



# International Covenant on Civil and Political Rights

Distr.: General  
17 April 2001

Original: English

---

## Human Rights Committee Seventy-first session

### Summary record of the 1913th meeting

Held at Headquarters, New York, on Wednesday, 28 March 2000 at 3 p.m.

*Chairperson:* Mr. Bhagwati

## Contents

Consideration of reports submitted by States parties under article 40 of the Covenant  
(*continued*)

Initial report of Croatia (*continued*)

---

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of this document* to the Chief, Official Records Editing Section, room DC2-750, 2 United Nations Plaza.

Any corrections to the record of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

01-30956 (E)

**\*0130956\***

*The meeting was called to order at 3.15 p.m.*

**Consideration of reports submitted by States parties under article 40 of the Covenant** *(continued)*

**Initial report of Croatia** *(continued)*  
(CCPR/C/HRV/99/1, CCPR/C/71/HRV)

*List of issues* *(continued)* (CCPR/C/71/L/HRV)

1. **Ms. Chanet** said that the report submitted by Croatia had been very complete with regard to the legislation currently in force, but had lacked information on the reality of what was happening in the country, considering that it had recently emerged from a period of conflict.

2. In its reply to question 3, the delegation had merely made a very general reference to the current situation of human rights in Croatia. She would appreciate an explanation of the legal remedies offered to any person whose rights were found to have been violated by the Committee under the Optional Protocol.

3. It appeared that in Croatia, the Convention on Civil and Political Rights was ranked below the Constitution and the European Convention for the Protection of Human Rights and Fundamental Freedoms (the European Convention on Human Rights). It was unfortunate that the Covenant had not been totally integrated into domestic law or the Constitution, particularly article 26, which stated that all persons were equal before the law. She would be interested to learn how it would be possible to avoid conflicts between the Constitution and the Covenant, given the different levels of protection provided and the hierarchical relationship between domestic and international law.

4. With regard to question 4 on the return of refugees, the delegation had stated that it was a political and not a social problem. However, no information had been provided on the type of identity documents required and, in view of the reference to national minorities in the Constitution, it would be interesting to learn about the extent of the influence of the concept of minority on the concept of nationality. Article 12.4 of the Covenant stated that no one could be arbitrarily deprived of the right to enter his own country. However, in that regard, article 32 of the Constitution referred to citizens rather than to persons and it would therefore be useful to know the criteria for

citizenship and identification documents and also whether there was any way of knowing whether a person who wished to benefit from the right of return under article 12.4 was of Serbian or purely Croatian origin.

5. It appeared from the French version of paragraph 160 of the report (CCPR/C/HRV/99/1) that children 16 years of age could be recruited by the armed forces and it was important that the delegation clarify the point.

6. The report provided most of the information regarding pre-trial detention in the comments under article 26 of the Covenant, rather than under article 9, which is where such information should have been included. Paragraph 618 of the report referred to provisions on detention in the Law on Criminal Procedure that could be mandatory or optional and she would appreciate further information about when detention was mandatory.

7. According to paragraph 619, the punishment for not bringing a person before the investigating judge within 24 hours was not very strong; in general, it should result in the immediate release of the person detained. She would therefore appreciate further information on the regime applicable to pre-trial detention; for example, the stage at which a lawyer could intervene, whether those arrested had access to a doctor and whether solitary confinement was practised.

8. Regarding the provisions of the Covenant on the right to life and on cruel, inhuman and degrading treatment, in a recent case, the Constitutional Court had decided that the 1996 Amnesty Act was not in accordance with the Constitution or Croatia's international commitments, and she would welcome further information in that regard.

9. The report and the Constitution were incomplete as regards the judicial system, because very important changes had taken place recently and further information would be appreciated on how judges were appointed, the judicial career, the judicial regime, and the distinction between the bar and the bench.

10. **Mr. Vella** said that he had reviewed the Constitution, which had been well drafted and showed the direction Croatia was now taking. However, the Committee required more information on how its provisions were being implemented to protect and enhance human rights, since there was a difference between theory and practice.

