

## CROATIA

### CCPR A/48/40 (1993)

333. Deeply concerned by recent and current events in the territory of the former Yugoslavia affecting human rights protected under the Covenant, having noted that all the peoples within the territory of the former Yugoslavia were entitled to the guarantees of the Covenant, finding that the new States within the boundaries of the former Yugoslavia succeeded to the obligations of the former Yugoslavia under the Covenant in so far as their respective territories were concerned, and acting under article 40, paragraph 1 (b), of the Covenant, on 9 October 1992, the Committee requested the Government of the Republic of Croatia to submit a short report on certain issues in respect of persons and events now coming under its jurisdiction by 30 October 1992 (see para. 36 and annex VII).

334. The report submitted by the Republic of Croatia pursuant to the aforementioned decision was considered by the Committee at its 1201st and 1202nd meetings, on 4 November 1992 (CCPR/C/SR.1201 and 1202). (For the composition of the delegation, see annex XI.)

335. The report was introduced by the representative of the State party who explained that any consideration of the situation in Croatia had to be based on a distinction between the aggressor and the victim and take duly into account the background against which the development and present status of human rights in Croatia had evolved. The first free elections in the spring of 1991 and Croatia's declaration of independence in June 1991 had led to riots and rebellion by a part of the Serbian minority in Croatia with the incitement and strong support of the régime in Belgrade and of the so-called Yugoslav People's Army. Those events culminated in open military aggression against Croatia aiming at occupation, ethnic cleansing and annexation of its territory. That aggression had left 20,000 people dead and 80,000 wounded.

336. A quarter of the Croatian territory was still under Serbian occupation. Almost half of the Croatian economy had been destroyed and many churches, cemeteries, schools, hospitals and historical monuments severely damaged or completely ruined. Additionally, Croatia had become host to some 300,000 displaced persons and to more than 450,000 refugees from Bosnia and Herzegovina.

337. As one of the successor States to the former Yugoslavia in 1992, Croatia had made a declaration of succession to the Geneva Conventions of 1949 and the Covenant. It also intended to make the declaration provided for in article 41 of the Covenant and to accede to the Optional Protocols in the near future. The Covenants had been taken as a basis for the human rights provisions contained in chapters 2 and 3 of Croatia's new Constitution. The Constitution defined the Republic of Croatia as a national State of the Croatian people and a State of members of minorities who were its citizens; its article 15 provided that members of all national minorities enjoyed equal rights, freedom to express their nationality and use their language and script, and cultural autonomy. Croatia had also been the only Republic of the former Yugoslavia to enact and implement the human rights provisions adopted by The Hague Conference on the Former

Yugoslavia. Accordingly, it had adopted, in December 1991, a Constitutional Law on Human Rights and Freedoms and the Rights of Ethnic and National Communities or Minorities which guaranteed all human rights and fundamental freedoms to members of minorities, together with additional rights to be enjoyed by them in accordance with all the relevant United Nations and European human rights instruments. Special autonomous status had been granted to national and ethnic communities in those districts of Croatia where their members represented over 50 per cent of the population. Other legal provisions guaranteeing national minority rights had also been adopted, in particular the Law on Election to the Croatian Parliament which provided that a national minority comprising more than 8 per cent of the population of the Republic had to be proportionally represented in parliamentary, governmental and judicial bodies.

338. There had been no organized policy of ethnic cleansing in the Croatian territory under the control of the Croatian authorities, who had always been decisively and uncompromisingly opposed to such a policy. Although there had been individual cases of arbitrary arrests and killings during the early stages of spontaneous self-defence against the aggressor, the Croatian authorities had applied the rule of law throughout the territory under their control and were prosecuting the perpetrators of such criminal acts. There were no detention camps in the territory controlled by the Croatian authorities and, even during the military aggression, the treatment of prisoners of war belonging to the so-called Yugoslav People's Army or to Serbian paramilitary groups had been regulated by a special decree providing for the application of the Geneva Conventions of 1949. The policy of ethnic cleansing was, however, still being pursued and practiced against Croats and other non-Serbian populations in the territory not controlled by the Croatian authorities. In that territory, there were still detention camps in which killings, the worst methods of torture and other inhuman treatment were practiced.

