflicts of ideas between the government and various interest groups. Although culture and identity can survive even in adverse political and economic conditions, its development requires a strategy, which is the result of political will. Culture also needs financial assistance, as well as a motivating legal and organizational framework. Together with the necessary formal requirements of cultural policy, there are also substantive quality requirements, which are harder to verify since there are no material or physical parameters for them. They are the result of values that are innate in every individual, every organization, and every government agency, and they depend on the moral and value system of a given society. The relativization of a society's values leads to the relativization and "averaging out" of culture, to the creation of a mass culture of kitsch, and to distancing it from what culture should transfer – truth, goodness and beauty. It creates a "culture of ugliness", and while it may be referred to as an alternative cultural form, like a freedom or diversity that enriches us, in reality it renders culture all the poorer.

That said, the subject of this article is the determinants of the legal and organizational framework of cultural policy as an essential factor for the existence and development of culture.

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<sup>24</sup> John Paul II, *Address to UNESCO* (speech, 2 June 1980), "La Traccia" 1980, a.1, pp. 472-478/VI. The text can be found at: <http://inters.org/John-Paul-II-UNESCO-Culture> [accessed: 15.10.2015].

<sup>25</sup> Ibidem.

<sup>26</sup> Z. Golubović, *The role of Culture in the post-Modern world. Its Impact on the Development of Human potentialities*, "Synthesis Philosophica" 2008, Vol. 45, p. 3. The text can be found at: <http://webcache.googleusercontent.com/search?q=cache:tZ1tEkefLhAJ:hrcak.srce.hr/file/48760+&cd=1&hl=hr&ct=clnk&gl=hr> [accessed: 15.10.2015].

## The Legal and Organizational Framework of Cultural Policy

For ease of description of the legal and organizational framework of cultural policy, legal sources are divided into international and national, and into legal sources which regulate cultural policy directly and those which regulate cultural policy indirectly. The most important legal regulations are the following: the Constitution, international treaties, and general and specific legal documents related to culture and cultural policy.

In addition to these regulations, it should be noted that Croatia's cultural policy is largely determined by strategies, proposals, plans, and various forms of international cooperation, as well as various *ad hoc* approaches to its development.

As mentioned before, the Constitution contains provisions which are fundamental to the organization and development of cultural policy, including provisions that directly control culture, and provisions that indirectly affect culture.

The Constitution declares that the freedom of scientific, cultural and artistic creativity is guaranteed, and that its development is a State concern.<sup>27</sup> Scientific, cultural and artistic goods enjoy the protection of the Republic of Croatia, and the moral and property rights derived from scientific, artistic and other creative activities are also guaranteed.<sup>28</sup> As for the free development of culture, Article 69 of the Constitution, which guarantees freedom of thought and expression, freedom of the press and other media of communication, freedom of speech and public expression, as well as access to information and the prohibition of censorship, is of special significance.<sup>29</sup> The State is obligated to protect scientific, cultural and artistic goods as national spiritual values.<sup>30</sup>

The provisions of the Constitution which are of a general nature and determine the legal and organizational framework of any social sphere, including culture, include provisions regarding the jurisdiction and organization of a governmental body and provisions regarding the budget and funding.

### International Agreements

The legal space of cultural policy includes international legal sources, the most important of which are international treaties, both bilateral and multilateral, which are concluded and ratified in accordance with the Croatian Constitution and form part of its internal order.<sup>31</sup> Among them, the most significant are the International

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<sup>27</sup> Ustav Republike Hrvatske [Constitution of Croatia], op. cit., consolidated text (6 July 2010): Narodne Novine [Official Gazette], No. 85/10, para. 69.

<sup>28</sup> Ibidem.

<sup>29</sup> Ibidem, para. 38.

<sup>30</sup> Ibidem, para. 69.

<sup>31</sup> Ibidem, para. 141.

Covenant on Economic, Social and Cultural Rights;<sup>32</sup> the UNESCO's Constitution;<sup>33</sup> and the European Cultural Convention.<sup>34</sup> These treaties provide general guidelines for the development of culture at both the global and European levels, and thus also at the individual Member State level. Among the most important bilateral agreements relating to cooperation of States Parties in the field of culture are those concluded with Italy, France, Great Britain, and Austria.<sup>35</sup>

### General and Special Rules

General regulations which are only indirectly related to cultural policy but are still very important for its development and organization include sources of law relating to minorities, such as the Constitutional Law on National Minorities, as well as a part of the Maritime Code which is also important for culture and its protection.<sup>36</sup> Among the general regulations, those relating to the organization and participation of various State and non-State actors in the creation of cultural policies are also important, such as the Law on Institutions, Law on Associations, and the Law on Endowments and Foundations.<sup>37</sup> From the financial aspect, the Law on Corporate Income Tax Act is also essential for culture, as is the Law on Income Tax, and the Value Added Tax Law, according to which cultural activities have a privileged tax status.<sup>38</sup> Laws whose application refers to various areas of social life, such as

<sup>32</sup> International Covenant on Economic, Social and Cultural Rights, 16 December 1966, 993 UNTS 3.