11. Paragraph 29 of the report provided two tables; one on criminal offences against the freedom of citizens and the other on criminal offences against the fundamental rights of citizens. However, only a few criminal offences were listed and many more came under the two headings. Likewise, very few cases were listed, and even less indictments and convictions. However, the Committee had received reports from other sources concerning numerous crimes perpetrated by those in authority, where little had been done to investigate them or bring the authors to justice. The Committee would appreciate more information about the type of abuses that had occurred in the performance of public duties; they would like factual and statistical information on the kind of abuses perpetrated, by whom, and the penalties, including terms of imprisonment that had actually been awarded.

12. **Mr. Rivas Posada** said that he wished to refer to some aspects relating to article 4 of the Convention on states of emergency and its treatment in Croatian legislation. The initial report and the delegation's answer to the relevant question left a sense of confusion about the exact nature of a state of emergency in Croatia and its impact on the respect and protection of human rights. Article 17 of the Constitution mentioned situations when some rights might be restricted without mentioning the expression "state of emergency". It would be useful to learn about the legal remedies that were available to those who believed that their rights had been violated by a declaration of a state of emergency.

13. Regarding question 8 on the legal avenues available to pursue complaints against law enforcement authorities (see para. 12 above), the information provided gave details regarding irregular conduct by the police, but the situation with regard to violations by the armed forces remained to be clarified; what measures were taken to punish those who were guilty and repair the damage?

14. **Ms. Medina Quiroga** said that the Committee had received considerable information on events that had occurred during the 1990s, where the victims were usually Serbs; for example, the destruction of houses in 1995, the burning of the houses of returnees in 1998 and families evicted by the special police or the army. However, it had received no information about what had happened to the perpetrators of such abuses and they appeared to enjoy complete impunity, as in other cases relating to disappearances, assassinations,

torture, and inhumane and cruel treatment. Global efforts were being made to end impunity, and it would be useful to learn why nothing was being done, why no one had been convicted in Croatia and what the State was proposing to do.

15. The Committee would be interested to know whether Croatia was considering enacting an Amnesty Act and whether such an act would take into consideration all the provisions of international law regarding the impossibility of giving amnesty in the case of certain crimes.

16. It appeared that the Constitution, which ranked above the Covenant in Croatia, established certain rights that could not be suspended in a state of emergency, but did not mention the rights embodied in either articles 8 or 11 of the Covenant; therefore, she wished to know whether remedies existed, should the rights protected in those two articles be suspended.

17. According to paragraph 189 of the report, in addition to an arrest resulting from an arrest warrant, the Law on Criminal Procedure also regulated arrest as a police measure during inquiries into criminal offences. That behaviour was not in compliance with article 9 and the Committee would appreciate further information on that point.

18. Regarding article 14 of the Convention on trial procedures, she was surprised to see from the table presented in the written reply to question 8, that a high proportion of proceedings were suspended. The delegation should clarify whether the reasons for suspending those cases were related to complaints that delays in the proceedings before the courts led to the application of the statute of limitations and the suspension of proceedings, and where that delay was not due to the individual who filed the complaint but to the courts.

19. She was surprised to learn from paragraph 343 of the report that minors could be sentenced to up to ten years' imprisonment and would like to hear the delegation's comments.

20. **Mr. Ando** said that Croatia was one of very few countries that had "succeeded" to the Covenant after the collapse of the previous legal regime, thus avoiding the legal vacuum that occurred between the time when a regime collapsed and when newly independent States decided to "accede" to it.

21. With regard to the status of the Covenant in the domestic legal system, he understood that Croatia took a monist approach, which explained why there were only indirect references to the Covenant in the Constitutional Court's jurisprudence. That raised certain problems, for example, with regard to article 4 of the Covenant on states of emergency, because the country had been experiencing a state of emergency since its independence. Article 17 of the Constitution stated that the extent of the restriction of individual rights and freedoms should correspond to "the nature of the danger" and that was decided by a two-thirds majority of the members of Parliament or the President by decree; in other words, they could decide the extent of the derogation of the rights established in the Covenant, whereas the provisions of article 4 of the Covenant were far more strict.