339. The Croatian Government was a strong advocate of national and religious tolerance and favoured the introduction of preventive measures to forestall acts of intolerance. It had established an Office for Inter-Ethnic Relations and there was also a parliamentary Committee for Human Rights, including minority rights. Police stations in each district had been instructed to take the necessary precautions to prevent possible attacks in retaliation for the killings, bombings and other crimes frequently committed by people of Serbian nationality living in the area.

340. Members of the Committee noted with appreciation that, on 12 October 1992, the Republic of Croatia had notified the Secretary-General that it had succeeded, as from 8 October 1991, to various human rights treaties, including the Covenant. They further noted that, since its independence, the territory of Croatia had been subjected to large-scale military action which had resulted in massive violations of human rights, including significant loss of life, torture, disappearances and summary executions, with entire towns destroyed and populations displaced. They emphasized, however, that all human rights instruments, including the Geneva Conventions, laid obligations on parties, without exonerating those who regarded themselves as victims of aggression from their own responsibilities under the relevant instruments. Although human rights violations might well be reported in portions of the country that was not under Croatian control, Croatia was none the less accountable for what happened in areas that it did control.

341. With regard to the situation of ethnic Serbs in Croatia, members requested clarification of references in the report of the Special Rapporteur of the Commission on Human Rights

(E/CN.4/1992/S-1/9) to maltreatment of ethnic Serbs, which had caused the flight of many of them from the territory of Croatia, and to cases of detention of civilians on the sole basis of their ethnic origin. Similarly, clarification was sought of other references in a report prepared by the Conference on Security and Cooperation in Europe which indicated that the Serbian population had been the target of human rights violations, including destruction of houses, attacks on shops belonging to Serbs, and dismissal of Serbs from government service. It was asked whether such measures did not in themselves constitute a form of ethnic cleansing. Information was also requested on measures taken to investigate the cases of kidnapping and arbitrary arrests mentioned in the report submitted by Croatia and to punish those found guilty. Members also wished to know what measures had been taken to investigate cases of disappearances, extrajudicial executions or torture, to punish those found guilty, and to prevent the recurrence of such acts, including any acts perpetrated by Croatian forces in Bosnia and Herzegovina; whether steps had been taken to ensure that prisoners were not being taken in order to be exchanged for other prisoners; what measures had been adopted to ensure the proper treatment of persons deprived of their liberty and to prevent conduct by certain individuals that might lead to forced departures or to preventing the return of any section of the population; whether there were detention camps in Bosnia and Herzegovina under the jurisdiction of members of the Croatian army; and what groups were considered as minorities under the recently adopted Constitutional Law on Human Rights and Freedoms and the Rights of Ethnic and National Communities or Minorities.

342. With reference to the implementation of article 20 of the Covenant, clarification was requested of the published lists of Croatian citizens of Serbian origin indicating their ethnic origin which, according to the Special Rapporteur of the Commission on Human Rights, were widely distributed and available for sale to the public (members of the Committee had a copy of the list furnished by the Special Rapporteur). It was also inquired what measures had been foreseen to create the preventive conditions designed to forestall any cases of national, racial, religious or other kinds of hatred; what practical measures had been adopted to promote tolerance among the various peoples residing in the Republic; what steps had been taken against members of the Croatian army who had reportedly been seen wearing Nazi emblems; whether there were any educational programmes, policy campaigns or efforts to disseminate information that would promote ethnic tolerance; and what the Office for Inter-Ethnic Relations might do to promote the eradication of ethnic criteria in the future.

343. In his reply, the representative of the State party stated that in October 1992, his Government had notified the depositaries of many international treaties, including the Covenant, of its decision to consider itself a successor State in respect of the ratification of the former Federal Republic of Yugoslavia. Under article 134 of the Constitution, international agreements concluded and ratified in accordance with the Constitution were part of Croatia's internal order and prevailed over national legislation. With reference to the statement in the report according to which a distinction had to be drawn between the aggressor and the victims, the representative explained that all violations of human rights had constituted aggression and that, during the war in Croatia, part of the Serbian ethnic group had joined the aggressors and committed violations.