<sup>33</sup> Constitution of the United Nations Educational, Scientific and Cultural Organization, 16 November 1945, 4 UNTS 275.

<sup>34</sup> European Cultural Convention, 19 December 1954, CETS No. 018.

<sup>35</sup> Ugovor o kulturnoj, prosvjetnoj i znanstvenoj suradnji između Vlade Republike Hrvatske i Vlade Ujedinjenog Kraljevstva Velike Britanije i Sjeverne Irske [Agreement between Croatia and the United Kingdom on Co-operation in the Fields of Culture, Educational and Science], 6 June 1996, Narodne novine [Official Gazette], No. 7/96; Ugovor između Vlade Republike Hrvatske i Vlade Republike Austrije o suradnji u području kulture i obrazovanja [Agreement between Croatia and Austria on Co-operation in Culture and Education], 5 October 2004, Narodne novine [Official Gazette], No. 5/05; Ugovor o kulturnoj, prosvjetnoj, tehničkoj, znanstvenoj i tehnološkoj suradnji između Vlade Republike Hrvatske i Vlade Francuske Republike [Treaty on Cultural, Educational, Technical, Scientific and Technological Co-operation between Croatia and France], 2 February 1995, Narodne novine [Official Gazette], No. 2/95; Ugovor o filmskoj koprodukciji između Vlade Republike Hrvatske i Vlade Talijanske Republike [Film Co-production Agreement between Croatia and Italy], 25 November 2007, Narodne novine [Official Gazette], No. 11/07.

<sup>36</sup> Ustavni zakon o pravima nacionalnih manjina [Constitutional Law on National Minorities], 13 December 2002, Narodne novine [Official Gazette], No. 155/02, 47/10, 80/10, 93/11; Pomorski zakonik [Maritime Code], 8 December 2004, Narodne novine [Official Gazette], No. 181/04, 76/07, 146/08, 61/11, 56/13, 26/15.

<sup>37</sup> Zakon o ustanovama [Institutions Act], 14 March 2008, Narodne novine [Official Gazette], No. 35/08; Zakon o udrugama [Associations Act], 28 September 2001, Narodne novine [Official Gazette], No. 88/01; Zakon o zakladama i fondacijama [Endowments and Foundations Act], 16 May 1995, Narodne novine [Official Gazette], No. 36/95.

<sup>38</sup> Zakon o porezu na dobit [Corporate Income Tax Act], 3 December 2004, Narodne novine [Official Gazette], No. 177/04, 90/05, 57/06, 146/08, 80/10, 22/12, 148/13, 143/14; Zakon o porezu na dohodak [Income Tax Act], 3 December 2004, Narodne novine [Official Gazette], No. 177/04, 73/08, 80/10, 109/11

science, education, sport, culture and other spheres are also certainly important for culture, because their provisions in large touch on and control potential cultural events. In this respect, the Law on Media, the Law on Electronic Media, the Croatian Television Law, and the Croatian News Agency Law must also be mentioned.<sup>39</sup> Also of great importance for culture is the Law on Copyright and Related Rights, because it regulates the rights of authors of works in the literary, scientific and artistic domains, and the related rights of artists, publishers, film producers and others.<sup>40</sup>

Among the special provisions which directly regulate culture, either by regulating decisions in culture, financing culture, organizing the legal framework and different collaborators – State and non-State, non-profit and for-profit, or regulating specific cultural activities or other contents of cultural policy those listed below are the most important, having special reference to the main determinants of individual cultural activities.

The law that governs decision-making in culture, objectives and programs of cultural policy is the Law on Cultural Councils.<sup>41</sup> With respect to the financial aspect of cultural policy, the Law on Financing of Cultural Needs is of special importance.<sup>42</sup> A major role in the development, international cooperation and promotion of Croatian culture abroad is played by independent artists, whose rights are specified in provisions on the establishment and activities of artistic organizations and measures to encourage cultural and artistic creativity in the Act on the Rights of Independent Artists and Encouraging Cultural and Artistic Creativity.<sup>43</sup> Cultural goods are of interest to the Republic of Croatia and enjoy special protection, while their types, methods of protection, obligations and rights, and the organizational and financial aspects associated with them are regulated by the Law on the Protection and Preservation of Cultural Heritage.<sup>44</sup>

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– OUSRH, 114/11, 22/12, 144/12, 43/13; Zakon o porezu na dodanu vrijednost [Value Added Tax Law], 14 June 2013, Narodne novine [Official Gazette], No. 73/13, 99/13, 148/13, 153/13, 143/14.

