

CROATIA

CERD A/48/18 (1993)

474. At its 984th meeting, held on 19 March 1993, the Committee expressed its grave concern over the ongoing ethnic conflict taking place in the territory of the former Yugoslavia and requested the Government of Croatia and other successor Governments of the former Yugoslavia, in accordance with article 9, paragraph 1, of the Convention, to submit further information on the implementation of the Convention, to be submitted not later than 31 July 1993.

475. The report submitted by the Government of Croatia pursuant to the aforementioned decision (CERD/C/249) was considered by the Committee at its 1002nd meeting, held on 12 August 1993 (see CERD/C/SR.1002).

476. The report was introduced by the representative of the State party, who said that the 1990 Constitution contained a number of articles dealing with human rights. Discrimination on the basis of race, colour, religion or national origin had been strictly prohibited. Additionally, the Constitutional Law on Human Rights and Freedoms and the Rights of Ethnic and National Communities or Minorities had been adopted in 1991 and amended in April 1992. Reforms in municipal law were under way and a special status for those areas having an ethnic Serbian majority had been proclaimed.

477. At the international level, Croatia had succeeded to all of the international human rights instruments to which the former Yugoslavia had been a party. The date of entry into force for those instruments had been 1 October 1991, the date of independence, so as not to interrupt the coverage afforded by the provisions of those instruments. The Government was also planning to ratify the Optional Protocol to the International Covenant on Civil and Political Rights. Additionally, a number of bilateral agreements had been concluded with neighbouring States concerning the protection of minorities.

478. Croatia had cooperated with the Special Rapporteur of the Commission on Human Rights concerning the situation of human rights in the territory of the former Yugoslavia and had furnished him with the information which had been requested. Croatia also intended to cooperate with the war crimes tribunal which was to be established pursuant to the decision of the Security Council.

479. The representative pointed out that the Government was not in control of about a quarter of its territory and that it could not ensure the implementation of the Convention in those areas. In that connection, the Government had tried to negotiate with the rebellious forces and, to that end, had promulgated an amnesty law in October 1992 which exempted from prosecution all those who had fought on the side of the Serbian forces. Those who had committed grave breaches of international humanitarian law, however, would not be exempted but would be subject to possible prosecution by the war crimes tribunal.

480. Members of the Committee noted with satisfaction that the report submitted pursuant to the

Committee's request for information was comprehensive and contained much useful information on the legal framework for the protection of ethnic and national minority communities in Croatia. Members noted, however, that further information was required on the actual application of the relevant laws and the extent to which the minority communities in the country enjoyed the protections afforded by the Convention.

481. With respect to article 2 of the Convention, members of the Committee wished to know whether measures which had been taken to protect human rights and fundamental freedoms had benefited members of all minorities or only certain groups; whether article 14 of the Constitution, which prohibited racial discrimination, applied only to citizens of Croatia; what the legal difference was concerning the terms "minorities", "peoples", "nations" and "communities" as referred to in article 15 of the Constitution; what the achievements had been of the Office for Inter-Ethnic Relations and the Council of representatives of ethnic and national communities or minorities; and what steps were being taken to protect those whose names appeared in "ethnic lists" of persons considered to be of non-Croatian origin. Information was further requested on the reported assassination or expulsion of ethnic Hungarians living in the Baranja area.

482. With respect to article 4 of the Convention, members wished to know what steps had been taken to implement the provisions of that article, particularly those provisions prohibiting racist activities and racist propaganda; what measures had been taken to prohibit the activities of ultra-nationalist organizations; and whether the wearing or display of Nazi insignia had been prohibited, particularly in regard to its reported use by elements of the Croatian army.

483. With respect to non-discrimination in the enjoyment of the rights referred to in article 5 of the Convention, members of the Committee wished to know what the precise criteria were for the granting of citizenship; what steps had been taken to avoid delays in the processing of applications for citizenship, particularly in order to protect applicants from losing their social and educational benefits; whether the guarantees for fundamental rights contained in article 35 of the Constitution applied only to citizens; and what steps had been taken to ensure that ethnic Serbs could effectively participate in elections.

484. Members expressed deep concern over reports of illegal or arbitrary detention, disappearances, torture, deaths in custody and other abuses by Croatian forces and wished to know if those allegations had been investigated and whether those responsible had been prosecuted. In that connection, members asked what had been done to return to their rightful owners homes and businesses which had been confiscated by armed bands; what measures had been taken to protect the rights and security of non-Croatians wishing to return; whether allegations had been investigated concerning secret prisons run by private groups where non-Croatians were subject to detention and torture; whether persons of non-Croatian origin had been taken into custody for the purpose of exchanging them for Croatians held by rebellious forces; and what steps had been taken or foreseen to bring to justice Croatians who had been responsible for serious or massive human rights violations and the commission of war crimes. Members also requested further information on the implementation of the amnesty law of October 1992 and how its application would affect cooperation with the war crimes tribunal to be established in accordance with the decision of the Security Council.