22. He questioned why the information on the judicial authority and fair trials contained in paragraph 611 onwards, in relation to article 26 of the Covenant, had not been reported under article 14. Also, it would be useful for the Committee to have more information on the composition of the bar, its independence from the Government, and the qualifications for membership.

23. **Mr. Shearer** said that, according to information received from other sources, there had been considerable improvement in the area of human rights in Croatia over the past two years. While not detracting from the need to prosecute war crimes both domestically and through the International Criminal Tribunal for the former Yugoslavia, he believed that it was necessary to concentrate on the present and future, without dwelling too much on the tragic past.

24. With regard to the answers to question 4 of the list of issues on Croatian refugees of Serbian origin, he wished to know what the citizenship was of those born in the territory of Croatia while it was part of the Federal Republic of Yugoslavia, now that a separate and independent Croatian State had been established. Article 9 of the Constitution stated that questions of citizenship were referred to a law; however, he would be interested to know what the qualifications were for citizenship and whether there was any question of State succession to citizenship with respect to persons of Serb descent who were born in Croatia, but who had been displaced by the war and were now trying to return.

25. Article 15 of the Constitution said that nations and minorities should have equal rights: he would appreciate the delegation defining "nations" in that context.

26. Many Serbs and other minorities who fled Croatia during the war would have lost their papers, and it would be useful to have information on the efforts being made to reintegrate them into Croatian society.

27. Finally, in connection with the delegation's remark that Croatia suffered from "an overdose of history", he would be grateful if they would inform the Committee whether any consideration had been given to establishing a national reconciliation plan for all sectors, which would go beyond identifying criminal responsibilities and reach down to the general level of the public in order to help the nation move forward.

28. **Mr. Solari Yrigoyen** expressed appreciation to the Croatian Government for sending such a high-level delegation to present its initial report. He had listened with great interest to the analysis of events leading up to Croatia's secession from the former Yugoslavia and the subsequent armed conflict. Having participated in a peace mission to the territories of the former Yugoslavia during that period, he had witnessed the suffering of Croatians in a refugee camp in Vukovar, near the so-called Serbian Republic of Krajina.

29. A new Government was now in place in Croatia. He welcomed the constitutional reforms intended to bring about greater democracy.

30. At the same time, it was a matter of concern that the authorities continued to resist the return of many thousands of ethnic Serbs who had left Croatia and had become refugees in the Federal Republic of Yugoslavia and the Serbian enclave in Bosnia. Such persons had reportedly had difficulties in establishing their citizenship rights under Croatian law. There had been delays in delivering identity papers to them. Moreover, ethnic Serbs continued to be the target of sporadic attacks. Some had been murdered in villages near Vukovar. He would be grateful if the reporting State could indicate what new measures it had taken to curb such violence and to permit free and unimpeded entry to refugees wishing to return.

31. While the State party had indicated that the Covenant could be applied by its courts, he was still unclear as to the ranking of the Covenant in its

domestic law. He failed to understand the need to mention the European Convention on Human Rights, which, however altruistic its objectives, was not identical to the Covenant and might even conflict with it in some instances.

32. He would be grateful for additional information on freedom of movement, particularly in the context of states of emergency. It was unclear whether the Constitution was fully in conformity with article 4 of the Covenant or whether the Constitution took precedence over the Covenant under Croatian law.

33. With regard to compulsory military service, as discussed in paragraphs 158 and 159 of the report, the State party should indicate whether alternative and equivalent civilian service was available for conscientious objectors.

34. Further data should be provided on incidents of violence taking place currently, not in the immediate aftermath of the war. He would be grateful for information on the alleged ill-treatment of Nikolai Miletić by special police in Dubrovnik and on the death of Selik Muzhik, a Croatian citizen of Bosnian origin, reportedly at the hands of the secret police.

