

TREATY BODY MONITOR

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Key facts¹

Ratification	Reservations	Recognises Committee's competency under Art. 14	Other core treaties ratified
1992 ²	none	No	ICCPR, ICESCR, CAT, CRC, CEDAW, CRPD

Opening remarks by the delegation

The delegation of Croatia was led by Mr Luka Maderic, head of the Government Office for Human Rights of Croatia. He was supported by a high-level delegation that included Mirjana Mladineo, the Permanent Representative of Croatia to the United Nations Office at Geneva and other members of the Permanent Mission, as well as representatives from the Government Office for National Minorities; the Ministry of the Interior; the Ministry of Regional Development, Forestry and Water Management; the Ministry for Foreign Affairs and European Integration; the Central State Office for Administration; the Ministry of Justice; and the Ombudsman's Office.

¹ The information in this table is sourced from the Office of the High Commissioner for Human Rights (OHCHR), and is available at www.ohchr.org/EN/Countries/Pages/HumanRightsintheWorld.aspx.

² The former Yugoslavia had had signed and ratified the Convention on 15 April 1966 and 2 October 1967, respectively.

The State presentation by the head of delegation, Mr Maderic, exhibited a genuine desire on the part of Croatia to meet its obligations under CERD. The presentation focused on the State's positive achievements and progress in non-discrimination and promotion of the rights of vulnerable groups. It did not go into the detail or statistics of the State's responses to the Committee's list of issues³ but instead highlighted the major points. Mr Maderic chose to focus on the *Constitutional National Minorities Rights Act*, the increased membership of minorities in Parliament, the National Roma Programme for Roma inclusion, the national *Anti-Discrimination Act* and the establishment of a central anti-discrimination body, the Office of the Ombudsman, the various efforts to address refugee return and property restitution, Government strategies to combat hate crimes, NGO participation in consultative activities surrounding human rights protection, and public awareness campaigns. In conclusion, Mr Maderic stressed that Croatia has invested considerable effort in implementing the provisions of CERD but that it also realised that the project was ongoing. He promised that Croatia would continue to seek better compliance with all aspects of the Convention.

Overview of key issues

The State delegation was cooperative in its responses to questions during the review and showed a commitment to providing thoughtful and informed responses. Mr Maderic was organised in the way he delegated answering duties to the relevant experts. The delegation included experts in a number of key areas for the review and they provided thoughtful and in-depth responses to most of the questions posed by the Committee. The only denials came from Ms Anna Maria Radić of the Ministry of Regional Development, Forestry and Water Management regarding the issue of ethnic Serb returnees who do not stay in Croatia because of discrimination. Ms Radić was quite defensive in her response to the question posed by Mr Aftonomov, stating that 'a lot of people mix up what is really going on' and that the only reason people do not return to Croatia is because of propaganda from Serbian politicians in Serbia. She also denied any incidences of ethnic violence between Croats and Serbs in recent years.

Legislative framework

In its concluding observations:

*The Committee recommends that the State take concrete measures to ensure full implementation of the non-discrimination legislation and policies, especially at the local level, with a view to eliminating all instances of de facto discrimination. The State party should also provide the Committee with information of the steps taken in this respect.*⁴

Mr Maderic, in his presentation, emphasised that the government has enacted an *Anti-Discrimination Act* for the protection of the most vulnerable groups, such as ethnic minorities. To further compliance, Croatia has established the Office of the Ombudsman to provide protection to persons who report discrimination and participate in discrimination proceedings. The Committee's country rapporteur, Mr Diakonou, also cited this Act, as well as the ratification by Croatia of Protocol 12 to the European Convention on Human Rights, which covers discrimination of all forms and makes it possible for all discrimination cases to be submitted to the European Court of Human Right, as positive recent developments and evidence of a strong political will.