485. With respect to article 6 of the Convention, members of the Committee wished to know what steps had been taken to ensure equal treatment by the tribunals regardless of ethnic or national background and what had been done to ensure that the crime of rebellion against the State was not being used in a discriminatory way.

486. Members expressed satisfaction that Croatia had accepted a large number of Bosnian refugees en route to other countries. In that connection, members asked what had been done to expedite the processing of their applications and to prevent the refoulement of refugees fleeing the conflict in neighbouring countries. Members also wished to know what measures had been taken to prevent the participation of Croatian nationals in the armed conflict in Bosnia and Herzegovina.

487. The representative welcomed the establishment of an ongoing dialogue with the Committee and, in that connection, invited the Committee to send one of its members to Croatia in order to clarify its concerns to the Government and to assist it in adapting its legislation and policies to the requirements of the Convention.

488. Responding to the questions, the representative of the State party stated that references to "certain" minority communities in basic legal documents were to denote the special status accorded to some groups in addition to the non-discrimination in the enjoyment of human rights which was accorded equally to all ethnic and national minorities. Owing to the armed conflict in some parts of the country, compliance with all of the provisions protecting minorities had been slow in some cases.

489. With respect to reports of an "ethnic list", such a list did, in fact, exist. That list, which had been drawn up by private persons, had been condemned by the authorities and those found responsible for it had been prosecuted. Responding to allegations of summary or arbitrary executions, the representative stated that some reports in that regard had not been correct and the alleged victims had later been found living elsewhere in the country.

490. Successive waves of refugees had overburdened the capacity of medical and other basic facilities to provide adequate services. The representative strongly denied that Croatia had violated the principle of non-refoulement, pointing out that Croatia had been one of the first States to recognize Bosnia and Herzegovina and stating that the authorities did not endanger the lives of those fleeing to Croatia.

491. The representative emphasized that the Government strongly condemned the use of Nazi emblems, which evoked memories of a fascist past. The Government was fully cognizant that peace was needed in order to start the economy and resume normal life. To that end, dialogue had begun at a number of levels between the various communities. The authorities were careful to avoid incitement to nationalistic fervour. Croatia was committed to trying those responsible for war crimes, whether in the national courts or in the war crimes tribunal which was to be established. In that connection, there was no encouragement, or cooperation with, ethnic Croatian forces operating outside the borders.

Concluding observations

492. At its 1010th meeting, held on 19 August 1993, the Committee adopted the following concluding observations.

Introduction

493. The Committee noted the report of the State party and the additional information provided orally by the delegation. Although the report was comprehensive, it focused mainly on the legal framework for the protection of the rights of the minority communities and did not contain sufficient information on the implementation of those laws or on the extent to which minority communities actually enjoyed the rights guaranteed under the Convention.

Positive aspects

494. The Committee noted the efforts of the Government to incorporate the Convention into domestic law and that in cases of conflict between its provisions and those of domestic legislation the Convention would prevail. The Committee welcomed the announcement that the Government intended to adhere to the Optional Protocol to the International Covenant on Civil and Political Rights. The Committee also noted information that the Government might consider making a declaration under article 14 of the Convention.

495. The Committee expressed its satisfaction at the promulgation of the Constitutional Law on Human Rights and Freedoms and the Rights of Ethnic and National Communities or Minorities. The Committee noted that effective implementation of that progressive legislation could play a crucial role in establishing the foundation for mutual respect and cooperation among the various ethnic and national communities.

Principal subjects of concern

496. The Committee noted with concern the general lack of clarity in a number of basic legal provisions guaranteeing non-discrimination in the enjoyment of human rights and fundamental freedoms for members of the minority communities. In some cases, guarantees would appear to apply only to citizens of Croatia; in other cases, it was not clear whether the rights of all ethnic and national groups were equally protected.

497. The Committee expressed concern over problems relating to statelessness and noted that delays in the processing of applications for citizenship had led to interruption in the provision of educational and social benefits for members of the minority communities.

498. The Committee was concerned about the practice of illegal and arbitrary detention, disappearance, torture, deaths in custody and other human rights abuses by Croatian armed and paramilitary forces. The Committee was also concerned about reports of prisons run by private groups who took non-ethnic Croatians into custody for the purpose of exchanging them for ethnic Croatians held by other forces.

499. The Committee expressed concern over the circulation in Croatia of ethnic lists of persons considered non-Croatian in origin, which were used for discriminatory purposes, particularly

concerning employment opportunities. The Committee was also deeply concerned over the reported use of Nazi insignia, in particular by elements of the Croatian army.

500. The Committee was concerned about the actual implementation of recent laws adopted to ensure non-discrimination in the enjoyment of human rights and fundamental freedoms by minorities in Croatia. Effective policies and implementing mechanisms for existing constitutional and legal guarantees would be of decisive importance in efforts to restore interethnic tolerance and harmony.

