



**International Convention on
the Elimination
of all Forms of
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Seventy-fourth session
16 February – 6 March 2009

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION**

**Concluding observations of the Committee on the
Elimination of Racial Discrimination**

CROATIA

1. The Committee considered the sixth to eighth periodic reports of Croatia (CERD/C/HRV/8), submitted in one document, at its 1920th and 1921st meetings (CERD/C/SR.1920 and CERD/C/SR.1921), held on 26 and 27 February 2009. At its 1929th meeting (CERD/C/SR.1929), held on 5 March 2008, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the sixth to eighth periodic reports by the State party. It also expresses its 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.

B. Positive aspects

3. The Committee welcomes the adoption of new laws which aim to implement various provisions of the Convention, especially the adoption of the Anti-Discrimination Act (2009), the Constitutional Act on National Minorities (2002), and the Act on the Right to Legal Assistance (2008).

4. The Committee notes with appreciation the establishment of a range of institutions for the promotion of human rights, in particular minority rights, such as the Councils for National Minorities as well as the Government Office for Human Rights. The Committee particularly welcomes the establishment of the Office of the Ombudsman as the national human rights institution of the State party and the broadening of its mandate to become the main body for the suppression of discrimination, but notes information about the lack of adequate funds.

5. The Committee reiterates its appreciation for the enhanced cooperation by the State party with the International Criminal Tribunal for the Former Yugoslavia.

6. The Committee welcomes the introduction of human rights training programmes and courses for public officials, including law enforcement officers and members of the judiciary, which, inter alia, aim to raise awareness of the prohibition of racial discrimination.

7. The Committee welcomes the information that the Convention is incorporated into the domestic law of the State party and that international law prevails over domestic law in the State party.

8. The Committee notes with satisfaction that the State party has ratified most United Nations core human rights treaties as well as Protocol No. 12 to the European Convention on Human Rights and Fundamental Freedoms, concerning non-discrimination as a general norm in the field of human rights.

9. The Committee notes with appreciation that the State party consulted with organizations of civil society working in the area of human rights protection in connection with the preparation of its periodic report.

C. Concerns and recommendations

10. The Committee appreciates the data collected by the State party on the ethnic composition of its population, but regrets the lack of information as to how such data is gathered and the criteria on which it is based, in particular whether these are in line with the Committee's general recommendation No. 8 (1990) concerning the interpretation and application of article 1, paragraphs 1 and 4 of the Convention (identification with a particular racial or ethnic group).

The State party should, in its next periodic report to the Committee, provide information on its methods of data collection, including whether and how they reflect the principle of self-identification.

11. The Committee notes the information provided on the procedures for monitoring local authorities with regard to the application of laws and other measures concerning the prohibition of racial discrimination. It notes, however, information about the reluctance of some local authorities to implement laws and Governmental policies on non-discrimination, in particular with regard to returnees. (art. 2)

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 on the steps taken in this respect.

12. While welcoming the adoption of a definition and prohibition of hate crime in the State party's criminal law and the information provided by the delegation that a new penal code is currently being drafted, the Committee reiterates its concern that many cases of violence against members of minorities are not prosecuted and the perpetrators are not punished. The Committee remains also concerned about the absence of a law prohibiting racist organizations, as required by article 4 (b) of the Convention. It also notes that only a few complaints have been submitted and eventually led to convictions under article 174 of the current Criminal Code. (arts. 4 and 6)

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 of the Convention, 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) on the prevention of racial discrimination in the administration and functioning of the criminal justice system.

13. In spite of the adoption of a law on the right to legal assistance, the Committee notes with concern reports on difficulties in obtaining legal aid, especially for members of minorities, due to the complexity of the procedures and functioning of local administrative and judicial bodies.

The Committee recommends that the State party take the necessary measures to make legal aid available on easier terms to all members of all ethnic groups, so as to ensure that justice is accessible to all.

14. The Committee, while expressing appreciation for the measures adopted by the State party to eliminate discrimination against the Roma communities, such as the Action Plan for the Decade of Roma Inclusion and the National Roma Programme, continues to be concerned about the discrimination faced by members of the Roma minority in their enjoyment of human rights, in particular in the fields of education, employment, housing, citizenship, and political participation. The Committee also notes the apparent reluctance of

members of the Roma minority to identify themselves as such on the occasion of national data gathering exercises. (arts. 5 and 2)

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 effective implementation of its policies aimed at higher employment rates for Roma, adequate political representation at all levels and equal access to citizenship and housing. The Committee also encourages the State party to create such conditions for members of the Roma minority as are conducive for them to identify themselves as such.