344. Referring to questions relating to ethnic groups and minorities, the representative explained that anyone who wished to be considered as belonging to a minority had the right to do so and enjoyed all the rights guaranteed under the Constitution. There was no wish on the part of the

Government to change anything in respect of their geographical situation. Provisions relating to minorities had been included in the Constitutional Law of December 1991, but the application of those rules depended on a decision of the present rulers of the Serbian minority in one part of Croatia to recognize that they were citizens of Croatia. Serbs living in other parts of Croatia had recently received new schools, and a Serbian organization called the Serbian Community had been re-established to protect the national rights of Serbs in Croatia. The branches of the Office for Inter-Ethnic Relations which had been created in various districts of the country had established a council where all representatives of different ethnic groups and minorities could meet to present their problems. The branches also proposed measures for monitoring the application of laws and regulations and assisted persons whose cases had not been dealt with properly by judicial or other organs.

345. With reference to the human rights violations occurring in Croatia, the representative explained that a distinction had to be made between the three quarters of the territory controlled by the Croatian Government, for which the Government was responsible, and the portion that was occupied by the Serbs and under the protection of the United Nations Protection Force (UNPROFOR), where it was not possible to control human rights violations. The activities of the Ministry of the Interior and of the police were aimed at preventing violence, especially of an ethnic nature, and protecting public and private buildings, in particular Serbian-owned homes, against possible attacks. The Croatian Government could, unfortunately, do nothing about violations in the part of the territory out of its control, where incidents of ethnic cleansing, expulsions, arbitrary arrests, executions, torture, and racial and religious hatred continued to occur. Furthermore, the Croatian Government could not be held responsible for violations in other independent sovereign States, in particular Bosnia and Herzegovina. There were no concentration camps in Croatia but, due to the war, Croatia did have three prisoner-of-war camps in its territory which were under the control of the Ministry of Defence. Rules for the treatment of the prisoners had been laid down in a decree of the President of the Republic and the provisions of the Geneva Conventions of 1949 were being applied.

346. In the framework of the spontaneous self-defence actions against Serbian and Montenegrin aggression, at a time when Croatia had been weaponless and without a military force, there had been some cases where the inhabitants of Serbian villages had been taken hostage. From 1 January to 31 August 1992, there had been 4,014 cases of destruction of homes in which the victims had been Serbs, 1,067 cases involving Croats and 115 cases involving members of other groups. Attacks on Serbian-owned shops, as reported by the mission of the Conference on Security and Cooperation in Europe, were against the policy of the Croatian Government. One such incident had been sparked off by the murder of a local policeman, who had been ambushed by Serbian terrorists. The Croatian Government was also conducting investigations into an incident in which members of the Croatian Democratic Union had allegedly written threatening letters to Serbian intellectuals, but it appeared that those allegations had not been substantiated. The list of acts of violence against Serbs reflected acts by individuals and not an official policy on the part of the Government. It could, however, not be assumed that a country emerging from Communist rule, having won its independence through an extremely violent armed conflict, would rapidly attain the highest degree of respect for human rights. Violations of human rights did exist in Croatia, but the Government was doing everything possible to see that the law was applied to punish those found responsible.

347. With regard to the implementation of article 14 of the Covenant, the representative explained

that, at the beginning of the war against Croatia, the system of criminal justice had operated for several months under extremely difficult conditions. The police forces had been the only ones able to offer resistance to military action and, as a result, had been unable to perform their normal functions until 1 January 1992. Some 21,951 criminal offences connected with the war or armed conflict had been reported between August 1990 and July 1992. Other criminal offences classified as crimes against humanity and international law involved 1,880 persons. A total of 10,635 persons had been brought before ordinary courts, and a total of 6,829 members of the military had been brought before military courts. There had so far been 423 court judgements, 91 per cent resulting in convictions, for criminal offences in connection with the armed conflict.