501. The Committee was informed by the State party that it was unable to implement the Convention in part of its territory where the dominant group did not recognize its authority.

502. The Committee noted with great concern that links existed between Croatia and Croatian militias and paramilitary groups responsible for massive, gross and systematic violations of human rights in Bosnia and Herzegovina in territories controlled by Croats.

503. The Committee was also concerned that Croats in Bosnia and Herzegovina were hindering the attempts of the Government of that State to implement the Convention.

Suggestions and recommendations

504. The Committee recommended that the application of existing laws and regulations aimed at protecting the rights of non-ethnic Croats should be closely monitored and that mechanisms concerned with their implementation should be strengthened. In that connection, continuous monitoring of the actual situation pertaining to minority communities would be necessary in order to measure the success of government policies and to indicate where changes, including affirmative action, should be considered in regard to minority groups which were particularly vulnerable or disadvantaged.

505. The Committee emphasized the obligation of the State party, under article 4 of the Convention, to condemn racist activities, organizations and propaganda and to make such offences punishable by law. Given the sensitive situation prevailing not only in the country but also in the region, condemnation, prohibition and prosecution should also extend to ultranationalist and extremist activities on ethnic grounds, such as the circulation of ethnic lists and the display of Nazi emblems or the holding of non-ethnic Croats in secret prisons. At the same time, active and visible measures should be taken by authorities at all levels to promote interethnic tolerance and understanding among the general public. To that end, the Government should encourage multi-ethnic organizations and movements and foster an ongoing dialogue among leaders and representatives of the various communities to ensure respect for the observance of human rights and the rights of the minority communities and their participation in the democratic process. The Committee by no means encouraged trends for separation or secession.

506. The Committee urged the Government of Croatia to undertake all measures at its disposal with a view to bringing to an end the massive, gross and systematic human rights violations occurring in those areas of Bosnia and Herzegovina controlled by Croats. The Committee also urged the State party to assist efforts to arrest, bring to trial and punish all those responsible for crimes which would be covered by the terms of reference of the International Tribunal established pursuant to Security

Council resolution 808 (1993).

Further action

507. The Committee, taking into account the invitation extended to it by the representative to send one of its members to Croatia, requested the State party to confirm to the Secretary-General by 1 October 1993 if it wished to accept that a mission be undertaken by the country rapporteur under the advisory services and technical assistance programme of the Centre for Human Rights to assist the Government in reporting on the implementation of the Convention.

508. In accordance with article 9, paragraph 1, of the Convention, the Committee requested further information from the State party on measures taken to implement the provisions of the Convention, particularly in view of the concluding observations adopted by the Committee at its forty-third session. The State party was requested to provide that information by 1 January 1994 so that it might be considered by the Committee at its forty-fourth session.

CERD A/50/18 (1995)

143. The Committee, in concluding observations adopted at the forty-third session (see A/48/18, paras. 496-506), requested additional information from Croatia concerning measures taken to give effect to the provisions of the Convention. The Committee considered the additional information (CERD/C/249/Add.1) at its 1087th and 1088th meetings, held on 9 and 10 March 1995, respectively (see CERD/C/SR.1087 and 1088).

144. The representative of the State party in presenting the additional information noted that some of the Committee's previous queries had been rendered obsolete by time and others had become more pressing. As a source of background information he distributed copies of a text titled "Human Rights in Croatia". He noted the importance of the mission to his country by a member of the Committee and further drew attention to findings of the Council of Europe concerning the human rights situation in Croatia.

145. Attention was drawn to the important human rights safeguards contained in the Constitution and the Constitutional Law on Human Rights and Freedoms and the Rights of National and Ethnic Communities or Minorities. The representative explained that a provision queried earlier by the Committee in which it seemed that the Supreme Court appointed members of the Parliament, was actually a constitutionally valid act of affirmative action to ensure parliamentary representation of Serbs.

146. With regard to implementation of human rights safeguards the representative noted the enormous problems posed by the ongoing war and occupation of parts of the national territory by secessionist forces. Even in areas away from conflict zones the war caused major economic problems and presented the challenge of caring for enormous numbers of displaced persons (who constitute some 8 per cent of the Croatian population).

147. The representative assured the Committee that following the war there would be no reprisals or discriminatory actions taken against Serbian people and that they would enjoy full respect for their human rights. He affirmed the commitment of Croatia to support the work of the International Tribunal for the prosecution of persons responsible for serious violations of international humanitarian law committed on the territory of the former Yugoslavia since 1991 (the International Tribunal), and in general to bring violators of human rights to justice.

148. The representative acknowledged that there were isolated incidents in Croatia of expressions of racial hatred; however, the Government was reluctant to limit freedom of expression, in reaction not least to the decades of repressive communist rule.