<sup>39</sup> Zakon o medijima [Media Act], 30 April 2004, Narodne novine [Official Gazette], No. 59/04, 84/11, 81/13; Zakon o elektroničkim medijima [Electronic Media Act], 11 December 2009, Narodne novine [Official Gazette], No. 153/09, 84/11, 94/13, 136/13; Zakon o Hrvatskoj radioteleviziji [Croatian Television Act], 3 December 2010, Narodne novine [Official Gazette], No. 137/10, 76/12; Zakon o Hrvatskoj izvještajnoj novinskoj agenciji [Croatian News Agency Act], 25 November 2001, Narodne novine [Official Gazette], No. 96/01.

<sup>40</sup> Zakon o autorskom pravu i srodnim pravima [Copyright and Related Rights Act], 12 December 2006, Narodne novine [Official Gazette], No. 167/03, 79/07, para. 1.

<sup>41</sup> Zakon o kulturnim vijećima [Cultural Councils Act], 2 April 2004, Narodne novine [Official Gazette], No. 48/04, 44/09, 68/13.

<sup>42</sup> Zakon o financiranju javnih potreba u kulturi [Act on Financing of Cultural Needs], 9 November 1990, Narodne novine [Official Gazette], No. 47/90, 27/93, 38/09.

<sup>43</sup> Zakon o pravima samostalnih umjetnika i poticanju kulturnog i umjetničkog stvaralaštva [Act on the Rights of Independent Artists and Promotion of Cultural and Artistic Creativity], 17 May 1996, Narodne novine [Official Gazette], No. 43/96, 44/96, para. 1.

<sup>44</sup> Zakon o zaštiti i očuvanju kulturnih dobara [Protection and Preservation of Cultural Heritage Act], 18 June 1999, Narodne novine [Official Gazette], No. 69/99, 151/03, 157/03, para. 2.



Due to their specificity, in both content and form, and the fact that cultural activities are regulated by special laws, rules, regulations and decisions, it is difficult to predict legal consequences and solutions by the mere interpretation of general laws. The Law on Theatres governs the theatre and musical-theatrical activity, namely the establishment of theatres and theatre groups, theatre management and organization, the position of theatre artists and workers and other issues.<sup>45</sup> Archival activity is regulated by the Law on Archives and Archival Material.<sup>46</sup> In Croatia, archiving is carried out by the Croatian State Archives, along with a number of regional State archives. Library activity is regulated by the Law on Libraries.<sup>47</sup> Museum activity is regulated by the Law on Museums.<sup>48</sup>

The war in Croatia caused a lot of damage with respect to cultural museum treasures, as many cultural treasures became war trophies of the aggressors, and most of them have not been returned to this day.

The provision, organization and funding of audio-visual works and their encouragement, promotion and protection is regulated by the Audio-visual Activities Act.<sup>49</sup> Wartime activities halted the domestic production of films and the number of cinematographers decreased, but today we witness four film productions a year, and Croatia is engaged in international cooperation through membership in the European Co-Production Film Fund – Eurimages, as well as participates in the MEDIA Program of the European Union.<sup>50</sup>

## Jurisdiction and Participants

Cultural policy, its planning and development, is dependent on and subject to the actions of many participants. In addition to government authorities, including bodies of local government and autonomous ones, there are also various public and private institutions, non-governmental organizations, independent artists and artist organizations, and other for-profit and non-profit organizations. The mechanisms of their influence are numerous, from the point of view of both

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<sup>45</sup> Zakon o kazalištima [Theatres Act], 9 June 2006, Narodne novine [Official Gazette], No. 71/06, 121/13, 26/14, para. 1.

<sup>46</sup> Zakon o arhivskom gradivu i arhivima [Archives and Archival Material Act], 19 September 1997, Narodne novine, [Official Gazette] No. 105/97, 64/00, 65/09.

<sup>47</sup> Zakon o knjižnicama [Libraries Act], 19 September 1997, Narodne novine [Official Gazette], No. 105/97, 5/98, 104/00, 69/09.

<sup>48</sup> Zakon o muzejima [Museums Act], 9 November 1998, Narodne novine [Official Gazette], No. 142/98, 65/09.

<sup>49</sup> Zakon o audiovizualnim djelatnostima [Audio-visual Activities Act], 6 July 2007, Narodne novine [Official Gazette], No. 76/07, 90/11, para. 1.

<sup>50</sup> The text can be found at: [http://hr.wikipedia.org/wiki/Hrvatska\\_kinematografija](http://hr.wikipedia.org/wiki/Hrvatska_kinematografija) [accessed: 15.10.2015].

substance and the formal, legal-organizational aspects. The State government exercises significant influence by creating legislation and allocating funds from the budget. The Ministry of Culture is the governmental body responsible for the distribution of budget resources to individual users; for government grants for various cultural projects; for supervision of the work of those institutions dealing with cultural activities; for the appointment of directors of public cultural institutions; for the establishment of the most important cultural institutions; and is the most important factor in the formal creation and implementation of cultural policy in the Republic of Croatia.<sup>51</sup>

At the lower, local level, cultural politics are implemented by various local authorities. Their jurisdiction is set forth in Article 19 of the Law on Local and Regional Self-Government.<sup>52</sup> Local and regional self-government is an important factor in cultural policy since it adapts its actions to local and regional needs, where cultures and traditions, customs and all that makes up the identity of the people is most visible.