348. Referring to questions raised under article 20 of the Covenant, the representative of the State party said that the extreme right-wing party and its military wing had been condemned by the Croatian Government, and the party leaders and three members of Parliament had had their immunity removed and were being investigated. The Public Prosecutor's Department had also requested the opening of an investigation into that party's activities, possibly leading to its dissolution. The political campaign for the August 1992 elections had placed strong emphasis on respect for human rights and especially the rights of minorities. The Croatian Parliament, furthermore, had recently adopted a law on the discontinuance of criminal proceedings instituted for offences committed during the armed conflict. This law, which does not apply to perpetrators of criminal acts, is one of the measures which the Croatian Parliament and Government have taken with a view to the reconciliation of the peoples of different nationalities who live in the territory of the Republic. Of the 42 reported crimes of incitement to national or religious intolerance or hatred under article 236 of the Penal Code, during the first nine months of 1992, 42 had led to the opening of a judicial investigation.

#### Concluding observations by individual members

349. The members of the Committee thanked the representative of the State party for replying clearly and in detail to the questions of the Committee. They noted a number of encouraging factors with regard to the guarantee of human rights, foremost among which was the declaration of succession to the various international human rights instruments. They also noted that the obligations deriving from those instruments were incorporated in the new Constitutional Law on Human Rights and Freedoms and the Rights of Ethnic and National Communities or Minorities adopted in December 1991; that an Office for Inter-Ethnic Relations had been opened; that persons charged with crimes committed during the conflict had been brought to court; that the three prisoner-of-war camps in Croatia were open to the International Committee of the Red Cross; and that the paramilitary groups and the extreme right-wing political parties and their members were being investigated.

350. The members of the Committee indicated, however, their deep concern about the preamble to the Constitution, which stated that the Republic of Croatia was defined as the national State of the Croatian nation embracing members of other nations and minorities who were its citizens. They also indicated their concern about the discrimination and harassment incurred by persons of Serbian origin residing in Croatia, particularly in respect of the lists of individuals classified according to their ethnic origin; the wearing of Fascist emblems in public by certain military personnel; the dismissal of Serbs in the press agencies; the lack of energy shown by the authorities vis-à-vis the

risks of an extension in their territory of the ethnic persecution referred to in the report of the Special Rapporteur of the Commission on Human Rights; cases of enforced or involuntary disappearances; the arbitrary detention of many people, often in order to exchange them for Croatian prisoners; the existence in Croatia of unreported places of detention; and the deplorable conditions of detention in internment camps placed under the control of the Croatian army or of local Croatian military groups in Bosnia and Herzegovina, in respect of which the responsibility of the Croatian Government was engaged.

351. The representative of the Republic of Croatia thanked the members of the Committee for their observations, questions and criticisms and stressed that the dialogue which had just taken place would help to strengthen the efforts being made by the competent authorities of his country to guarantee the respect and exercise of the civil and political rights established by the Covenant.

352. In conclusion, the Chairman thanked the Croatian delegation for its extremely helpful answers and comments which had demonstrated its willingness to cooperate with the Committee. He recalled that the responsibility devolving upon States parties to the Covenant encompassed not only the acts committed in the territory of the actual State, but also those acts carried out by its agents beyond national frontiers, as well as incitement to such acts. He also expressed the hope that the declaration of succession to the Covenant would be followed by accession to the two Optional Protocols to the Covenant.

#### Comments of the Committee

353. At its 1205th meeting (forty-sixth session), held on 6 November 1992, the Committee adopted the following comments.

#### Introduction

354. Deeply concerned by recent and current events in the territory of the former Yugoslavia affecting human rights protected under the International Covenant on Civil and Political Rights; noting that all the peoples within the territory of the former Yugoslavia are entitled to the guarantees of the Covenant; and acting under article 40, paragraph 1 (b), of the Covenant; the Committee, on 7 October 1992, requested the Government of the Republic of Croatia to submit a short report on the following issues in respect of persons and events now coming under its jurisdiction:

(a) Measures taken to prevent and combat the policy of ethnic cleansing pursued, according to several reports, in the territory of certain parts of the former Yugoslavia, in relation to articles 6 and 12 of the Covenant;

(b) Measures taken to prevent arbitrary arrests and killings of persons as well as disappearances, in relation to articles 6 and 9 of the Covenant;

(c) Measures taken to prevent arbitrary executions, torture and other inhuman treatment in detention camps, in relation to articles 6, 7 and 10 of the Covenant;

(d) Measures taken to combat advocacy of national, racial or religious hatred constituting

incitement to discrimination, hostility or violence, in relation to article 20 of the Covenant.