149. With regard to article 2 of the Convention a number of members expressed concern about the Government of Croatia's expressed intention to end the mandate of the United Nations Protection Force and the implications of such action for the security of minorities in various parts of the country. Questions were asked concerning the extent to which the Government would cooperate with the work of the International Tribunal in bringing war criminals to justice. Also, members wished to know the extent of prosecutions undertaken in the country for acts of racial discrimination

and sought information on the activities of the various State bodies charged with protecting the rights of minority groups.

150. Members wished to know the situation of various minority groups, including Roma gypsies and those of Serb or Italian origin.

151. Members expressed concern that Croatian law and government policy seemed to fail to comply with the terms of article 4 of the Convention and they requested clarifications in this regard.

152. Pursuant to the terms of article 5 of the Convention, members expressed concern about the situation of large numbers of displaced people, mostly of the Muslim religion, who had sought shelter in Croatia consequent upon war conditions in the Bihac area of Bosnia and Herzegovina. The plight of other refugees from Bosnia and Herzegovina was also mentioned and reference was made to indications of possibly discriminatory criteria for the granting of refugee status. With regard to the granting of nationality, Members inquired about possibly discriminatory policies militating against people of the Muslim faith or of Serb origin.

153. Members inquired about the Government's efforts to protect the Serb minority and drew attention, *inter alia*, to reports of illegal evictions which the State had failed to prevent. The Government was also asked to comment on allegations of human rights abuses against Roma gypsies.

154. With regard to human rights abuses and violations of the Convention in areas under the de facto control of secessionist forces, members inquired as to what Croatia was doing to bring about a peaceful reintegration of the territories and to assist in the quest for missing persons.

155. Concerning article 6 of the Convention, members asked about allegations that people of Serb origin and Roma gypsies had great difficulty in obtaining justice in the courts. Enquiries were also made as to the effectiveness of the judicial system in processing complaints of human rights abuses and the extent to which courts have been seized of such matters.

156. Pursuant to article 7 of the Convention, Members wished to know what human rights training was provided for members of the security forces.

157. It was asked whether the Government would consider accepting the right of individual petition under article 14 of the Convention.

158. In replying to the members the representative reaffirmed his Government's commitment to human rights but noted the extreme difficulties presented by the war situation and the exigencies of putting in place the apparatus of a modern democracy. Further details were provided on the various State institutions charged with protection of human rights, and the role played by the Council of Europe. The status of the Convention in national law was clarified; any failure to cite it in court was probably attributable to a lack of awareness on the part of lawyers.

159. With regard to the International Tribunal and the initiatives of the United Nations to trace missing persons, the complete support of Croatia was reaffirmed and the manner of cooperation was

explained. Also, the representative presented the rationale behind Croatia's policy with regard to the United Nations Protection Force.

160. The representative explained that the Government was endeavouring to fully respect the rights of all minority groups, including Roma gypsies and those of Serb, Italian and Albanian origin, and of displaced people, and was to the extent possible extending to them all the social and educational support of the State. Furthermore, the wishes of the various groups were fully taken into account in the development of government policy. Expulsions of displaced people and decisions on citizenship were in full conformity with the law (which is, however, currently being reviewed).

161. A range of the specific points raised by members were addressed by the representative. Croatian law and policy endeavoured to protect human rights, but in a number of instances, such as the freedom of the media, the Government might modify the current position.

162. The representative stated that the Government was anxious to respect the rights of people resident in areas under the de facto control of secessionist forces and was actively pursuing a peaceful resolution of the conflict. It was noted that recent agreements with the rebel forces had brought some improvement to the quality of life of residents of the areas.

Concluding observations

163. At its 1096th meeting, held on 16 March 1995, the Committee adopted the following concluding observations.

Introduction

164. The opportunity to continue the constructive dialogue with the State party is welcomed and appreciation is expressed concerning the readiness of the State party to provide the additional information which had been requested by the Committee. The presence of a high-level delegation and the extent to which they presented additional information orally and in written form to the Committee is indicative of the desire of the State party to take seriously its obligations under the Convention. Also acknowledged with appreciation is the invitation and assistance offered to the Committee's good-offices mission to Croatia which took place in 1994.

Positive aspects

165. The stated commitment to normalize inter-ethnic relations is welcomed as are the advances which have been made in democratic institution-building. The establishment of a Constitutional Court is especially important and ongoing preparations for the activation of bodies such as a provisional court of human rights are noted. Satisfaction is expressed concerning the adherence of Croatia to the Council of Europe's human rights protection mechanism for non-members. The State party is to be commended for its willingness to cooperate fully with the International Criminal Tribunal for the former Yugoslavia and with mechanisms of the Commission on Human Rights, including the Special Process for disappeared persons and the Special Rapporteur for the former Yugoslavia.

Factors and difficulties

166. It is deplored that the State party, due to the fact that parts of its territory are controlled by secessionist forces, is not in a position to exercise control over the whole of its territory and in consequence cannot ensure the application of the provisions of the Convention throughout the State. It is noted that the secessionist forces are responsible for systematic violations of human rights in areas under their de facto control, including rights ensured by the Convention, the principal victims of which are those not belonging to the Serb or Croatian Serb communities.