Mr De Gouttes asked if the European Union accession process had aided Croatia in the process of enhancing human rights and the rule of law. Mr Turkal of the Croatian Ministry of Justice happily declared that he had given a lecture on this very topic and that yes, in the accession process, States learn first about their shortcomings and then focus on fixing the problems. The accession process, he added, motivated the administration to resolve its problems more quickly. Positive results included free legal aid, the creation of an

³ Available at <http://www2.ohchr.org/english/bodies/cerd/docs/AdvanceVersions/LOICroatia74.doc>

⁴ Concluding observations of the Committee on the Elimination of Racial Discrimination, Croatia, CERD/C/HRV/CO/8, at para. 11, available at <http://www2.ohchr.org/english/bodies/cerd/docs/CERD.C.HRV.CO.8.doc>

action plan for full implementation of constitutional laws for the protection of minorities, ‘tremendous progress’ in refugee return and housing, and the enactment of the anti-discrimination law.

A representative from the Office of the Ombudsman was present for the review and outlined the situation as she saw it. In 2008, she explained, the Office was awarded A-status by the International Coordinating Committee of National Human Rights Institutions and then in January 2009 the national *Anti-Discrimination Act* was passed. As the current report submitted by the State reflected the period from 2001-2005, the role of this Act had been somewhat excluded from the Committee’s review. The Office of the Ombudsman is now the central office for combating discrimination and is very pleased that the Croatian Government has adopted such a good law inspired by CERD and including grounds like religion and national and social origin. The Office, she continued, can now handle complaints by all persons, has the power to mediate, to conduct surveys and research, to recommend legislative change to the Government, and the report to the Government. However, the Office became a central body only two months prior to the review, and was still in great need of resources.

Incitement to racial hatred

Concerning incitement to racial hatred, the Committee found in its concluding observations that:

The Committee encourages the State party to reinforce its measures for the prevention and prosecution of all cases of hate crimes and other ethnically motivated violence, in particular with a view to providing the victims with effective and fair remedies. It recalls its general recommendation no. 15 (1993) on article 4, according to which all provisions of this article are of mandatory character. The Committee recommends that the State party ensure that its new criminal law is comprehensive and in full compliance with the provisions of article 4 of the Convention, declaring illegal and prohibiting organizations that promote and incite racial discrimination. The State party should strengthen its efforts aimed at educating local civil servants and law enforcement officials with regard to non-discrimination and the Committee draws the State party’s attention to its General Recommendation No. 31 (2005) regarding the prevention of racial discrimination in the administration and functioning of the criminal justice system.⁵

In the oral presentation, Mr Maderic stated that the Croatian government is sensitive to all forms of racist propaganda and hate speech. He further explained that the government now has a better framework for sanctioning acts associated with racial hatred and intolerance and that the criminal code has now been amended to define hate crimes and enable sanctioning of all persons who commit crimes motivated by hatred of a person due to his race, sexual identity, gender, political beliefs, national origin, education, social status, state of health, age, religion, etc. Furthermore, the Government has established eight hate crimes commissions in the past two years and have conducted trainings with police on hate crimes.

Mr De Gouttes asked the delegation to elaborate on the penalties imposed in cases of hate crimes. Mr Lindren praised Croatia’s criminalisation of hate speech. In response, Mr Turkal of the Croatian Ministry of Justice addressed the issue of responsibility for hate crimes and explained that although there is now clear legislation covering hate crimes, the Government has established a working group for drafting a new Criminal Code because it recognises the need for complete change. Mr Žarko Katić, Assistant Minister from the Ministry of the Interior, added that in addition to the enactment of amendments criminalising hate speech, the police have all been instructed in great detail on how to proceed in the event of such crimes being committed and particularly on gathering intelligence on organisations whose ideologies may encourage the commitment of such crimes. Training-of-trainers courses have been organised as well, he said. He then offered the statistics that in 2007, 47 hate crimes offenses were registered, and charges were brought against 34 perpetrators. He denied, however, that any groups had been identified as promoting hate crimes and insisted that these crimes

⁵ Ibid. at para. 12.

were generally committed by intoxicated youth. Mr Maderic responded directly to Mr De Gouttes' question, stating that the sanctions for such crimes range from probation to six months in prison.