A growing sphere of cultural policy is occupied by institutions, associations, foundations and endowments, artistic organizations, and individual artists. Institutions, whether public or private, are a common organizational form of cultural expression.

The Croatian National Theatres (of which there are five), museums, libraries and other participants in the national cultural scene have been established as public institutions.

Even though they were rare in the past, foundations are also a form of cultural manifestation in today's cultural scene in Croatia. Foundations, together with their assets, trust assets, and the income they acquire, permanently serve the achievement of a purpose deemed generally beneficial or charitable.<sup>53</sup>

Other important participants include arts organizations and non-profit legal entities carrying out activities for which they are registered, which include theatre, music, film and others, as well as independent artists subject to the Law on the Rights of Independent Artists and Encouraging Cultural and Artistic Creativity.<sup>54</sup> Cultural activities can be performed by companies, although this is still quite uncommon on the Croatian cultural scene.

<sup>51</sup> Zakon o ustrojstvu i djelokrugu ministarstava i drugih središnjih tijela državne uprave [Law on the Organisation and Scope of Ministries and Other Central State administration Bodies], 22 December 2011, Narodne novine, [Official Gazette], No. 150/11, 22/12, 39/13, 125/13, 148/13, para. 24.

<sup>52</sup> Zakon o lokalnoj i područnoj samoupravi [Act on Local and Regional Self-Government], 12 February, 2013, Narodne novine [Official Gazette], No. 19/13.

<sup>53</sup> Zakon o zakladama i fundacijama [Endowments and Foundations Act], op. cit., para. 2.

<sup>54</sup> Zakon o pravima samostalnih umjetnika i poticanju kulturnog i umjetničkog stvaralaštva [Act on the Rights of Independent Artists and Promotion of Cultural and Artistic Creativity], op. cit., para. 11.

### Financing

Although the way in which cultural policy survives even outside of the institutional framework has been mentioned, the financial aspect is still an important formal factor that can affect its development. Italy, one of the leading European cultures, can serve as an example which confirms the theory that culture can survive even in difficult financial conditions, where the emergence of top-quality art is not connected to material incentives, but rather begins spontaneously from the people, without special cultural projects and programs (an example may be Italian neorealist films).

The question of financing culture is closely linked with that of its commercialization. Namely, the commercialization of culture can, on the one hand, lead to its self-financing, i.e. to a culture that is financially self-sustaining and directly and indirectly leads to the economic development of the country. On the other hand, the commercialization of culture can also result in a decrease in its quality; culture can become a culture of blandness, mediocrity, mass production.

The most important financial source of cultural policy in the Republic of Croatia is certainly the State Budget, which establishes the budget for culture at the national level. It is legislated by the Croatian Parliament, and their revenues and receipts, expenditures and expenses are estimated for the period of one year. In Croatia, according to data from the beginning of 2014, 0.48% of the State budget is allocated to culture.

The Law on Financing Cultural Needs stipulates that the Republic of Croatia, counties, the City of Zagreb, and districts and municipalities must also adopt programs fulfilling cultural needs and secure funds for their implementation from their own budgets. The State bodies can offer suggestions for projects to be funded.<sup>55</sup> It is also envisioned that foundations and other cultural organizations may acquire their own revenues through the conduct of their activities and through fees for the provision of services, sales of services and products on the market, as well as through donations, sponsorships, gifts and other means.

Indirect financial sources of funding culture are include the tax regulations. According to the Law on Corporate Income Tax, corporate taxpayers can donate tax-free up to 2% of their revenue from the tax year, in kind or in cash, for cultural, scientific, educational, healthcare, humanitarian, sport, religious, environmental and other public purposes, to organizations and other persons that perform the aforementioned activities in accordance with special regulations. In addition, this amount may exceptionally exceed 2% of the income for a tax year if it is so decided by the authorized Ministry of Financing of Special Programs and Actions. From a tax point of view, a similarly significant law is the Law on Personal Income Tax, which,

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<sup>55</sup> Zakon o financiranju javnih potreba u kulturi [Act on Financing of Cultural Needs], op. cit., para. 2 and 3.

similarly to the Law on Corporate Income tax, provides tax relief through the increase of the non-taxable personal allowance for domestic donations made in kind and money credited in a giro account, and in cultural, educational, scientific, health-care, humanitarian, sport and religious purposes, to associations and other persons that perform such activities in accordance with special regulations, in amounts up to 2% of the income for which the annual tax return is filed. Exceptionally, this personal allowance may be increased for gifts above the set value provided that it is so decided and approved by the authorized Ministry of Financing of Special Programs and Actions, and not for the regular activities of the donee-recipient. Thus all donations, whether in cash or in kind, that do not exceed 2% of the total revenues of donors in a given tax year are recognized as legitimate deductions by letter of Law.

