



**International covenant
on civil and
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HUMAN RIGHTS COMMITTEE
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**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT**

Concluding observations of the Human Rights Committee

CROATIA

1. The Human Rights Committee considered the second periodic report of Croatia (CCPR/C/HRV/2) at its 2661st and 2662nd meetings (CCPR/C/SR.2661 and 2662), held on 14 and 15 October 2009, and adopted at its 2681st meeting (CCPR/C/SR.2681), held on 28 October 2009, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the State party's second periodic report which gives detailed information on measures adopted by the State party to further the implementation of the Covenant. Furthermore, it welcomes the written replies (CCPR/C/HRV/Q/2/Add.1) provided in advance by the State party as well as the answers provided to the Committee during the consideration of the report, and the additional information provided after the consideration of the report.

B. Positive aspects

3. The Committee welcomes the various constitutional amendments, as well as legislative, administrative and practical measures taken to improve the promotion and protection of human rights in the State party since the examination of the initial report, in particular:

- (a) The fact that the Covenant provisions have the rank of constitutional law, and that they have begun to be applied by the State party's courts;
- (b) The adoption of the Anti-Discrimination Act in 2008;
- (c) The progress made with regard to gender equality, including:
 - (i) The adoption of relevant laws, such as the Gender Equality Act in 2008;
 - (ii) The establishment of a national machinery for the advancement of women, including the county committees for gender equality; and
- (d) The steps taken to combat and prevent trafficking, including the National Action Plan for Suppression of Trafficking of Human Beings for the period 2009-20011, and the cooperation agreement between Ministries and NGOs as well as cooperation agreements with neighbouring countries.

C. Principal subjects of concern and recommendations

4. The Committee, while noting the State party's intention to undertake a review of its Constitution, remains concerned that some provisions limit certain rights to "citizens," including equality before the courts (art. 26). (art. 2 of the Covenant)

The State party should bring all its provisions in line with article 2, paragraph 1, and 26 of the Covenant, taking into consideration the Committee's general comment No. 15 (1986) on the position of aliens under the Covenant.

5. While noting the extensive measures adopted to prevent and combat discrimination against minorities as well as hate crimes, the Committee remains concerned about de facto discrimination and intolerance faced by members of ethnic minority groups, including reports of physical and verbal attacks as well as slow investigative and prosecutorial action. It is also concerned that regions of special State concern, into which the majority of returnees of Serb origin move, continue to lag behind in terms of economic and social development. (arts 2, 26 of the Covenant)

The State party should strengthen its measures to combat discrimination and to combat physical and verbal attacks against members of ethnic minorities, in particular members of the Serb minority. The State party should also intensify its efforts to ensure the prevention as well as prompt investigation and prosecution of such attacks, and to provide victims with access to effective remedies. It should carry out intensified public information campaigns to overcome prejudices against ethnic minorities. The State party should continue its efforts to accelerate economic development in regions mainly inhabited by returnees of Serb origin.

6. While welcoming the adoption of various measures to enable all displaced persons to return to the State party, the Committee continues to be concerned about the obstacles faced by returnees, in particular members of the Serb minority, who encounter difficulties regarding the repossession of their property or their tenancy rights, access to reconstruction assistance, as well as reintegration into Croatian society. It is also concerned about reports that many refugees choose not to return permanently to the State party. The Committee regrets the paucity of data

provided regarding access to housing by former tenancy rights holders, disaggregated by ethnic origin and gender. (arts. 2, 12, 26 of the Covenant)

The State party should strengthen its efforts to facilitate the return and reintegration of all displaced persons, with a view to ensuring the possibility for them to reside permanently in the State party. It should also seek to verify the number of displaced persons not willing or not able to return, and further explore the reasons for not returning. The State party should also expedite the provision of adequate housing to former tenancy rights holders as well as property owners who wish to return to the State party. The State party should ensure that the remaining requests and appeals regarding funds for reconstruction due to war time and post-war damage are processed promptly and in a non-discriminatory manner.