Rights of minorities

On the issue of the treatment of the Roma in Croatia, the Committee found in its concluding observations that:

*The Committee, drawing attention to its General Recommendation No. 27 (2000) on discrimination against Roma, reiterates its recommendation that the State party continue to pay attention to the situation of the Roma minority and intensify its efforts to eliminate discrimination against it. In particular, the State party should ensure equal access to quality education by Roma children, including through teaching in Romani, prevent de facto segregation of Roma pupils, and take further measures to combat stereotypes. It should also ensure the effective implementation of its policies aimed at higher employment rates for Roma, adequate political representation at all levels as well as equal access to citizenship and housing. The Committee also encourages the State party to create such conditions for members of the Roma minority conducting them to identify as such.*⁶

The issue of Roma minority rights was a dominant feature of Croatia's review. In his presentation, Mr Maderic drew attention to the National Roma Program adopted by the Government and developed with the objective of comprehensively and systematically improving living conditions of the Roma whilst still allowing them to preserve their distinct identity and traditions. The Government has also developed an action plan for a decade of Roma inclusion, he added. This integration cannot be achieved without adequate education and access to employment, he continued, and in the past year, the number of Roma children in schools and the number of Roma employed has increased. For the first time ever, there is a Roma member of Parliament.

Mr Diakonou also addressed the situation of the Roma as a key concern, in particular the enrolment of Roma children in school, the lack of Roma university students, and the corresponding lack of Roma employed in professional sectors. He asked the delegation to give more details on the ten-year Roma action program and its results. Mr Peter also expressed great concern about the statistic that only 27% of Roma children complete elementary school. Other concerns expressed by Committee members focused on early marriage of Roma girls, and the problem of Roma unwillingness to self-identify. Mr Peter asked for a lot of clarification regarding marriage of minors.

In response, Ms Kleiner, chair of the Committee for National Minorities and expert on Roma rights, offered some explanation. The official statistic on Roma population in Croatia is 9,000 but, she said, the Government estimates the number to be 30-40,000. The Roma population is fast growing and the Government expects to see the growth more accurately reflected in the next census. The huge discrepancy also makes it difficult to assess the number of Roma in school, she added. Nevertheless, she continued, the Government has increased the number of Roma children in school and gives scholarships to all Roma children in secondary school. The problem with Roma and employment is also directly linked to education so this is very important. She then went on to explain that there are sixteen Roma councils which represent the Roma on a national level and which are very active. She explained that the continuing segregation of Roma children in schools only exists in one county and that it is due to the fact that the Roma children do not speak Croatian when they start school.

Ms Kleiner continued that the National Program for Roma was adopted in 2003 and has been very successful. She went on to illustrate the ways in which the program has addressed issues of Roma citizenship, education, employment, housing, and preservation and promotion of Roma culture. Mr Turkal addressed the question of

⁶ Ibid. at para. 13.

early marriage in the Roma community by explaining that legislation was in place criminalising marriages to minors and Ms Kleiner added that this problem could be largely solved by education.

Migrants, refugees and asylum seekers

*'The Committee reiterates its recommendation of 2002 that the State party intensify its efforts aimed at facilitating the return and reintegration of refugees, especially returnees who belong to the Serbian minority, by adopting and implementing fair and transparent measures for their sustainable return. In particular, the State party should ensure the implementation of its policies and laws to solve all outstanding housing issues, faced by property owners and former tenancy rights-holders, by the end of 2009 as envisaged. The State party should create conditions under which returnees of all ethnic origins can opt for a permanent stay.'*⁷

As Mr Maderic explained in his presentation, Croatia is still dealing with wartime repercussions. The Government, he said, has created a number of programs for solving returnee problems in the areas of property restitution and housing. There are laws on all of this, he added. He insisted that at this point in time, almost all appropriated property has been restored to its rightful owners and houses damaged or destroyed during the war have been destroyed. Mr Diakonou was insistent, however, that there is still much to do on this issue, and that Serbian Croats who want to return, and do, have difficulty finding housing. Moreover, he maintained, the decision in 2004 by the European Court of Human Rights to accept the termination of tenancy rights for those gone for over five years was heavily criticised and does not take away the Government's responsibility to solve this problem. As mentioned above, the issue of returnees leaving Croatia was also brought up by Mr Aftonomov.