35. The reporting State should clarify its position concerning judgements of the International Criminal Tribunal for the Former Yugoslavia when they affected members of its armed forces. The Committee was aware that the Croatian authorities had not cooperated with the Tribunal at the outset. In a letter to the Security Council, the President of the Tribunal had denounced the repeated failure of both Croatia and the Federal Republic of Yugoslavia to comply with the Tribunal's decisions. It would be interesting to learn whether the new Government was cooperating with the Tribunal and if so, in what way.

36. Lastly, it would be useful to have a full account of the activities and results of the committee to locate detained and missing persons in the Croatian region of the Danube, or at least to know whether the Government was facilitating the committee's work.

37. **Mr. Kretzmer** said that the Committee had been impressed by the positive changes that had taken place in Croatia in the past year and a half and the serious attempts to promote democratic institutions. Nevertheless, the Covenant had been in effect in the country for a long time, and the members of the Committee were interested in what the State party had

done to redress the serious violations of human rights that had occurred in its territory from 1991 onwards. Much information had been provided about measures to locate missing persons and those suspected of war crimes; however, the reporting State should be more specific about who had been put on trial and for what crimes, how many had been convicted or acquitted, and what sentences had been handed down. According to information received by the Committee, there was a tendency to bring charges against persons of Serbian ethnic origin. It would be useful to have a breakdown by ethnic origin of the persons tried. The Committee had also received reports that several hundred ethnic Serb civilians had been killed in their homes in Krajina in the summer and fall of 1995. Further details should be provided on what measures had been taken to bring those responsible to trial.

38. He would welcome information on the current standing within the Croatian armed forces of officers and soldiers suspected of having been implicated in war crimes. The Government should indicate whether such persons had been suspended or were still serving, including at senior levels.

39. While the report provided data on prison conditions, the Committee had received disturbing reports from alternative sources of prisoners being abused by other prisoners. The reporting State should indicate what action was being taken to prevent such attacks, whether perpetrators had been prosecuted and what remedies were available to prisoners if their rights under article 10 of the Covenant were violated.

40. Lastly, the report provided no details on the number of persons being held in pre-trial detention. It was important for the Committee to know how many of those so detained had been convicted. It would also be useful to learn how long people spent in prison or other detention centres before their cases were decided.

41. **Sir Nigel Rodley** noted with satisfaction that the prohibition against capital punishment was enshrined in the Constitution, as was freedom of conscience.

42. In its replies to questions 5 and 9 of the list of issues, the delegation had provided only broad statistics. It was to be hoped that the Government would not continue to adopt such an oblique stance on the questions posed by Mr. Vella and Mr. Kretzmer.

43. The statistics provided in reply to question 8 were interesting and indicated the kinds of charges brought

against law enforcement officials. However, the reporting State should explain why no references had been made to article 176 or article 99 of the Law on Criminal Procedure. It was also unclear why the maximum sentence for torture was so much shorter than for serious bodily harm.

44. The information provided on the implementation of article 9 of the Covenant showed that the law contained adequate safeguards, such as the obligation to bring an arrested person before a judge within 24 hours of the time of arrest. Once a judge had authorized detention, however, it was unclear whether the detainee was automatically sent to a remand centre outside the control of the police authorities, or whether detention could continue under the jurisdiction of the authority responsible for the arrest.

45. With regard to paragraph 193 of the report, the meaning of the phrase “upon the request of the suspect” was unclear. The reporting State should explain whether suspects were automatically informed of their right to a lawyer and what followed from such a request.

46. He noted with satisfaction that despite continuing allegations of violations of article 7 of the Covenant, non-governmental organizations acknowledged that there had been a reduction in the number of complaints. He took note of the reference in the report to the prohibition against subjecting persons to medical or scientific experimentation without their consent (para. 121). Nevertheless, it would be useful to learn whether those volunteering for medical experimentation were persons deprived of their liberty; if so, that raised questions as to how free and full their consent might have been.