7. The Committee is concerned that, despite the progress achieved in respect of the advancement of women, in particular their participation in political life as well as in the public service, inequalities between women and men persist in many areas. It reiterates its concern about the high unemployment rate among women and the underrepresentation of women in legislative and executive bodies. It is also concerned about persisting stereotypes regarding the role of women in society. (arts. 3, 25, 26 of the Covenant)

The State party should reinforce its measures to ensure equality between women and men in all spheres, including by more effective implementation of the relevant legislation, and increased funding for the institutions established to promote and protect gender equality. It should also take positive and coordinated measures to further increase the participation of women in public and political life, as well as the private sector, and provide, in its next periodic report, information on concrete results achieved, in particular regarding employment in the private sector. The State party should intensify its efforts to eliminate gender stereotyping with a view to changing the perception of women's roles in society, including through public education campaigns at the national and local levels, and the training of school teachers on gender equality.

8. The Committee, while noting the considerable efforts made by the State party, is concerned about incidents of domestic violence and impunity due to a low conviction rate. It regrets the paucity of statistics concerning complaints, prosecutions, sentences, and compensation in matters of violence against women, as well as with regard to information on shelters available for victims. (arts. 3, 7, 23, 26 of the Covenant)

The State party should intensify its efforts towards the elimination of domestic violence, through, inter alia:

- (a) Effective implementation of the Law on Protection from Family Violence and other relevant legislation;**
- (b) Preparation of adequate statistics, including on sex, age and family relationships of victims and perpetrators, the types of sanctions imposed, as well as the compensation provided to victims;**
- (c) Availability of adequate and sufficient provision of services to victims, including an adequate number of shelters and rehabilitation programmes.**

9. Notwithstanding the explanation offered by the delegation, the Committee reiterates its concern that article 17 of the State party's Constitution is not entirely consistent with article 4 of the Covenant, in that constitutional grounds justifying a derogation are broader than the requirements of article 4, that measures of derogation are not limited to those required by the exigencies of the situation, and that certain non-derogable rights under the Covenant are not included in article 17. (art. 4 of the Covenant)

The State party should ensure that its constitutional provisions governing states of emergency are fully compatible with article 4 of the Covenant. In this regard, the Committee draws the attention of the State party to its general comment No. 29 (2001) on derogations during a state of emergency.

10. Notwithstanding the State party's public commitment to proceed with all outstanding war crime cases, the Committee remains concerned about reports that many potential cases of war crimes remain unresolved, and that the selection of cases has been disproportionately directed at ethnic Serbs. It regrets the lack of statistical information provided by the State party on the ethnicity of the perpetrators and victims in national war crimes proceedings. It notes the low number of cases prosecuted before special war crimes chambers. The Committee also regrets the lack of detailed information on cases in which the Amnesty Law has been applied. Finally, the Committee notes with concern that the State party still has not located and turned over to the International Criminal Tribunal for the former Yugoslavia (ICTY) the necessary records concerning military shelling by Croatian forces during the 1995 Operation Storm, to allow the Tribunal's investigation to proceed. (arts. 2, 6, 7, 14 of the Covenant)

The State party should:

- (a) Promptly identify the total number and range of war crimes committed, irrespective of the ethnicity of the persons involved, with a view to prosecuting the remaining cases expeditiously;**
- (b) Take effective measures in order to ensure that all cases of war crimes are prosecuted in a non-discriminatory manner, independently of the perpetrator's ethnicity, and collect statistical data on victims and defendants of past and current war crimes trials;**
- (c) Increase its efforts to ensure that the possibility to refer cases to the special war crimes chambers is utilized to the fullest extent;**
- (d) Ensure that the Amnesty Law is not applied in cases of serious human rights violations or violations that amount to crimes against humanity or war crimes;**
- (e) Expedite the recovery and delivery of the records of Croatian military operations required by the ICTY in the completion of its investigative work;**
- (f) Ensure the suspension of the operation of the statute of limitation for the period of the conflict to allow the prosecution of serious cases of torture and killings.**

11. The Committee is concerned about those war crimes trials held in absentia, while noting the State Attorney Office's opposition to such trials. (art. 14 of the Covenant)

The State party should ensure that persons convicted in absentia have access to effective remedies with the possibility to reopen a case, and that all such trials are held in conformity with article 14 of the Covenant in light of general comment No. 32 (2007), on article 14 on the right to equality before courts and tribunals and to a fair trial (paras. 31 and 36).