355. Pursuant to that request, Croatia submitted a short special report entitled "Report on measures taken to prevent criminal acts perpetrated in violation of the human rights and freedoms in the Republic of Croatia", which was considered by the Committee at its 1201st and 1202nd meetings, held on 4 November 1992. The Republic of Croatia was represented by Mr. Smiljan Simac, Assistant Minister of Foreign Affairs of the Republic of Croatia, Head of Delegation; Mr. Budislav Vukas, Faculty of Law Zagreb, Member of Delegation; Mr. Davor Krapac, Faculty of Law, Zagreb, Member of Delegation. The report was supplemented by an oral introduction by Mr. Simac, and by responses by various members of the delegation to the questions and observations of members of the Committee.

356. On 12 October 1992, the Republic of Croatia notified the Secretary-General of the United Nations that it had succeeded, as from 8 October 1991 (the date of its proclamation of independence), to various human rights treaties, including the International Covenant on Civil and Political Rights.

#### Positive aspects

357. Certain factors encouraging to the guaranteeing of human rights were noted. The Republic of Croatia had attained statehood after democratic parliamentary elections in 1990. The new Constitutional Law of Human Rights and Freedoms and the Rights of Ethnic and National Communities or Minorities, adopted in December 1991 and amended in April 1992, incorporated United Nations treaty obligations on human rights. An office for inter-ethnic relations had been opened, which would have branches in various districts of Croatia and a wide-reaching mandate. The Croatian delegation confirmed that, in the view of the Government, the only proper use of ethnic identity was to ensure that ethnic minorities received the guarantees to which they are entitled under article 27 of the Covenant. It was also noted that certain charges had been brought in the courts against persons who were accused of crimes against civilians, crimes against prisoners of war and the crime of genocide. The three prisoner-of-war camps in Croatia were under the control of the Ministry of Defence and open to the International Committee of the Red Cross. The Government had condemned the policies of the ultra right paramilitaries and political parties and was conducting investigations into the activities of certain members of Parliament belonging to the Croatian Right Party.

#### Factors and difficulties impeding the application of the Covenant

358. Since its independence, the territory of the Republic of Croatia has been subjected to large-scale military action. This had resulted in massive violations of human rights, including significant loss of life, torture, disappearances and summary executions, with entire towns destroyed and populations displaced. Because of the conflict in neighbouring Bosnia and Herzegovina, Croatia had also received very large numbers of refugees.

359. The representatives also informed the Committee that Croatia controlled only about three quarters of its territory, the remainder being under the authority of UNPROFOR. The delegation conceded that there had been periods during the hostilities in its territory when public order had

broken down and there had been an inability to control ethnically-based violence against Serbs. It accepted legal responsibility for those events.

#### Principal subjects of concern

360. The Committee was concerned with the preamble to the Constitution, whereby the Republic of Croatia is defined as "the national state of the Croat nation and a state of members of other nations and minorities". Concern was expressed about long-standing discrimination against, and harassment of, ethnic Serbs residing within Croatia. In particular, the circulation of lists of persons grouped on the basis of their ethnic origin was to be deplored. Purges had been permitted of the public services and the police had become identified with ultra right nationalism. Members of the military were often seen in public, including in Bosnia and Herzegovina, wearing Fascist emblems. Serbs had been removed from their jobs in the press and there had been widespread arrests and disappearances. Persons were being held in deplorable conditions in places of detention in Bosnia and Herzegovina, which were under the control of the Croatian army or local Croatian military factions who received the backing of the Republic of Croatia. The international responsibility of the Republic of Croatia was engaged in relation to these events.

361. The Committee believed that there were in Croatia undesignated places of detention where persons were held, often by private groups. Many persons for whom there was no legitimate cause of detention were unlawfully held. Sometimes they were deprived of their liberty simply in order to be able to effect exchanges for Croatians held as prisoners elsewhere.