167. The enormous problems for the State party posed by the effects of the hostilities in the former Yugoslavia are noted. In particular the difficulties in meeting the needs of the large numbers of refugees and displaced persons are acknowledged.

Principal subjects of concern

168. Great concern has been expressed concerning the earlier intention of the State party not to permit the military, civilian and police components of the United Nations Protection Force to remain in the country. It is considered that withdrawal may have the gravest implications for minority ethnic groups and displaced persons in the United Nations Protected Areas (UNPAs), the demilitarized zone and elsewhere.

169. While recognizing the great problems confronted by the State party in meeting the needs of refugees and displaced persons, unease is expressed as to recent practices which have particularly affected refugees of Bosnian Muslim origin. Note is taken of reliable reports that many such refugees have failed or had great difficulty and extreme delay in obtaining the necessary documentation to allow them access to essential social and humanitarian services in Croatia, and have thus been obliged to return to sometimes life-threatening situations in Bosnia and Herzegovina. Concern is also expressed about the incident in late summer of 1994 when the State party refused to allow some 30,000 externally displaced persons, all Bosnian Muslims, from the Velika Kladusa region of Bihac (Bosnia and Herzegovina) to leave appalling camp conditions in UNPA North and the demilitarized zone and enter areas of Croatia under its control. It is, however, noted that the situation was especially complicated by, *inter alia*, the influence exerted by leaders of the so-called "Autonomous Province of Western Bosnia", the rapidly changing war situation and the eventual return of most of the displaced people to Velika Kladusa.

170. It is noted that the administration of the criminal justice system fails adequately to address crimes of an ethnic nature. Thus there has been a failure to prosecute alleged perpetrators of crimes directed at ethnic Serbs and it is reliably reported that a number of Croatian Serbs have been unfairly prosecuted or excessively punished for alleged crimes against non-Serbs.

171. Attention is drawn to the extent of evictions carried out by State authorities against ethnic Serb residents of apartments formerly owned by the Yugoslav National Army. Particular concern is expressed concerning evictions which the Government declared to be legal in apparent defiance of decisions of the Constitutional Court. Inaction by the government authorities to prevent or reverse evictions of ethnic Serbs which it itself deems to be illegal is also noted.

172. Concern is expressed regarding the influence of the mass media in aggravating ethnic tension and the failure of the State to investigate and prosecute a number of incidents of promotion by elements of the print media of hatred directed against ethnic Serbs.

173. Note is taken of the provisions of the laws concerning naturalization and acquisition of citizenship and concern is expressed as to the great difficulties encountered in the process by many who are not of ethnic Croat origin.

174. Attention is drawn to the situation of the Roma community in Croatia and to a number of reports indicating that they are subject to discrimination and forms of harassment.

Suggestions and recommendations

175. The Committee recommends that the process of democratic institution-building proceed with great urgency and that the provisional court of human rights speedily commence its activities. It also recommends that the State party ensure that laws and regulations concerning, *inter alia*, naturalization, acquisition of citizenship, determination of refugee status and tenure of rented accommodation be implemented in a transparent non-discriminatory manner in full conformity with the provisions of the Convention. It further recommends that any victims of discriminatory application of such rules and regulations in violation of the terms of the Convention receive redress to the extent that this is possible.

176. The Committee recommends that the State party ensure that it administers justice in a manner consistent with its obligations under the Convention and that it speedily prosecute all alleged offences which appear to be directed against persons because of their racial, ethnic or religious origins. It recommends to the State party that it identify any miscarriages of justice which may have occurred and been motivated by the ethnic origin of the defendants and that it redress any injustice done.

177. The Committee recommends that the State party consider making the declaration under article 14, paragraph 1, of the Convention.*/
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178. The Committee recommends as a matter of urgency that the State party comply with article 4 of the Convention and prohibit and prosecute all incitement to ethnic hatred in the media and elsewhere.

*/ Adopted by vote of the committee.

CERD A/53/18 (1998)

306. The Committee considered the initial, second and third periodic reports of Croatia (CERD/C/290/Add.1) at its 1276th and 1277th meetings, on 3 and 4 August 1998, and, at its 1295th meeting, on 17 August 1998, adopted the following concluding observations.

Introduction

307. The Committee welcomes the report submitted by the State party, in particular the information on economic, social and cultural rights of minorities. The Committee further welcomes the supplementary information given to it during the examination of the report. It expresses its appreciation for the dialogue with the high-level delegation and for the answers given orally to the wide range of questions asked by members.

308. The Committee regrets, however, that the report contains information almost exclusively on the legal framework for the protection of rights of minorities and does not give sufficient information on the implementation of such legislation or on the extent to which minority communities enjoy the protection afforded by the Convention. The Committee further regrets that the report does not sufficiently respond to the Committee's concluding observations on the State party's special report examined in 1995 (A/50/18, paras. 163-178).