Ms Radić answered most of the questions on this topic. She explained that there have been 14,000 requests filed by ex-tenancy holders but that already 8,500 have been solved and the families have been provided housing. Another 2,000 will be receiving housing this year, and the remaining families, she insisted, have not put in requests to return to Croatia and are 'unwilling' to complete the documentation required. She added that the Strasbourg case was really about whether all ex-tenancy holders should be compensated. The Croatian policy, she continued, was not to compensate with money but rather with sustainable solutions. She then discussed a few specific cases and issues of electrification which have been solved. Ms Radić then insisted that the country rapporteur had not understood the reality of the situation because he had based his assessment on outdated 2001 census figures and that in fact, many Serbs return to Croatia and feel welcome there.

Societal prejudice and ethnic tension

*The Committee encourages the State party to strengthen its efforts aimed at the promotion of inter-ethnic harmony and tolerance among the public at large. In that context, it also recommends that the State Party take all appropriate steps to ensure that any rising ethnic tension in a neighboring country does not migrate into Croatia.*⁸

Mr Prosper expressed serious concerns about regional ethnic tensions at several points during the review. He explained that he has experience in Croatia and while he recognises the progress that has been made, not only in coming out of conflict but in being a regional leader, he is also very concerned with 'the neighbourhood'. He admitted that these concerns might exceed the mandate but his worries prompted him to bring these issues to attention. He asked the State if it saw continuing progress in this area or if it saw rather an increase in vulnerability and tensions that might jeopardise the efforts that the State had put into place. If the latter was the case, he continued, what was the Government doing about it from a policy perspective? He then

⁷ Ibid. at para. 19.

⁸ Ibid. at para. 21.

encouraged Croatia to act as a regional leader and to act appropriately to avoid a spiralling back into chaos and violence. Mr De Gouttes echoed Mr Prosper's concerns.

In response, Mr. Branko Sočanac, Head of the Human Rights Department, Ministry for Foreign Affairs of Croatia, said that as far regional cooperation is concerned, Croatia is a signatory to the Dayton Agreement and it has achieved significant progress in the region and built leadership. He assured the Committee that Croatia observes with great concern the situation in the region and that it will try to lead the region out of these problems and offer help. He suggested as well that national minorities might serve as a 'bridge for improvement'.

Conclusions and next steps

Presumably due to time constraints, the State delegation did not make any final remarks. The country rapporteur, Mr Diakonou, did make some concluding remarks, however, stating that Croatian society is moving at such a speed that information becomes quickly outdated and that is too soon to know what the effects will be of new legislation. Mr Diakonou then highlighted the problems of returnee rights, Roma rights, the need to develop disadvantaged regions, and to take a close look at the Criminal Code and see what is missing in relation to Article 4 of CERD and prohibition of incitement to discrimination. He concluded by saying that there are great efforts being made in Croatia which must be continued and that Croatia should be careful not to let what takes place in neighbouring countries influence its progress.

Following Mr Diakonou's remarks, the Chairperson, Ms Dah, thanked everyone for the 'rich dialogue' and emphasised that progress was the focus of CERD and that this should not be forgotten in light of the very serious consequences of conflict that have left their mark on this region.

In its concluding observations, the Committee expressed appreciation for the 'frank and constructive dialogue' held with the high-level delegation and the 'comprehensive written and oral responses' provided to the list of issues and the questions posed by Committee members.

The Committee recommended in its concluding observations that the State submit its ninth and tenth periodic reports in a single document, due on 12 October 2011.

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