12. While noting the State party's statement concerning its commitment to abolish the use of enclosed restraint beds (cages/net beds) as a means to restrain mental health patients, including children, in institutions, the Committee is concerned about the current use of such beds. The Committee recalls that this practice constitutes inhuman and degrading treatment. (arts. 7, 9,10 of the Covenant)

The State party should take immediate measures to abolish the use of enclosed restraint beds in psychiatric and related institutions. The State party should also establish an inspection system, taking into account the United Nations Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care.

13. The Committee takes note of the legislation adopted by the State party to improve detention conditions, including the 2008 Action Plan of the Judicial Reform Strategy and the 2009 Action Plan for Improving the Prison System, but is concerned about continuing poor conditions in the State party's detention facilities, including overcrowding and inadequate access to medical care. (arts. 7, 10 of the Covenant)

The State party should step up its efforts to improve conditions for all persons deprived of their liberty, in order to comply with all the requirements of the Standard Minimum Rules for the Treatment of Prisoners. It should tackle overcrowding as a matter of priority, inter alia, through increasing resort to alternative forms of punishment and reduced use of pretrial detention. The State party should supply the Committee with statistical data and other information illustrating the progress made in this regard in its next periodic report.

14. The Committee, while noting the low number of internally displaced persons (IDPs) and the efforts undertaken by the State party to provide a solution to their plight, is concerned that many of these persons remain in collective shelters. (art. 12).

The State party should find, without further delay, durable solutions for all IDPs in consultation with the remaining displaced persons and in accordance with the Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2).

15. While noting the progress made by the State party to increase the efficiency of the judicial system, inter alia, through the adoption of the 2005 Strategy for the Reform of the Judicial System, the Committee is concerned about the continuing substantial backlog of court cases and delays in court proceedings. (art. 14 of the Covenant)

The State party should continue to implement and reinforce its measures aimed at reducing the backlog of court cases and decreasing delays in proceedings.

16. While acknowledging the efforts made by the State party to ensure equal access to citizenship, the Committee expresses its concern at reports that some minority groups, such as Roma and Serbs, continue to face difficulties in obtaining citizenship. (arts. 16, 26, 27 of the Covenant)

The State party should continue to strengthen its efforts aimed at facilitating equal access to citizenship, in particular, for members of minority groups, and to ensure that the administrative procedures and legislative provisions on citizenship do not disadvantage persons of non-ethnic Croat origin.

17. The Committee expresses concern about reports that acts of intimidation of, and attacks on journalists have not been properly investigated by the State party and that the perception that journalists are at particular risk of attacks has a chilling effect on the exercise of freedom of the press. (arts. 14, 19 of the Covenant)

The State party should strengthen its measures to prevent intimidation of journalists, and to promptly investigate, bring to trial and punish perpetrators of attacks on, or threats against, journalists and to compensate the victims. It should also publicly condemn such instances of intimidation and attacks and generally take vigorous action to ensure freedom of the press.

18. The Committee welcomes the progress made with regard to participation of members of ethnic minorities in public life, but is concerned about the low representation of minorities at the levels of local and regional government. (arts. 25, 26, 27 of the Covenant)

The State party should strengthen its efforts to ensure adequate political representation and participation of minorities at all levels of government, in particular members of the Roma and of the Serb minority.

19. While commending the State party on the steps taken to improve the situation of Roma, including the National Programme for the Roma and the Action Plan for the Decade of Roma Inclusion 2005-2015, the Committee is concerned at de facto segregation of Roma pupils in some schools. (arts. 26, 27 of the Covenant)

The State party should intensify its efforts to implement its legislative provisions with a view to effectively ending de facto segregation of some Roma children in schools.

20. The State party should widely disseminate the text of the second periodic report, the written responses it has provided in response to the list of issues drawn up by the Committee, and the present concluding observations among the general public as well as the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country. Hard copies of those documents should be distributed to universities, public libraries, the Parliamentary library, and all other relevant places. The Committee also suggests that the report and the concluding observations be translated into the official languages in the State party.

21. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the Committee's recommendations made in paragraphs 5, 10, and 17.

22. The Committee requests the State party to provide in its third periodic report, due to be submitted by 30 October 2013, specific, up-to-date information on all its recommendations and on the Covenant as a whole. The Committee also requests the State party, when preparing the third periodic report, to consult civil society and non-governmental organizations operating in the country.