Since becoming a member of the European Union on July 1st 2013,<sup>56</sup> Article 167 of the Treaty on the Functioning of the European Union, which stipulates the manner in which the Union supports, coordinates and supplements the actions of Member States in the field of culture and seeks to highlight Europe's common cultural heritage, has been in effect for the Republic of Croatia. The EU grants awards for specific areas of cultural activities, creates funding programs, creates initiatives like Heritage Days and Cultural Capitals, and advocates the preservation of cultural heritage and cooperation between Member States.

The question arises whether the EU represents a threat to Croatian cultural identity. According to Eurobarometer data from December 2011, 20% of the population in Croatia expressed a fear of Croatia losing its national identity.<sup>57</sup> As a full-fledged EU Member State, Croatia is slowly integrating into the European cultural space, while at the same time experiencing many challenges to the preservation of its cultural identity in the context of the multicultural composition of many societies and countries. The European cultural space consists of many diverse cul-

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<sup>56</sup> The membership of the independent Croatia to the EU and NATO represented the main international goals of all the Croatian Governments from 1990 onwards. The complicated Yugoslav crisis, the Great Serbian aggression Wars against Slovenian independence and Croatian and Bosnian sovereignty and the Albanian population on Kosovo, made the surrounding circumstances in Croatian progress to the EU was very complicated and long. As part of the so-called "West Balkan Region" (diplomatically established from 1998), the process of Croatian accession to the European Union was designated as a "stability process", containing very specific criteria in comparison to other candidate States from Eastern and Central Europe. In addition to the general Copenhagen Criteria, Croatia had to meet special Criteria and standards. The process of Croatian accession to the EU was also influenced by the political context and the structure of international interests. To summarize, it should be noted that these conditions included: a) Cooperation with International Criminal Tribunal for the former Yugoslavia (the tribunal was established in 1993 as an assistant organ of the UN Security Council) b) the implementation of post-war Regional Cooperation with neighbour States, c) ensuring minority protection, d) The Slovenian blockade, caused by a small bilateral dispute in the determination of the State border. For more information, see more: S. Fabijanić Gagro, B. Vukas, Jr., op. cit.; G.G. Sander, B. Vukas, Jr., *Kroatiens steiniger Weg in die Europäische Union*, in: N. Bodiroga-Vukobrat, G.G. Sander (eds.), *Die Europäische Union und Südosteuropa Herausforderungen und Chancen*, Verlag Dr. Kovač, Hamburg, 2009, pp. 145-167.

<sup>57</sup> The text can be found at: *Croatian Culture in the European Union*, 3 April 2012, <http://www.fcfdc.org/cdc2186?lang=fr> [accessed: 15.09.2015].

tural expressions, which are constantly renewed and developed. As an EU member, Croatia takes part in the Creative Europe 2014-2020 Programme, which consists of cooperation projects, networks, platforms and literary translation projects. This Programme will provide funding to an estimated 6,400 cultural organizations and cover sectors ranging from the performing arts to literature to multi-media. Croatia is responsible for implementing the Creative Europe strategic directions into its own cultural policy and strategy.<sup>58</sup> This Programme definitely opens the way for Croatia towards a higher-level of cooperation and towards establishing a stronger role for culture in Croatia's external relations. Will it make Croatian culture better? Will it help Croatia to promote its national culture, or will Croatia lose it in the midst of European cultural diversity? Croatian culture is opening new horizons by seeking and finding its place in the diverse European society. Croatia needs to participate in the intercultural dialogue while simultaneously preserving, protecting and promoting its own cultural heritage.

### Conclusions

The processes of establishing Croatia's independence had both symbolical and multiple practical effects that led to many new ideas in the Croatian Cultural policy and in its culture in general. The new values, democratic imperatives, national considerations, and the European Context and Concepts opened up a new fundamental objective in Croatian Cultural policy. Many examples can be found in confirmation of this statement, including Croatia beginning to question its literary heritage in the new context (the Christian humanism of Marko Marulić), or discovering new unknown authors and forgotten topics. There are also new approaches to the sacral heritage and culture. Croatia has discovered the forgotten musical works of Ivan pl. Zajc and Dora Pejačević.

The processes of the establishment of the State, the creation of the State structure and the establishment of a new basis of the legal system has slowed down the work on the development of a cultural strategy or legal infrastructure to support it. However, the earlier legislation of the Croatian "Republic", based on the Constitution of the Socialist Republic of Croatia of 1974, constituted a good basis for the establishment of the new legal system. In accordance with the Constitution of the SFRY of 1974, culture and education laws were predominantly regulated at the level of the Republic.