47. **Mr. Amor** associated himself with the questions raised by Mr. Vella and Ms. Chanet. Having listened to the State party’s replies, he was still unclear as to the status of the Covenant in its domestic law. It seemed clear from article 134 of the Constitution that duly ratified international treaties were part of the domestic legal order and had legal force superior to law. The delegation, however, had appeared to indicate that some treaties ranked higher than others; it had referred to the European Convention on Human Rights, the Convention for the Protection of Human Rights and Fundamental Freedoms, and the Covenant. If such a ranking existed, it should be explained and justified.

48. Furthermore, paragraphs 49 and 51 of the report appeared to indicate that there was no appeal against court judgements under certain circumstances. The reporting State should explain how that might be compatible with article 14 of the Covenant.

49. Referring to article 12, paragraph 4, of the Covenant, he asked how the State party understood the right of everyone “to enter his own country”, an issue touched on in paragraphs 265 and 278 of the report. His question was not theoretical, for many who considered Croatia their own country would have difficulty returning. The same applied to the choice of domicile (report, para. 266). He would welcome information on any restrictions on permanent and temporary residence. The report also stated (para. 276) that passports could be denied on the grounds of national security or public order, and the interpretation of those terms should be clarified as well.

50. In relation to article 18 of the Covenant, it was clear that the Constitution guaranteed freedom of religion and religious practice and their protection by the State. He would be interested to learn what proportion of persons belonged to faiths other than the majority religion, especially the so-called new religious movements, and whether they were also free to practise and to receive State protection and assistance. He would like to know if religion was taught in the public schools; and whether the Government was protecting the many religious sites and monuments of all faiths in the country, and restoring those which had been damaged during the war.

51. **Mr. Henkin** said that he would like reassurance that the ethnic Serbs in the country were receiving fair and equal treatment in all respects, civil and political. He would also welcome clarification on the statute of limitations for crimes and whether crimes committed in the past, including crimes against humanity, were subject to immunity pleas; the use of trials in absentia to bring persons to trial; and any limitations on ex-post-facto laws and whether they applied to all crimes. Lastly, some information should be given about the situation of the Roma in Croatia, the rights they had, any distinctions and discriminations to which they might be subject, and the Government’s plans for dealing with them.

52. **Mr. Smerdel** (Croatia) said that, according to article 141 of the revised Constitution, all international

treaties automatically became part of the domestic legal order when they came into force, taking precedence over national legislation, and they could be directly invoked and implemented by the courts and other public bodies. He had not meant to imply in his earlier remarks that there was any hierarchy among the various human rights instruments, but rather to explain that, in practice, Croatians who thought their rights had been violated and who had exhausted domestic remedies tended to petition the European Court of Human Rights under the European Convention or the European Social Charter, rather than the Human Rights Committee under the Covenant; and to frame their petitions in terms of the European instruments. There had been few instances, however, in which any of the international human rights instruments had been directly invoked in the ordinary courts, because judges of the first instance had not yet been trained to do so. Only the Constitutional Court, which regularly heard claims of violations of rights under international treaties, automatically took them into account.

53. He himself had participated in the drafting of the 1990 Constitution. The drafters had been instructed by Parliament to include all internationally recognized human rights standards, and even some rights whose legal nature was in question — the right to work, the right to fair remuneration — had been included. Often, the wording of the international human rights instruments had even been transcribed directly in the Constitution, although he himself would have preferred a more elaborative text, because a Constitution should offer more detailed regulation.

54. He had been very pleased, as a professor of constitutional law, to hear that the text of the Constitution, especially since the latest revisions, had met with approval. Many legal specialists in Croatia thought that the whole bill of rights section of the Constitution should be revised to conform to the wording of the Covenant and other international human rights instruments; and, indeed, in 1997, on the advice of Council of Europe experts, that had been done in the case of article 14 of the Constitution, where the wording now reflected that of article 26 of the Covenant. The coalition Government in power since 2000 considered constitutional amendment a priority. On the other hand, he himself and other legal theorists argued that such a “living Constitution” — new to Croatia and in the process of being continually implemented through legislation, the practice of the

courts and the behaviour of various branches of Government — needed an initial period of stabilization. He also believed that the new government, while a good one, did not have a proper understanding of constitutional problems.