Factors and difficulties impeding the implementation of the Convention

309. The Committee notes that the State party is going through a difficult period of political, economic and social change as a consequence of the diverse conflicts in the former Yugoslavia, and that these factors, together with major population movements, have resulted in significant obstacles to the full implementation of the Convention.

Positive aspects

310. The Committee welcomes the ongoing process of gradual normalization of inter-ethnic relations on the territory of the State party. It expresses particular appreciation of the declared commitment of the State party to undertake confidence-building measures in this field and welcomes its spirit of cooperation with the Committee and appropriate United Nations bodies.

Principal subjects of concern

311. The Committee reiterates its observations regarding the lack of clarity as to the various definitions used in the report and in domestic legislation to describe ethnic and national minorities.

312. With respect to article 2 of the Convention, the Committee is concerned about the reduction of the proportionate representation of the Serbian ethnic community in the Croatian Parliament following the proclamation of a constitutional law on temporary suspension of certain provisions for freedoms and the rights of national and ethnic communities and minorities in the State party.

313. The Committee notes with concern the lack of legal provisions required in order to implement

the State party's obligations under article 4 (b) of the Convention, that is the absence of legislative measures declaring illegal and prohibiting organizations which promote and incite racial discrimination.

314. With respect to article 4 of the Convention, concern is also expressed at incidents of hate-speech directed at the Serb minority in Croat media, and the failure of the State party to take adequate measures to investigate and prosecute those responsible for promoting hatred and ethnic tension through print and audio-visual media.

315. While recognizing the problems confronted by the State party in meeting the needs of large numbers of refugees, returnees and displaced persons and while noting the recent establishment of a National Programme for Returns, the Committee remains concerned at the serious difficulties and violence encountered by returnees and displaced persons, in particular ethnic Serbs, in returning to areas of origin, or by refugees when claiming their right to have property restored to them or to receive compensation upon return to their place of origin. In this respect the Committee is concerned about the difficulties of the return of Serbs and others displaced in Eastern Slavonia, Baranja and Western Sirmium. The Committee calls the attention of the State party to its general recommendation XXII (49) of 16 August 1996 concerning the rights of refugees and displaced persons.

316. With respect to article 5 of the Convention, the Committee is further concerned that articles 8 and 16 of the Croatian Law on Citizenship seem to establish different criteria for ethnic Croats compared with other minorities in Croatia in granting citizenship. It is also concerned at the excessive delays in the processing of applications for citizenship, in particular those of ethnic Serbs, which have resulted in applicants losing social and educational benefits.

317. As regards the implementation of articles 5 and 6 of the Convention, the report does not contain sufficient information as to the steps taken to ensure the practical implementation of the right to equal treatment before the courts and effective remedies so that victims of racial discrimination can secure the punishment of discriminatory acts and reparation for injury. The Committee is concerned at continuing reports about the failure of the criminal justice system to adequately deal with all crimes of an ethnic nature and the subsequent tendency to fail to prosecute alleged perpetrators of crimes directed at ethnic Serbs, whereas there are reports that Croatian Serbs have been unfairly prosecuted or excessively punished when allegations of illegal activity directed at non-Serbs have been brought.

318. With respect to article 7 of the Convention concern is expressed that according to continuing reports, strong control is exercised by the Government of certain mass media, particularly television, and that some graphic media are allowed to use discriminatory speech. Concern is also expressed that reports from United Nations bodies point to a lack of information and awareness among the Croat population of international human rights standards in general and of the Convention in particular.

Suggestions and recommendations

319. With respect of article 2 of the Convention, the Committee recommends that the State party

reinstate the provisions for the fair and proportionate representation of the Serbian ethnic community in the Croatian Parliament.

320. The Committee recommends that the State party comply fully with the obligations under article 4 of the Convention and that necessary legislative measures be taken in order to give full effect to the provisions of that article to declare illegal and prohibit organizations which promote and incite racial discrimination and also take measures against the use of mass media for incitement to ethnic hatred. In this last respect the Committee reiterates its previous recommendation to the State party to comply with article 4 of the Convention and prohibit and prosecute all acts of incitement to ethnic hatred.

321. The Committee recommends that the State party introduce adequate measures to ensure and monitor the implementation in practice of the newly introduced National Programme for Return, in particular with respect to the Serbs displaced in Eastern Slavonia, Baranja and Western Sirmium and recommends that the State party inform it about the nature and results of its efforts in its next periodic report. The Committee further urges the State party, as a matter of urgency, to take steps to ensure the right to security of person and protection against violence or bodily harm of returnees.

322. With respect to the acquisition of citizenship, the Committee recommends that the State party take steps to ensure that all provisions of the Croatian Law on Citizenship are in conformity with article 5 of the Convention, and that the law is implemented in a non-discriminatory manner.