#### Recommendations

362. The Government of Croatia is urged to act vigorously against all manifestations of racial hatred. Public condemnation should be made of the circulation of lists of persons based on ethnicity and further appropriate action should be taken. Strong efforts should be made to identify undeclared places of detention and to ensure that only bona fide prisoners of war are held in properly notified camps operating in accordance with the Geneva Conventions of 1949 and the Covenant. Responsibility must be accepted for the acts of the military in other territories as well as in Croatia. Clear instructions should be issued to all military personnel as to their obligations under the Covenant. The foregoing had to be borne in mind in the context of support afforded, directly or indirectly, to local Croatian militia in Bosnia and Herzegovina. Those responsible for violations of human rights should be brought speedily before the courts. In that regard, the existing distinctions between military and civil jurisdictions should be reviewed so that military personnel might be tried and, if found guilty, punished under normal civil jurisdiction.



## CCPR A/56/40 (2001)

### 80. Croatia

(1) The Committee considered the initial report submitted by the Republic of Croatia (CCPR/C/HRV/99/1) at its 1912th, 1913th, 1914th and 1915th meetings, held on 28 and 29 March 2001, and adopted the following concluding observations at its 1923rd meeting, held on 4 April 2001.

#### Introduction

(2) The Committee has examined the detailed and comprehensive report of Croatia, covering events since the country gained its independence in 1991. The Committee is grateful to the delegation of Croatia for the updated information provided to it in regard to recent developments subsequent to the submission of the report. It further commends the delegation for supplying it with a great deal of information about the legal situation in Croatia, but regrets that it was not provided with more information with regard to the practical implementation of Covenant rights.

#### Positive aspects

(3) The Committee commends the State party for the serious attempt it has made to adopt a new rights-based Constitution that embodies internationally-recognized human rights and to enact a variety of legislation to enhance protection of such rights. It notes with satisfaction that the last parliamentary and presidential elections were conducted in a manner consistent with article 25 of the Covenant. Additionally, since these elections, significant amendments have been introduced in the Constitution and legislation so as to clarify the separation of powers between the three branches of the State, in particular moving from an over-concentration of power in the executive branch to a more balanced form of parliamentary oversight of the executive and strengthening of the independence of the judiciary.

(4) The Committee notes with satisfaction the State party's renewed commitment to cooperate with the International Criminal Tribunal for the Former Yugoslavia in order to ensure that all persons suspected of grave human rights violations during the 1991-1995 armed conflict are brought to trial.

(5) The Committee commends the State party for the series of proposed amendments to its laws concerning selection and discipline of judges, the amendment of article 14 of the Constitution so as to ensure equality of all persons, the enactment of the Public Assembly Act significantly strengthening protection of the right to freedom of assembly, and the series of judicial decisions upholding constitutional rights, many of which are rights protected by the Covenant. In particular, it welcomes judgements holding inadmissible evidence obtained from suspects without the presence of a lawyer and striking down as unconstitutional criminal sanctions for criticism of high officials.

(6) The Committee welcomes the constitutional provision abrogating the death penalty and commends the State party for its accession to the Second Optional Protocol to the Covenant.

### Principal subjects of concern and recommendations

(7) The Committee appreciates that under the Croatian Constitution international treaties, including the Covenant, have legal force superior to that of domestic legislation, and that most Covenant rights have also been specifically incorporated in the Constitution. However, the judiciary is not generally trained in international human rights law, with the result that in practice there is very little direct enforcement of Covenant rights.

The State party should intensify its efforts to educate judges and lawyers about the Covenant and its implications for interpretation of the Constitution and domestic legislation so as to ensure that all actions of the State party, whether legislative, executive or judicial, will be in accordance with its obligations under the Covenant.

(8) While welcoming the amendment to article 14 of the Constitution that extended equality to non-citizens, the Committee remains concerned that other provisions continue to restrict certain rights to “citizens”, leaving uncertain whether such rights are guaranteed to all individuals in the territory of the State party and subject to its jurisdiction, as required under article 2, paragraph 1, of the Covenant.

The State party should adopt necessary measures to clarify this situation.