The collapse of the communist ideology and the rejection of the values related to a particular Yugoslav ideology had a fundamental influence on the creation of a new Croatian culture. However, even in the face of these difficulties one of the biggest challenges for the development of Croatian culture was undoubtedly the war. Not only were some important Croatian monuments destroyed, but the fundamental ob-

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<sup>58</sup> B. Cvjeticanin, V. Katunaric, *Croatian Culture in the European Union*, <http://www.culturelink.org/news/members/2012/members2012-006.html> [accessed: 15.09.2015].

jectives of national policy were also significantly shifted to other values, upsetting the genesis of all value models in relation to the European experience of that time.

In the field of culture, The Republic of Croatia has a formal, legal and organizational framework which can still be significantly improved. However, this framework satisfies formal cultural needs, protects cultural property and regulates the relations in culture.

Problems in cultural policy arise with respect to its financial aspects, the absence of a strategy focused on content-based criteria and, one may say, in the poor promotion of culture abroad. Cultural heritage and culture are significant national achievements, and Croatian cultural policy should protect against the diminution of and damage to that which has been achieved. Finally, the culture of each country depends on the State of the nation's cultural identity as much as on the legal, financial and organizational framework. The aspect of legal framework is critically important because it can help raise overall cultural activity. We can conclude that such a basic framework exists, and in the future Croatia will be able to focus on content.

## References

- Arbitration Commission of the Conference on Yugoslavia (Badinter Commission), Opinions Nos 1-10 (1991-1992), 31 ILM (1992) 1494, Opinions Nos 11-15, 32 ILM (1993) 1587.
- Calvocoressi P., *World Politics Since 1945*, Longman, London 1996.
- Charter of Paris for a New Europe, 21 November 1990, <http://www.osce.org/mc/39516> [accessed: 15.09.2015].
- Common Declaration (Brioni Declaration), 8 July 1991, <http://www.ucdp.uu.se/gpdata-base/peace/Yug%2019910712.pdf> [accessed: 12.11.2015].
- Constitution of the United Nations Educational, Scientific and Cultural Organization, 16 November 1945, 4 UNTS 275.
- Croatian Culture in the European Union*, 3 April 2012, <http://www.ficdc.org/cdc2186?lang=fr> [accessed: 15.09.2015].
- Cvjeticanin B., Katunaric V., *Croatian Culture in the European Union*, <http://www.culturelink.org/news/members/2012/members2012-006.html> [accessed: 15.09.2015].
- Cvrlje V., *Sveta Stolica i Republika Hrvatska – Dvadeset godina diplomatskih odnosa (1992-2012)* [The Holy See and the Republic of Croatia – 20 years of diplomatic relations], Ministarstvo vanjskih i europskih poslova Republike Hrvatske, Libreria Editoriale Vaticana, Zagreb 2014.
- Cvrlje V., *Vatikanska diplomacija* [The Vatican diplomacy], Školska knjiga, Kršćanska sadašnjost, Zagreb 1992.
- Deklaracija o proglašenju suverene i samostalne Republike Hrvatske [Declaration Concerning the Proclamation of the Sovereignty and Independence of the Republic of Croatia], 25 June 1991, Narodne novine [Official Gazette], No. 31/1991.
- European Cultural Convention, 19 December 1954, CETS No. 018.
- Fabijanić Gagro S., Vukas B. Jr., *The Path of the former Yugoslavia Countries to the European Union: From integration to disintegration and back*, "Maastricht Journal of European and Comparative Law" 2012, Vol. 19.