323. The Committee recommends that the State party take measures to ensure the prosecution of persons allegedly responsible for having committed racially motivated crimes, regardless of the racial, ethnic or religious origin of the perpetrator or the victim. The Committee further recommends that the State party include detailed information on such measures in its next periodic report, as well as information on racially motivated crimes, including for example, the number of complaints and judicial decisions with regard to compensation awarded to victims or criminal sanctions.

324. The Committee recommends that the State party use all effective measures to familiarize the public with the Convention, in order to change traditional prejudices against certain minorities, and to convey messages of tolerance. In this regard, the State party should continue to provide instruction on international human rights standards in schools and organize training programmes for persons engaged in the administration of justice, including judges, lawyers and, in particular, in the light of general recommendation XIII (42) of 16 March 1993 relating to law enforcement officials.

325. The Committee recommends that the State party take concrete measures in order to guarantee freedom of association without distinction as to ethnic origin and that mass media, in all their forms, including electronic form, are open to all ethnic groups without distinction. The Committee also recommends that the State party take effective measures in order to stop racist and discriminatory speech in some graphic media.

326. In its forthcoming report, the State party should include detailed information relating to the practical implementation of the Convention, including information on the independence of the judiciary; the reintegration of Eastern Slavonia; what it has done to discharge its obligation to

cooperate with the International Tribunal for the Former Yugoslavia; clarification as to the legal definitions used for describing different minorities; and updated information on the demographic composition of the Croatian population.

327. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention.

328. It is noted that the State party has not made the declaration provided for in article 14 of the Convention, and some members of the Committee requested that the possibility of such a declaration be considered.

329. The Committee recommends that the State party's next periodic report, due on 8 October 1998, be an updating report and that it address all the points raised in the present observations.

CERD A/57/18 (2002)

87. The Committee considered the fourth and fifth periodic reports of Croatia (CERD/C/373/Add.1) at its 1499th and 1500th meetings, (CERN/C/SR.1499 and 1500) on 6 and 7 March 2002, and, at its 1517th meeting (CERD/C/SR.1517), on 19 March 2002, adopted the following concluding observations.

A. Introduction

88. The Committee welcomes the report submitted by the State party and expresses its appreciation for the dialogue with the high-level delegation and for the answers given orally to the wide range of questions asked by members. While appreciating the extensive supplementary information given to it during the examination of the report, the Committee regrets that the responses to its previous concluding observations (CERD/C/304/Add.55), dated, 10 February 1999 were not included in the body of the State party report.

89. The Committee regrets further that the report contains information mainly on the legal framework for the protection of rights of minorities and does not give sufficient information on the implementation of such legislation or on the extent to which minority communities enjoy the protection afforded by the Convention.

B. Factors and difficulties impeding the implementation of the Convention

90. The Committee notes that the State party is going through a challenging period of economic and social change in a period of post-war reconstruction, which has resulted in obstacles to the full implementation of the Convention.

C. Positive aspects

91. The Committee welcomes the efforts of the State party to introduce legislative reform in accordance with international standards, and to establish institutions, programmes and policies to promote equality. In particular, the Committee welcomes the adoption of the Associations Act, the establishment of the Office for Human Rights, the elaboration of a project of education aimed at achieving equality for minorities and promoting multiculturalism, the implementation of programmes of human rights education within the school environment, and the introduction of human rights training for police officers and judges.

92. The Committee notes with appreciation the State party's statement of cooperation with the International Criminal Tribunal for the Former Yugoslavia (ICTY) as well as with relevant United Nations bodies, including the Office of the High Commissioner for Human Rights (OHCHR), and regional organizations.

93. The Committee welcomes the State party's stated commitment to involve non-governmental organizations (NGOs) in the preparation of its next periodic report to the Committee, as well as its statement of intent to subscribe to article 14 of the Convention.

D. Concerns and recommendations

94. The Committee reiterates its concern about the lack of clarity as to the various definitions used in the report and in domestic legislation to describe ethnic and national minorities. The Committee is concerned that the recent withdrawal of the draft Constitutional Law on the Rights of National Minorities will create further delays in legislative protection for such minorities. The Committee recommends that the State party include in its next periodic report clarification as to the legal definitions used for describing the various minorities. It encourages the State party to finalize the Constitutional Law on the Rights of National Minorities in conformity with international standards and to include information regarding this matter in its next report.

95. It is noted that statistical data provided in the State party report are based on the 1991 census and that the results of the 2001 census are still pending. The Committee is concerned that the delay in the publication of the results may create distrust among communities and has presented some difficulties for the Committee in undertaking an effective analysis of issues affecting minorities. The Committee strongly encourages the State party to finalize and publish the general population census conducted in 2001 in order *inter alia* to implement provisions of the law affecting political representation as well as to ensure, as necessary, special protection and benefits for ethnic minorities. Moreover, it is recommended that the next periodic report include updated statistical data on the demographic composition of the Croatian population.