(9) The Committee is concerned that article 17 of the Constitution, dealing with a state of emergency, is not entirely compatible with the requirements of article 4 of the Covenant, in that the constitutional grounds justifying a derogation are broader than the “threat to the life of the nation” mentioned in article 4; that measures of derogation are not restricted to those strictly required by the exigencies of the situation; and that non-derogable rights do not include the rights under article 8, paragraphs 1 and 2, article 11 and article 16 of the Covenant. Furthermore, the Committee is concerned that article 101 of the Constitution, which allows the President to issue decrees in “the event of a state of war or an immediate threat to the independence and unity of the State”, has been employed so as to derogate de facto from Covenant rights in a manner that would seem to circumvent the restrictions in article 17 of the Constitution.

The State party should ensure that its constitutional provisions on a state of emergency are compatible with article 4 of the Covenant and that in practice no derogation from rights should be permissible unless the conditions of article 4 have been met.

(10) While welcoming the establishment of specialized departments for the investigation of war crimes in the Ministry of the Interior, the Committee remains deeply concerned that many cases involving violations of articles 6 and 7 of the Covenant committed during the armed conflict, including the “Storm” and “Flash” operations, have not yet been adequately investigated, and that only a small number of the persons suspected of involvement in those violations have been brought to trial. Although the Committee appreciates the declared policy of the present Government of carrying out investigations, irrespective of the ethnic identity of those suspected, it regrets that it was not provided with detailed information on the number of prosecutions brought, the nature of the charges and the outcome of the trials.

The State party is under an obligation to investigate fully all cases of alleged violations of articles 6 and 7 and to bring to trial all persons who are suspected of involvement in such violations. Towards this end, the State party should proceed, as a matter of urgency, with the enactment of the draft law on the establishment of specialized trial chambers within the major county courts, specialized investigative departments, and a separate department within the Office of the Public Prosecutor for dealing specifically with the prosecution of war crimes.

(11) The Committee is concerned with the implications of the Amnesty Law. While that law specifically states that the amnesty does not apply to war crimes, the term “war crimes” is not defined and there is a danger that the law will be applied so as to grant impunity to persons accused of serious human rights violations. The Committee regrets that it was not provided with information on the cases in which the Amnesty Law has been interpreted and applied by the courts.

The State party should ensure that in practice the Amnesty Law is not applied or utilized for granting impunity to persons accused of serious human rights violations.

(12) The Committee notes the delegation’s statement that the State party has a variety of measures at its disposal in its criminal law to combat the practice of trafficking of women into and through its territory, particularly for purposes of sexual exploitation. Despite widespread reports of the extent and seriousness of the practice, however, the Committee regrets that it was not provided with information on actual steps taken to prosecute the persons involved.

The State party should take appropriate steps to combat this practice, which constitutes a violation of several Covenant rights, including the right under article 8 to be free from slavery and servitude.

(13) The Committee regrets that it was not provided with information regarding the number of persons held in pre-trial detention and the length of the periods for which they are held. It is therefore not in a position to assess whether the practice in the State party is in conformity with article 9 of the Covenant.

(14) The Committee is concerned at reports about abuse of prisoners by fellow prisoners and regrets that it was not provided with information by the State party on these reports and on the steps taken by the State party to ensure full compliance with article 10 of the Covenant.

The State party should take steps to ensure compliance with the requirements of article 10.

(15) While noting recent efforts to simplify procedures and remove obstacles in the way of those wishing to return to Croatia, in particular displaced persons of Serbian ethnicity, the Committee remains concerned at the number of cases which are still outstanding and at the length of time these persons are having to wait for resolution of their cases.

The State party should ensure that no difficulties are put in the way of persons who left Croatia as a result of the armed conflict, in exercising their right, under article 12, paragraph 4, of the Covenant to return to their own country. The deployment of sufficient resources towards providing those persons, who have a right under the Covenant to return to Croatia, with accommodation must be a

priority with the State party as it is essential to render enjoyment of this right meaningful.

(16) The Committee is deeply concerned by the heavy backlog of cases awaiting hearing before the Croatian courts, particularly in civil matters. The delays in the administration of justice are apparently compounded by the application of the statute of limitations to suspend or discontinue cases that, for reasons often not attributable to the litigant in question, have not been brought on for hearing.

