

CONTENTS

THE CONSTITUTION OF THE REPUBLIC OF CROATIA¹	5
I. HISTORICAL FOUNDATIONS	5
II. BASIC PROVISIONS	7
III. PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS	12
1. General Provisions	12
2. Personal and Political Freedoms and Rights	14
3. Economic, Social, and Cultural Rights	21
IV. ORGANIZATION OF GOVERNMENT	27
1. The Croatian Parliament	27
2. The President of the Republic of Croatia	33
3. The Government of the Republic of Croatia	39
4. The Judiciary	42
5. The Office of the Public Prosecutor	46
V. THE CONSTITUTIONAL COURT OF THE REPUBLIC OF CROATIA	47
VI. LOCAL AND REGIONAL SELF-GOVERNMENT	50

¹ Translated by Professor Branko Smerdel & Ana Horvat Vuković, mag. iur.

VII. INTERNATIONAL RELATIONS	52
1. International Agreements	52
2. Association and Disassociation	53
VIII. THE EUROPEAN UNION	53
1. Legal Basis of Membership and the Transfer of Constitutional Powers	53
2. Participation in the Institutions of the European Union	54
3. The Law of the European Union	54
4. The Rights of the Citizens of the European Union	55
IX. AMENDMENTS TO THE CONSTITUTION	56
X. CONCLUDING PROVISIONS	56

THE ACT ON THE COAT-OF-ARMS, FLAG AND ANTHEM OF THE REPUBLIC OF CROATIA, AND ON THE FLAG AND SASH OF THE PRESIDENT OF THE REPUBLIC OF CROATIA	59
I. GENERAL PROVISIONS	59
II. THE COAT-OF-ARMS OF THE REPUBLIC OF CROATIA	60
III. THE FLAG OF THE REPUBLIC OF CROATIA	62
IV. THE ANTHEM OF THE REPUBLIC OF CROATIA	64
V. THE FLAG OF THE PRESIDENT OF THE REPUBLIC OF CROATIA	66
VI. THE SASH OF THE PRESIDENT OF THE REPUBLIC OF CROATIA	67
VII. PENAL PROVISIONS	67

3.1.5. Amendments reforming the judiciary (Arts. 118–125)	83
3.1.6. Amendments strengthening human rights and fundamental freedoms	84
4. ON THE HISTORICAL FOUNDATIONS (THE PREAMBLE) OF THE CONSTITUTION	85
5. A BASELINE OF THE CONSTITUTIONAL ORDER: BASIC PROVISIONS (Arts. 1–13 of the Constitution of the Republic of Croatia)	87
5.1. Popular sovereignty: free and equal citizens hold the power in the state	87
5.2. State sovereignty is limited by international law and international agreements	88
5.3. The Constitution is founded on an ethical concept which expresses the “highest values of the constitutional order”	89
5.4. The division of power is the basic principle of the system of government, establishing checks and achieving accountability	91
5.5. The rule of law demands respect for the Constitution, the law and the entire legal system	94
5.6. <i>Ex post facto</i> (retroactive) application of law is prohibited	95
5.7. Political parties are the focus of political life in a democracy	96
5.8. Peace is indivisible: whoever wants to live in peace, must take part in its preservation (“ <i>si vis pacem, para bellum</i> ”)	97
5.9. Alterations of the state border are within the exclusive competence of the Croatian Parliament	99
5.10. Croatian citizenship is the basis for the use of political and other rights	99

5.11. The protection of the rights and interests of the Croatian Diaspora	100
5.12. The coat-of-arms of the Republic of Croatia	100
5.13. Language and script in official use	100
5.14. The capital city of the Republic of Croatia	101
6. PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS	101
6.1. The prohibition of discrimination in the enjoyment of rights and freedoms	101
6.2. National rights and the protection of national minorities	102
6.2.1. Constitutional guarantees of national equality	103
6.3. Limitations to free enjoyment of rights and freedoms	104
6.3.1. All rights are restricted by the equal rights of others, as well as by the interests of the community	104
6.3.2. Restrictions are only possible to be imposed by law, for constitutional reasons	105
6.4. "The safeguard of the Republic shall be the supreme law": restricting rights and freedoms in situations of public danger	106
6.4.1. State of emergency and extraordinary measures	106
6.4.2. Restricting constitutional rights under the Art. 17 of the Constitution	107
6.4.3. Decrees with the force of law (emergency decrees) referred to in Art. 101 of the Constitution	108
6.4.4. No one may order the commission of a crime: personal responsibility for violations of rights and freedoms	109

