

CROATIA

CAT A/51/44 (1996)

151. The Committee considered the initial report of Croatia (CAT/C/16/Add.6) at its 253rd and 254th meetings, on 6 May 1996 (CAT/C/SR.253 and 254), and has adopted the following conclusions and recommendations:

Introduction

152. The Committee welcomes the report of the Government of Croatia as well as its core document (HRI/CORE/1/Add.32). The initial report of Croatia dated 4 January 1996 was due on 7 October 1992, but the events of insecurity in Croatia from 1991 explain why this report is late.

153. The initial report of Croatia and the core document follow the Committee's guidelines and meet them satisfactorily.

154. The Committee also thanks the representatives of the State party for their introductory remarks.

Positive aspects

155. The constitutional and other legal safeguards against torture and other cruel, inhuman or degrading treatment or punishment are particularly well-developed.

156. The commitment of Croatia to human rights is reflected in the State party's adherence to various international human rights treaties. It is particularly noteworthy that Croatia has not expressed reservation to article 20 and has declared in favour of articles 21 and 22 of the Convention.

157. The fact that the Government of Croatia has undertaken investigation and prosecution in cases of alleged torture and maltreatment arising out of the events of 1995 and its aftermath is noted with satisfaction.

158. The support of Croatia for the rehabilitation of the victims of the violence that took place there between 1991 and the end of 1995 is another matter of satisfaction to the Committee.

Factors and difficulties impeding the application of the provisions of the Convention

159. The Committee takes note of the following:

(a) The situation of insecurity and loss of civil oversight over parts of Croatia between 1991 and the end of 1995;

(b) The social and economic consequences of the events referred to in paragraph 1 of the initial

report, together with the costs of reconstruction and reintegration of large portions of the population into the wider society;

(c) The refocusing of social attitudes onto human rights rather than onto State rights, in a country where for 45 years the opposite was the norm.

Subjects of concern

160. The Committee is concerned about the information on serious breaches of the Convention received from reliable non-governmental organizations, indicating that in the wave of the events of 1995 and its aftermath, serious acts of torture were perpetrated by Croatian officials, particularly upon the Serb minority.

161. The Committee also notes that there is no defined crime of torture in the domestic law of Croatia.

Recommendations

162. The Committee recommends to the State party the following:

(a) That Croatia enact a crime of torture in terms consistent with article 1 of the Convention;

(b) That Croatia ensure that all allegations of torture or cruel, inhuman or degrading treatment or punishment arising out of the events of 1995 and its aftermath, be rigorously investigated by an impartial, independent commission and the results be reported back to the Committee;

(c) That in the second periodic report a detailed account of the way in which Croatia complies with the provisions of article 3 of the Convention be included;

(d) That a vigorous programme of education of police, as well as prison, medical, prosecution and judicial personnel be undertaken to ensure that they understand their obligations pursuant to the relationship between the domestic law of Croatia and the international human rights régime to which Croatia has adhered;

(e) The Committee urges Croatia to continue to 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 to ensure that alleged war criminals within its jurisdiction are brought to justice pursuant to the Dayton peace accord;

(f) Individual claims of violations of the constitutional rights of defendants in pre-trial detention should be justiciable by an effective judicial authority;

(g) That Croatia's police and judicial authorities pay special attention to the implementation of the existing legal guarantees against torture of a constitutional and procedural nature.

CAT A/54/44 (1999)

61. The Committee considered the second periodic report of Croatia (CAT/C/33/Add.4) at its 352nd, 353rd and 359th meetings, on 13 and 18 November 1998 (CAT/C/SR.352, 353 and 359), and adopted the following conclusions and recommendations.

1. Introduction

62. Croatia accepted the Convention against Torture by succession and recognized the competence of the Committee to receive complaints, as provided for in articles 21 and 22 of the Convention, on 8 October 1991. Croatia has also been a party to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment since 1997.

63. The Committee notes with satisfaction that the second periodic report complies with the general guidelines for periodic reports prepared by the Committee. Although it was submitted a year and a half late, the report demonstrates the State party's willingness to cooperate with the Committee in order to fulfil its obligations under the Convention.

2. Positive aspects

64. Croatia has incorporated the crime of torture and acts constituting other inhuman, cruel or degrading treatment or punishment into its internal legislation in terms which are in keeping with the provisions of articles 4 and 16 of the Convention, since it makes these offences punishable by appropriate penalties which take into account their grave nature.

65. There have been some changes in the rules of criminal procedure, such as the introduction of the obligation to bring detainees before a judge within 24 hours so that a decision may be taken on the lawfulness of detention and the determination of the maximum time limits for pre-trial detention.

3. Subjects of concern

66. The Committee notes that the Amnesty Act adopted in 1996 is applicable to a number of offences characterized as acts of torture or other cruel, inhuman or degrading treatment or punishment within the meaning of the Convention.

67. The Committee is seriously concerned about allegations of ill-treatment and torture, some of which resulted in death and are attributable to law enforcement officials, especially the police.

68. The Committee is concerned about the incompetence revealed in investigations of cases of serious violations of the Convention, including deaths which have not yet been explained. It is also concerned about the lack of a sufficiently detailed report, which was to be prepared on the basis of the recommendations made following the consideration of the initial report.

4. Recommendations

69. As during the consideration of the initial report, the Committee recommends that the State party should make all necessary efforts to ensure that the competent authorities immediately conduct an impartial, appropriate and full investigation whenever they have to deal with allegations of serious violations made in a credible manner by non-governmental organizations.

70. The Committee also recommends that, through the intermediary of the competent authorities, the State party should take account of the evidence transmitted to it by the International Tribunal for the Former Yugoslavia and some non-governmental organizations concerning violations of human rights and, in particular, cases of torture and cruel, inhuman or degrading treatment or punishment.

71. The Committee recommends that constitutional complaints should be received directly by the Constitutional Court in all cases of allegations of torture and other cruel, inhuman or degrading treatment or punishment.