While acknowledging the State party's admission that the administration of justice is in urgent need of redress, the Committee stresses that the State party should ensure compliance with all the requirements of article 14 of the Covenant. To this end, it urges the State party to accelerate its reform of the judicial system, *inter alia* through simplification of procedures, training of judges and court staff in efficient case management techniques.

(17) While the right to freedom of expression is constitutionally guaranteed, the variety of provisions in the Criminal Code dealing with offences against honour and reputation, covering areas of defamation, slander, insult and so forth, are uncertain in their scope, particularly with respect to speech and expression directed against the authorities. The Committee is of the view that, having regard to past experience where these provisions have been used to seek to stifle political discourse, a general review of this area of the State party's law is necessary.

The State party should work towards developing a comprehensive and balanced code in this area. This law should set out clearly and precisely the restrictions on the freedom of speech and expression and ensure that such restrictions do not exceed those permissible under article 19, paragraph 3, of the Covenant.

(18) The Committee acknowledges the delegation's concession that its law on association, which was prepared at the time the State party was engaged in armed conflict, fails to provide for full freedom of association as guaranteed under article 22 of the Covenant. In the light of the Constitutional Court's judgement holding unconstitutional a variety of provisions in the Act, the Committee considers the time particularly appropriate to adopt a new comprehensive code providing to persons within the State party's jurisdiction full and comprehensive rights to freedom of association.

The Committee understands that the process of developing a new law on association is under way. The State party should proceed, as a matter of priority, with the enactment of the draft law to give full effect to its obligations under article 22 of the Covenant.

(19) The Committee is concerned at the lack of a comprehensive law prohibiting discrimination in private-sector areas such as employment and housing. Pursuant to article 2, paragraph 3, and article 26 of the Covenant, the State party has a duty to protect persons against such discrimination.

The State party should promulgate a law prohibiting all discrimination and providing effective recourse for all persons against violations of their right to non-discrimination.

(20) The Committee remains concerned about discrimination faced by members of the Serb ethnic

minority in Croatia and requests the State party to provide it with information as to their position and on measures taken to prevent discrimination against them.

(21) While recognizing that there has been some progress in achieving equality for women in political and public life, the Committee remains concerned that the representation of women in Parliament and in senior official positions, including the judiciary, still remains low. The Committee regrets that the delegation was not in a position to provide the Committee with information relating to the representation of women in the private sector.

The State party should make every effort to improve the representation of women in the public and private sectors, if necessary through appropriate positive measures, in order to give effect to its obligations under articles 3 and 26.

(22) The Committee is concerned that the rights of members of ethnic, religious and linguistic minorities in national, regional and local representative and executive bodies, as well as their rights in social, cultural and economic fields of public and private life, should be more fully secured and articulated in the State party's legal framework, as the starting point to enhance the practical enjoyment by members of minorities of their rights under the Covenant. The Committee is also concerned that the Roma community is not accorded recognized minority status and that members of this community are particularly disadvantaged and suffer from discrimination.

The State party should ensure that all members of ethnic, religious and linguistic minorities enjoy effective protection against discrimination and are able to enjoy their own culture and use their own language, in accordance with article 27 of the Covenant.

(23) The Committee is concerned at the apparently low level of awareness amongst the public of the provisions of the Covenant and the Optional Protocol procedure.

The State party should publicize the provisions of the Covenant and the availability of the individual complaint mechanism provided in the Optional Protocol. It should consider the means by which it can give effect to the Views of the Committee in the cases coming before it.

(24) The State party should widely publicize the text of its initial report, the written answers it has provided in responding to the list of issues drawn up by the Committee and, in particular, these concluding observations.

(25) The State party is asked, pursuant to rule 70, paragraph 5, of the Committee's rules of procedure, to forward information within 12 months on the implementation of the Committee's recommendations regarding the investigation and prosecution of persons responsible for grave human rights abuses during the period of armed conflict (para. (10)), the application of the Amnesty Law to persons accused of such violations (para. (11)), the expedition of the return of displaced persons to Croatia (para. (15)), the severe delays in the administration of justice (para. (16)), the discrimination faced by minorities, in particular the Serb ethnic minority (paras. (20) and (22)). The Committee requests that information concerning the remainder of its recommendations be included in the second periodic report to be presented by 1 April 2005.