## COMMENTARIES

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- Gagro S.F., Vukas B., Jr., *Pravna priroda i politička pozadina oružanih sukoba u Hrvatskoj i Bosni i Hercegovini* [Legal Nature and Political Background of the Armed Conflict in Croatia and Bosnia and Herzegovina], "Zbornik Pravnog fakulteta u Zagrebu" 2008, Vol. 58.
- Goldstein I., *Croatia – A History*, Hurst Company, London 1999.
- Golubović Z., *The role of Culture in the post-Modern world. Its Impact on the Development of Human potentialities*, "Synthesis Philosophica" 2008, Vol. 45, <http://web-cache.googleusercontent.com/search?q=cache:tZ1tEkefLhAJ:hrcak.srce.hr/file/48760&cd=1&hl=hr&ct=clnk&gl=hr> [accessed: 15.10.2015].
- [http://hr.wikipedia.org/wiki/Hrvatska\\_kinematografija](http://hr.wikipedia.org/wiki/Hrvatska_kinematografija) [accessed: 15.10.2015].
- International Covenant on Economic, Social and Cultural Rights, 16 December 1966, 993 UNTS 3.
- John Paul II, *Address to UNESCO* (speech, 2 June 1980), "La Traccia" 1980, <http://inters.org/John-Paul-II-UNESCO-Culture> [accessed: 15.10.2015].
- Josipović I., *Pravne i organizacijske odrednice hrvatske kulturne politike* [Legal and Organizational Guidelines for Croatian Cultural Policies], "Zbornik Pravnog fakulteta u Zagrebu" 1997, Vol. 47.
- Kenney P., *The Burdens of Freedom: Eastern Europe since 1989*, Zed Books, London – New York 2006.
- Kissinger H., *Diplomacy*, Simon & Schuster, New York 1994.
- Milardović A., *Dokumenti o državnosti Republike Hrvatske* [Documents on the Statehood of the Republic of Croatia] Alinea, Zagreb 1992.
- Nolfo E. di, *Storia delle relazioni internazionali 1918-1999*, Laterza, Roma – Bari 2008.
- Odluku o raspisu referenduma u Republici Hrvatskoj [Decree of the President of the Republic of Croatia Concerning the Holding of a Referendum], 25 April 1991, Narodne novine [Official Gazette], No. 21/91.
- Odluku, Klasa: 021-03/91-05/07 [Decision Concerning the Termination of Constitutional Ties], 8 October 1991, Narodne novine [Official Gazette], No. 53/1991.
- Pleshakov C., *Berlino 1989: la caduta del muro. La guerra civile che ha portato alla fine dell comunismo*, Corbaccio, Milano 2009.
- Pomorski zakonik [Maritime Code], 8 December 2004, Narodne novine [Official Gazette], No. 181/04, 76/07, 146/08, 61/11, 56/13, 26/15.
- Povelja o pravima Srba i drugih nacionalnosti u Republici Hrvatskoj [Charter on the Rights of Serbs and Other Nationalities in the Republic of Croatia], 25 June 1991, Narodne novine [Official Gazette], No. 31/1991.
- Sabbatucci G., Vidotto V., *Il mondo contemporaneo. Dal 1848 a oggi*, Laterza, Roma – Bari 2008.
- Sander G.G., Vukas B., Jr., *Kroatiens steiniger Weg in die Europäische Union*, in: N. Bodiroga-Vukobrat, G.G. Sander (eds.), *Die Europäische Union und Südosteuropa Herausforderungen und Chancen*, Verlag Dr. Kovač, Hamburg 2009.
- Šarin D., *Nastanak hrvatskoga Ustava* [The Establishing of the Croatian Constitution], Narodne novine, Zagreb 1997.
- Tanner M., *Croatia – A Nation Forced in War*, 1<sup>st</sup> edn., Yale Nota Bene, Yale University Press, New Haven – London 2001.

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- Ugovor između Vlade Republike Hrvatske i Vlade Republike Austrije o suradnji u području kulture i obrazovanja [Agreement between Croatia and Austria on Co-operation in Culture and Education], 5 October 2004, Narodne novine [Official Gazette], No. 5/05.
- Ugovor o filmskoj koprodukciji između Vlade Republike Hrvatske i Vlade Talijanske Republike [Film Co-production Agreement between Croatia and Italy], 25 November 2007, Narodne novine [Official Gazette], No. 11/07.
- Ugovor o kulturnoj, prosvjetnoj i znanstvenoj suradnji između Vlade Republike Hrvatske i Vlade Ujedinjenog Kraljevstva Velike Britanije i Sjeverne Irske [Agreement between Croatia and the United Kingdom on Co-operation in the Fields of Culture, Educational and Science], 6 June 1996, Narodne novine [Official Gazette], No. 7/96.
- Ugovor o kulturnoj, prosvjetnoj, tehničkoj, znanstvenoj i tehnološkoj suradnji između Vlade Republike Hrvatske i Vlade Francuske Republike [Treaty on Cultural, Educational, Technical, Scientific and Technological Co-operation between Croatia and France], 2 February 1995, Narodne novine [Official Gazette], No. 2/95.
- Ustav Republike Hrvatske [Constitution of Croatia], 22 December 1990, Narodne novine [Official Gazette], No. 56/90, consolidated text (6 July 2010): Narodne novine [Official Gazette], No. 85/10, as amended.
- Ustav Socijalističke Federativne Republike Jugoslavije [Constitution of the Socialist Federal Republic of Yugoslavia], 21 February 1974, Dopsna Delavska Univerza, Belgrade 1974 [English translation].
- Ustavna odluka o suverenosti i samostalnosti Republike Hrvatske [Constitutional Decision Concerning the Sovereignty and Independence of the Republic of Croatia], 25 June 1991, Narodne novine [Official Gazette], No. 31/1991.
- Ustavni zakon o izmjeni i dopuni Ustavnog zakona za provedbu Ustava Republike Hrvatske [Constitutional Law Concerning Amendments and Additions to the Constitutional Law for the Implementation of the Constitution of the Republic of Croatia] 25 June 1991, Narodne novine [Official Gazette], No. 31/1991.
- Ustavni zakon o pravima nacionalnih manjina [Constitutional Law on National Minorities], 13 December 2002, Narodne novine [Official Gazette], No. 155/02, 47/10, 80/10, 93/11.
- Vukadinović R., *Postkomunistički izazovi europskoj sigurnosti – od Jadrana do Baltika* [The Post-communist Challenges on the European Security – From the Baltic to the Adriatic], Ziral, Mostar 1997.
- Vukas B., Jr. State, *Peoples and Minorities*, "Collected Courses of the Hague Academy of International Law" 1991, Vol. 231.
- Vukas B., Jr., *The Process of the Establishment of the Independence of the Republic of Croatia from the Perspective of International Law*, "Review of Croatian History" 2012, No. 1.
- Zakon o arhivskom građivu i arhivima [Archives and Archival Material Act], 19 September 1997, Narodne novine, [Official Gazette] No. 105/97,64/00, 65/09.
- Zakon o audiovizualnim djelatnostima [Audio-visual Activities Act], 6 July 2007, Narodne novine [Official Gazette], No. 76/07, 90/11.
- Zakon o autorskom pravu i srodnim pravima [Copyright and Related Rights Act], 12 December 2006, Narodne novine [Official Gazette], No. 167/03, 79/07.
- Zakon o elektroničkim medijima [Electronic Media Act], 11 December 2009, Narodne novine [Official Gazette], No. 153/09, 84/11, 94/13, 136/13.