15. Welcoming the information that a number of war crimes trials that were held in absentia will be reviewed and that a significant number of such cases in which perpetrators were not identified are being investigated again, the Committee notes the commitment of the State party to investigate war crimes independently of ethnic identity. Notwithstanding, it expresses concern about reports alleging the persistent differential treatment of perpetrators of Serb and of Croat origin. (art. 5 (a))

The Committee recommends that the State party strengthen its efforts to ensure that all war crimes trials conducted at the national level are carried out fairly and in a non-discriminatory manner and that all cases of war crimes are effectively investigated and prosecuted, irrespective of the ethnicity of the victims and the perpetrators involved.

16. The Committee welcomes the measures taken by the State party to ensure fair and adequate representation of minorities in central, regional, and local administration, police force, and the judiciary and notes the results achieved so far, such as the election of a member of the Roma minority to the national parliament. Notwithstanding all these efforts, the Committee is concerned about the continuing underrepresentation of minorities in the judiciary. (art. 5 (c))

The Committee encourages the State party to take further measures aimed at fair and adequate representation of all minority groups in all public bodies, including the judiciary and the human rights coordination bodies at county level. It also invites the State party to take measures with a view to encouraging minority women to become more active in public life.

17. The Committee notes the information provided by the State party on access to citizenship. However, it reiterates its concern that some ethnic groups, in particular persons of Roma, Serb and Bosniak origin, continue to face difficulties in obtaining the documentation necessary to acquire citizenship. (art. 5 (d) (ii) and (iii))

The Committee recommends that, in order to ensure that access to citizenship is granted on a non-discriminatory basis, the State party should remove any administrative and other obstacles and assist persons whose access to obligatory documentation is limited, such as persons of Roma, Serb and Bosniak origin.

18. The Committee notes with concern that Roma girls tend to be married at an early age in spite of the legal provisions prohibiting such early marriages. (art. 5 (d) (iv))

The Committee recommends that the State party ensure the effective implementation of its laws concerning the legal age of marriage in consultation with the communities affected and to undertake awareness-raising campaigns among the groups concerned regarding the illegality of such marriages. It draws the State party's attention to its general recommendation No. 27 (2000) on discrimination against the Roma, as well as general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination.

19. The Committee notes the commitment expressed by the delegation of the State party to enable the remaining refugees of the war to return to the State party if they wish to do so, including by solving their housing problems and creating conditions for their reintegration into society. Notwithstanding this commitment, it continues to be concerned about a substantial number of unresolved cases of returnees, in particular with regard to the restitution of property and tenancy rights. (art. 5 (e))

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.

20. The Committee, while welcoming the measures taken by the State party to eliminate disparities between the different regions of the State party with a view to ensuring a sustainable return of refugees and other displaced persons, notes that the "areas of special State concern" continue to be economically underdeveloped. (art. 5 (e))

The Committee recommends that the State party continue to intensify its efforts aimed at creating conditions for a sustainable development of "areas of special State concern", which are inhabited by the most numerous minorities, including Serb and Roma minorities, by eliminating economic and social disparities between regions. In particular, the State party should ensure the effective implementation of the Act on Regions under Special State Care and proceed with the adoption of the regional development strategy legislation.

21. The Committee, while welcoming the measures taken to foster the understanding between the ethnic groups present in the State party and to promote an environment of tolerance, including the education of public officials at all levels, is concerned about reports on societal prejudice against certain minority groups, such as the Roma and Serb minorities. It is also concerned by reports of rising ethnic tension in a neighbouring country within the former Yugoslavia and notes that historically ethnic tensions within the former Yugoslavia have had the ability to spread throughout the region. (art. 7)

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 neighbouring country does not migrate into Croatia.

22. The Committee encourages the State party to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

23. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/CONF.189/12, chapter I), when implementing the Convention in its domestic legal order, particularly as regards articles 2 to 7 of the Convention. The Committee also urges that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level. The Committee also encourages the State party to continue to participate actively and comprehensively in the Preparatory Committee for the Durban Review Conference, as well as in the Durban Review Conference in 2009.

24. The Committee encourages the State party to proceed with the preparation of the optional declaration provided for in article 14 of the Convention.

25. 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 of 16 December 1992. In this connection, the Committee cites General Assembly 63/243 of 22 January 2009, in which it strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

26. The Committee recommends that the reports of the State party be made readily available to the public at the time of their submission, and that the observations of the Committee with respect to these reports be similarly publicized in the official and national languages.

27. The Committee invites the State party to update its core document in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted by the fifth inter-Committee meeting of the human rights treaty bodies held in June 2006 (HRI/GEN/2/Rev.4).

28. In accordance with article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of the present conclusions, on its follow-up to the recommendations contained in paragraphs 12, 19, and 20 above.

29. The Committee recommends that the State party submit its ninth and tenth periodic reports in a single document, due on 12 October 2011, taking into account the guidelines for the CERD-specific document adopted by the Committee during its seventy-first session (CERD/C/2007/1), and that it address all points raised in the present concluding observations.

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