96. With respect to article 2 of the Convention, the Committee remains concerned about the limited representation of minorities in the Croatian Parliament. While it is noted that the Act on Election of Representatives to the Croatian State Parliament provides for proportional representation of minorities, the Committee is concerned that not all minority groups are included in this process while others are underrepresented. In particular, it is noted that Bosnians are not included in the list of minorities who may exercise the right to be represented in Parliament. It is recommended that the State party take further measures to ensure fair and adequate representation of all groups of minorities in the Croatian Parliament and to include in its next report information concerning the measures taken in this regard.

97. The Committee expresses concern at the continued practice of segregation of Roma children within the educational system and at the reports of discrimination against the Roma regarding access to employment, health, political representation and citizenship rights. The Committee recommends that the State party pay particular attention to the situation of the Roma and take effective measures to prevent the segregation of Roma children within the educational system. The Committee further recommends that the State party strengthen its efforts to address the high drop-out and poor performance rates of Roma children and guarantee non-discrimination, especially as regards respect for their cultural identity, language and values. The Committee also encourages the State party to reinforce its efforts to train and recruit Roma teachers and to prevent discrimination against the Roma in access to employment, health, political representation and citizenship rights.

98. The Committee reiterates its concern regarding the lack of legal provisions to implement the State party's obligations under article 4 (b) of the Convention, notably the absence of legislative measures prohibiting incitement to racial discrimination and violence. Concern is also expressed about the adequacy of efforts by the State party to investigate and prosecute persons responsible for

fomenting ethnic hatred, especially in the localities affected by war. In this connection, the Committee notes that there have been no convictions by the courts for incitement to racial discrimination and violence, despite the significant number of such allegations. The Committee recommends that the State party comply fully with the obligations under article 4 of the Convention and that the necessary legislative measures be taken in order to give full effect to the provisions of that article and to declare illegal and prosecute incitement to ethnic hatred and racial violence.

99. While noting the challenges confronted by the State party in meeting the needs of large numbers of refugees, returnees and displaced persons, the Committee is concerned that return is still hindered by legal and administrative impediments and hostile attitudes adopted by some central and local officials. In this regard, concern is further expressed about allegations of inconsistency and lack of transparency in the National Programme for Return. The Committee is particularly concerned about the insufficient efforts of the State party to prevent discrimination against minorities, especially Croatian Serbs, in addressing issues of restitution of property, tenancy and occupancy rights, reconstruction assistance, as well as the inter-related issues of residency and citizenship rights. The Committee recommends that the State party introduce further measures to ensure fairness, consistency and transparency in the National Programme for Return. Further, the State party is strongly urged to take effective measures to prevent discrimination, especially against Croatian Serbs, particularly as regards the restitution of their property, tenancy and occupancy rights, access to reconstruction assistance and rights to residency and citizenship. It is recommended that the State party provide in its next periodic report information concerning the steps taken to introduce effective legal and administrative regimes to resolve these issues. The Committee draws the attention of the State party to its general recommendation XXII concerning the rights of refugees and displaced persons.

100. With respect to article 5 of the Convention, the Committee restates its concern regarding inconsistency between articles 8 and 16 of the Croatian Law on Citizenship, which appears to establish different criteria in granting citizenship to ethnic Croats as compared to other nationalities in Croatia. Concern is expressed that many former long-term residents of Croatia, particularly persons of Serb origin and other minorities, have been unable to regain residency status despite their pre-conflict attachment to Croatia. With respect to the acquisition of citizenship, the Committee again strongly urges that the State party undertake measures to ensure that all provisions of the Croatian Law on Citizenship are in conformity with article 5 of the Convention, and that the law is implemented in a non-discriminatory manner. The Committee also recommends that measures be taken to ensure that former long-term residents of Croatia are able to reclaim their status as citizens and/or residents on a non-discriminatory basis.

101. The Committee is concerned about repeated claims of discriminatory application of the right to equal treatment before the law, particularly in the area of property claims, where the courts reportedly continue to favour persons of Croat origin. The Committee also notes the large backlog of cases before the courts, which impedes access to justice. The Committee recommends that the State party reinforce its efforts to ensure non-discrimination in the application of the right to equal treatment before the law, particularly in the area of repossession of property. The Committee further recommends that the State party include detailed information in its next periodic report concerning the measures taken to reduce the backlog of cases before the courts and improve access to justice.

102. While noting the efforts of the State party to introduce training for the police and judges, the Committee is concerned about the sufficiency of efforts to raise public awareness about the Convention, promote tolerance and discourage prejudice against certain minorities. The Committee recommends that the State party strengthen its efforts to familiarize the public with the Convention, in order to reduce the level of prejudice against certain minorities, and to promote tolerance. In this regard, the State party should reinforce its efforts to provide instruction on international human rights standards in all schools and organize training programmes for persons engaged in the administration of justice, including judges, lawyers and law enforcement officials.

103. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures taken to implement the Durban Declaration and Programme of Action at the national level.

104. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111.

105. The Committee recommends that the State party submit its sixth periodic report together with the seventh report, due on 8 October 2004, as an updating report responding to the points raised in the present observations.