- Zakon o financiranju javnih potreba u kulturi [Act on Financing of Cultural Needs], 9 November 1990, Narodne novine [Official Gazette], No. 47/90, 27/93, 38/09.
- Zakon o Hrvatskoj izvještajnoj novinskoj agenciji [Croatian News Agency Act], 25 November 2001, Narodne novine [Official Gazette], No. 96/01.
- Zakon o Hrvatskoj radioteleviziji [Croatian Television Act], 3 December 2010, Narodne novine [Official Gazette], No. 137/10, 76/12.
- Zakon o kazalištima [Theatres Act], 9 June 2006, Narodne novine [Official Gazette], No. 71/06, 121/13, 26/14.
- Zakon o knjižnicama [Libraries Act], 19 September 1997, Narodne novine [Official Gazette], No. 105/97, 5/98, 104/00, 69/09.
- Zakon o kulturnim vijećima [Cultural Councils Act], 2 April 2004, Narodne novine [Official Gazette], No. 48/04, 44/09, 68/13.
- Zakon o lokalnoj i područnoj samoupravi [Act on Local and Regional Self-Government], 12 February 2013, Narodne novine [Official Gazette], No. 19/13.
- Zakon o medijima [Media Act], 30 April 2004, Narodne novine [Official Gazette], No. 59/04, 84/11, 81/13.
- Zakon o muzejima [Museums Act], 9 November 1998, Narodne novine [Official Gazette], No. 142/98, 65/09.
- Zakon o porezu na dobit [Corporate Income Tax Act], 3 December 2004, Narodne novine [Official Gazette], No. 177/04, 90/05, 57/06, 146/08, 80/10, 22/12, 148/13, 143/14.
- Zakon o porezu na dodanu vrijednost [Value Added Tax Law], 14 June 2013, Narodne novine [Official Gazette], No. 73/13, 99/13, 148/13, 153/13, 143/14.
- Zakon o porezu na dohodak [Income Tax Act], 3 December 2004, Narodne novine [Official Gazette], No. 177/04, 73/08, 80/10, 109/11 – OUSRH, 114/11, 22/12, 144/12, 43/13.
- Zakon o pravima samostalnih umjetnika i poticanju kulturnog i umjetničkog stvaralaštva [Act on the Rights of Independent Artists and Promotion of Cultural and Artistic Creativity], 17 May 1996, Narodne novine [Official Gazette], No. 43/96, 44/96.
- Zakon o preuzimanju saveznih zakona iz oblasti prosvjete i kulture koji se u Republici Hrvatskoj primjenjuju kao republički zakoni [Law of Adoption of the Federal Laws in the Area of Education and Culture in the Republic of Croatia as its National Law], 28 June 1991, Narodne novine [Official Gazette], No. 56/91.
- Zakon o udrugama [Associations Act], 28 September 2001, Narodne novine [Official Gazette], No. 88/01.
- Zakon o ustanovama [Institutions Act], 14 March 2008, Narodne novine [Official Gazette], No. 35/08.
- Zakon o ustrojstvu i djelokrugu ministarstava i drugih središnjih tijela državne uprave [Law on the Organisation and Scope of Ministries and Other Central State administration Bodies], 22 December 2011, Narodne novine, [Official Gazette], No. 150/11, 22/12, 39/13, 125/13, 148/13.
- Zakon o zakladama i fondacijama [Endowments and Foundations Act], 16 May 1995, Narodne novine [Official Gazette], No. 36/95.
- Zakon o zaštiti i očuvanju kulturnih dobara [Protection and Preservation of Cultural Heritage Act], 18 June 1999, Narodne novine [Official Gazette], No. 69/99, 151/03, 157/03.
- Zbornik *Dan kada je nastala Država Hrvatska* [The Day when the State of Croatia Was Founded], Hrvatska Akademija znanosti i umjetnosti, Zagreb, February 28<sup>th</sup> 2015.