6.5. “Without the means of its protection, there is no right to speak of”: the right to an appeal and to a fair decision rendered in reasonable time	109
6.6. Personal rights and freedoms	110
6.6.1. The right to life, liberty and personal integrity	110
6.6.2. The rights of arrested, charged or prosecuted persons	111
6.6.2.1. The presumption of innocence	111
6.6.2.2. The arrest	112
6.6.2.3. Rights of suspects and persons charged	113
6.6.2.4. Legal effects of a sentence	114
6.6.3. Principle of legality in criminal law	115
6.6.4. Personal rights	116
6.6.4.1. Guarantee of personal life, reputation and honor	116
6.6.4.2. Freedom of movement	116
6.6.4.3. Inviolability of the home	116
6.6.4.4. Privacy of correspondence, protection of personal data and conditions of their restriction	117
6.6.4.5. Freedom of thought and public expression of opinion	118
6.6.4.6. Freedom of conscience and religion	119
6.6.5. Political rights and freedoms	120
6.6.5.1. Freedom of association and its restrictions	120
6.6.5.2. Equality of access to public employment	120
6.6.5.3. The right of public assembly and peaceful protests	121

6.6.5.4. The right to vote	122
6.6.5.5. The right to submit petitions	123
6.6.5.6. The duty to defend the Republic of Croatia	123
6.7. Economic rights	124
6.7.1. The right of ownership	124
6.7.2. Entrepreneurship and the market	125
6.7.3. Expropriation	126
6.7.4. The tax system	127
6.7.5. Goods of interest to the Republic	127
6.8. Social rights	127
6.8.1. Right to work and freedom of work	127
6.8.2. Fair remuneration and working conditions	128
6.8.3. Social security	129
6.8.4. Trade unions and the right to strike	130
6.8.5. Constitutional grounds for the protection of families	130
6.9. Cultural rights	131
6.9.1. The right to education	131
6.9.2. The autonomy of the University	131
6.10. Ecological rights	132
6.11. International guarantees of human rights and domestic law	132
7. THE SYSTEM OF GOVERNMENT	133
7.1. The referendum is the most important form of voters' direct decision-making	133
7.2. The Croatian Parliament is the framer of the Constitution, the legislator and supervisor of the executive	134
7.2.1. Members of Parliament (MPs)	135
7.2.2. Sessions of the Croatian Parliament	135
7.2.3. Dissolution of the Croatian Parliament	136

7.2.4. Competence of the Croatian Parliament	136
7.2.5. Delegation of legislative powers: decrees with the force of law	137
7.2.6. Commissions of inquiry	138
7.3. The President of the Republic of Croatia is the nonpartisan Chief of State, Commander-in-Chief, guarantor of government stability and a participant in policy formulation	138
7.3.1. The election	139
7.3.2. Prevention from performing duties	139
7.3.3. The constitutional competences of the President of the Republic	140
7.3.4. Cooperation with the Government and the Croatian Parliament	141
7.4. The Government of the Republic of Croatia exercises executive powers and is responsible to the Croatian Parliament	142
7.4.1. The Government's competences	143
7.4.2. The Government's responsibility to the Croatian Parliament	143
7.5. The state administration executes laws, enacts regulations and decides on rights	144
7.6. The judiciary is independent in making decisions in disputes over rights and in the implementation of penal legislation	144
7.6.1. Basic provisions	144
7.6.2. The National Judicial Council	146
7.7. The Office of the Public Prosecutor is authorized to proceed against perpetrators of punishable offences	147
7.8. The People's Ombudsman represents citizens before governmental bodies and bodies of local and regional self-government	148

8. THE CONSTITUTIONAL COURT IS THE GUARDIAN OF CONSTITUTIONALITY AND LEGALITY	149
8.1. Constitutional status and competence	149
8.2. The role of the constitutional judicature	151
9. LOCAL AND REGIONAL SELF-GOVERNMENT IS THE FOUNDATION OF THE SYSTEM OF DEMOCRATIC GOVERNMENT	152
10. THE EUROPEAN UNION (Arts. 143–146)	154
10.1. The legal basis for membership and the transfer of constitutional powers	154
10.2. Participation in the institutions of the European Union	155
10.3. The Law of the European Union	155
10.4. Rights of EU citizens	156
11. INTERNATIONAL RELATIONS (Arts. 139–141)	157
11.1. International agreements	157
11.2. Association and disassociation (Art. 142)	157
12. AMENDMENTS TO THE CONSTITUTION (Arts. 147–150)	158
13. INSTEAD OF A CONCLUSION – THE CONSTITUTION AS A SOCIAL REALITY (“THE LIVING CONSTITUTION”)	159
RESOURCES USED	161
ALPHABETICAL LISTING OF TERMS USED IN THE CONSTITUTION OF THE REPUBLIC OF CROATIA	163