55. The declaration of states of exception and the concomitant derogations from established rights were a case in point. Technically, no state of exception, emergency or war had ever been formally declared in Croatia and no derogation from constitutional rights had been authorized under article 17 of the Constitution, which corresponded to article 4 of the Covenant and required the approval of a two-thirds majority of Parliament. However, from 1991 to 1996, the country had actually been under a *de facto* state of exception established by presidential decree, during which there had been derogations from normal criminal procedures and military courts had been set up. As *de jure* justification for the derogations, the Government had invoked article 101 of the Constitution, which authorized the President to issue decrees with the force of law in order to undertake measures, including revision of legislation, as required by emergency situations. The article defined those justifications as war, threats against independence and territorial integrity, and disturbances of the functioning of government bodies. At the time, that legal approach had been seen as the lesser of two evils, and it was not until 1996, after the revocation of the extraordinary measures, that those constitutional issues had been addressed. As to the remedies available for human rights violations during that period, the Ombudsman from 1993 to 1995, unlike his successor, had chosen not to be very active, but all government agencies were open and could theoretically have been petitioned. None had sought compensation for rights violations because of the informal nature of the declaration of the state of exception, but many had sought compensation for property damage or loss, and ethnicity had not been a factor in the complaints.

56. **Mr. Sočanac** (Croatia), observing that his Government had ratified both the first and the second Optional Protocols to the Covenant, said that he could not explain why, while many Croatian cases had been brought before the European Court of Human Rights, only one communication was pending before the Committee.

57. With regard to reporting obligations under international human rights treaties, the Human Rights

Department, which he himself headed within the Ministry of Foreign Affairs, was the focal point for drafting and submitting all periodic reports, and for transmitting the subsequent recommendations of the treaty bodies to the Government. In addition, a recently established special body, the Commission on Human Rights, had the task, among others, to disseminate information on such recommendations.

58. His Government had initiated many activities and confidence-building measures as part of the national reconciliation process, and had established a National Committee for an Awareness-raising Campaign, an initiative under the Stability Pact for South-Eastern Europe. The new body would hold its inaugural session in mid-April 2001. It would involve all sectors of society: academics, Government, Parliament, civil society and non-governmental organizations in promoting the reconciliation process. In that context, he said that all refugees who wished to return to Croatia could do so and could apply for the necessary travel documents to Croatian diplomatic representatives abroad. The process had been accelerated and many requests had already been granted. The most significant factors currently impeding the return process were not political but economic.

59. In response to the question from Mr. Henkin regarding the Roma, he said that the Roma population was estimated to be between 7,000 and 30,000 but the census which would soon be taken should establish more reliable figures. The Government was developing a national programme for the Roma to grant them treatment as an ethnic minority, in accordance with international standards in the areas of health, social services, housing, education, culture, integration, employment and awareness of their rights. It would continue to improve the situation of the Roma and would almost certainly have a statement to make in that regard at the coming World Conference against Racism.

60. **Mr. Mrčela** (Croatia), responding to questions relating to criminal law and procedure, said that trial in absentia was rare but possible in cases where the prosecutor convinced the court that although the accused had fled or would not be present, it was nevertheless important that the trial take place. If, after the trial, the accused returned, another trial would be ordered. He had no statistics on the number of such

trials but, in his 11 years of experience he had personally tried only two such cases.

61. The Criminal Code (chapter 11) described offences against freedom and the rights of man and the citizen and also included three other criminal offences, against values protected by international law, namely: racial and other discrimination, slavery and the transport of slaves (only one case, involving private citizens and rather special circumstances, had been reported and it was currently before the court) and torture and other cruel, inhuman or degrading treatment. In response to a question about why the penalty for torture (1 to 8 years) was less than that for aggravated assault (up to 10 years), he said article 99, paragraph 4, imposed the higher penalty if the assault resulted in the death of the victims; of course, the Prosecutor might charge an accused with both crimes. With regard to the armed forces, he said that the former military courts, active until 1996, had been abolished and criminal offences committed by representatives of any law enforcement body would now be tried before the regular courts.

62. Turning to the issue of detention, he said that under the Croatian legal system, a distinction was made between arrest and detention. The Law on Criminal Procedure (article 87) provided for several procedures to ensure the presence of the accused, including a summons to appear as well as a court-ordered compulsory appearance which was not considered to be arrest, but in which the police would escort an accused to the courtroom for the two or three hours during which his presence was required. Actual arrest by the police (article 94) could not exceed 24 hours. The accused had the right to legal counsel and had to be informed of that right by the police.

63. Since the enactment of the Law on Criminal Procedure, police treatment and diligence in informing the accused of his rights had greatly improved, in particular since anything which the accused said without the presence of legal counsel was not admissible in court. After the initial arrest, the accused was released or two additional 24-hour periods of provisional confinement could be ordered by an investigating judge upon the request of the prosecutor. During that time the accused was held in the court detention facilities, unless there were some reasonable grounds to believe the accused guilty of a serious crime punishable by five years or more of prison, in which case he could be detained in the police detention



facilities. Detention was no longer mandatory following an amendment to the law effective 27 October 1999. The only prolonged detention was detention ordered by a court during a criminal investigation, which could last a maximum of six months, and was subject to periodic review by the court. Even if the investigation had not been concluded at the end of that six-month period, the accused must be released.

64. Generally speaking, detention was seen as a measure of last resort during the pre-trial criminal procedure. It must be vacated by the courts as soon as there were reasonable grounds to do so, in compliance with European standards relating to the principle of proportionality; i.e., taking into account the seriousness of the crime and the possible sentence. Including the six-month investigative detention, total detention could vary depending on the seriousness of the criminal offence; a maximum of six months for a crime punishable by less than three years in prison, one year for less than five years, one year and six months for less than eight years, two years for more than eight years and two years and six months for a long-term sentence. Croatia did not subscribe to capital punishment and the maximum long-term imprisonment was 20 to 40 years.

65. He had only dealt with one case of a person being detained illegally: an accused's detention, for some reason, had not been reviewed as required and, in accordance with article 117 of the Law on Criminal Procedure, he had ordered the immediate release of the detainee; in addition he said that there was no secret detention in Croatia. He noted further that there were special provisions for juveniles and explained that Croatia distinguished between younger juveniles of 14 to 16 and older juveniles of 16 to 18 as well as young adults of 18 to 21. A juvenile could not be tried as an adult and, while he could be sentenced to prison, it would be a special prison for juveniles for a maximum term of three years, even in cases of murder.

66. With regard to the judicial system and questions involving the disciplining of judges and the relationship between the prosecution and the courts, he noted that prosecutors were civil servants with an official hierarchy whereas the judiciary was a separate branch of Government in accordance with the principle of the separation of powers. The State Judicial Council was responsible for the selection of judges, but that Council's procedures had been reformed following a

controversy over 24 decisions which had been overturned by the Constitutional Court for procedural errors. No judges had as yet been appointed by the new Council. The Council was also responsible for supervising the performance of judges and had taken disciplinary action on several occasions.

67. The judicial system had two levels of courts: the municipal and civil courts which dealt with civil cases, misdemeanours and crimes punishable by up to 10 years in prison and the county or district courts, which were appellate courts for the municipal courts but were also responsible for investigations and were the courts of first instance for criminal offences punishable by more than 10 years in prison. In addition, there were the administrative commercial and high commercial courts, the Supreme Court and the Constitutional Court, which was not part of the judicial system, but which could reverse decisions of the Supreme Court.

68. There was currently a backlog of cases waiting to be heard by the courts, in particular in civil proceedings, whereas criminal proceedings tended to be heard more expeditiously because if the accused was being held in detention, the case had a high priority. He noted that the Covenant and international instruments, in accordance with the Constitution, could be invoked directly by the courts although to date they had seldom done so. He pointed out, however, that some 60 per cent of judges in the municipal courts had less than five years' experience and therefore, in time and with better training, the situation should continue to improve.

*The meeting rose at 6 p.m.*