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Political Rights**

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Summary record of the 1912th meeting

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Chairperson: Mr. Bhagwati

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The meeting was called to order at 10.10 a.m.

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

Initial report of Croatia (CCPR/C/HRV/99/1 and CCPR/C/71/L/HRP)

1. *At the invitation of the Chairperson, the delegation of Croatia took their places at the Committee table.*

2. **Ms. Karajković** (Croatia) introducing the initial report of Croatia (CCPR/C/HRV/99/1), recapitulated the events leading up to the birth of the independent State of Croatia, including its suffering during the repressive reign of Serbian President Milošević and at the hands of Serbian militias implementing a campaign of ethnic cleansing. Since the parliamentary elections of January 2000 and the election of President Mesić in February 2000, huge strides had been made on the path to democracy, and there had been radical changes in a number of policy areas which had previously sparked criticism by various international monitoring bodies. Enhancement of the protection of human and minority rights was a priority of her Government for the period 2000-2004. In addition to its membership to the United Nations, Croatia was a member of the Organization for Security and Cooperation in Europe (OSCE), the Council of Europe, a number of regional organizations, the Partnership for Peace of the North Atlantic Treaty Organization (NATO) and the World Trade Organization. It was now applying for membership in the European Union. In September 2000, the Council of Europe, recognizing Croatia's determination to fulfil its commitments, had terminated its monitoring procedures, and the police components of the OSCE mission in Croatia had been withdrawn in November 2000. Croatia was no longer included in the General Assembly omnibus resolution on human rights in Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia, and he believed the Commission on Human Rights would soon discontinue the despatch of Special Rapporteurs to observe its situation.

3. While the Constitution had laid the groundwork for an independent and sovereign Croatia with a democratic multi-party system, it had also contained many weaknesses, particularly with regard to the institutions of democratic governance. Revisions of the

Constitution were thus designed, first and foremost, to shift the overwhelming concentration of authority and power from the President of the Republic to the Croatian National Parliament and to further the process of decentralization through the reform of local and regional self-governments and improved checks and balances on the national Government. Under the revised Constitution, the President of the Republic was still elected by a direct vote but was more accountable to the Parliament, which could countersign his decisions and which he, in turn, could dissolve on constitutionally justified grounds. The constitutional revisions also sharpened the distinction among legislative, executive and judicial branches of Government, on the one hand, and among the national, central and local Governments on the other, stressing the need for all units of Government to cooperate and monitor each other.

4. With a view to establishing a balance among the legislative, executive and judicial branches, the role of the House of Representatives in Parliament had been substantially strengthened. The standing committees of the House of Representatives on foreign policy, the Constitution and political system, the judiciary, internal policy and international security were consulted on the appointment, inter alia, of the President of the Supreme Court, the judges of the Constitutional Courts' ambassadors and heads of the security service. The independence and autonomy of the judicial branch had been firmly established, and the efficiency and legality of its operations enhanced. The judicial branch was now bound only by the Constitution, legislation and evidence produced in court proceedings.

5. In domestic and foreign policy matters and the operation of security services, the Government was responsible to the House of Representatives, which had the power to call for a vote of no-confidence, if necessary. In order to maintain a balance of power, however, the Government was authorized under the Constitution to propose the dissolution of the House. Equal decision-making power was granted to the House of Representatives, as a representative body of the citizenry, and the House of Counties, as a representative body of regional self-government, although the House of Representatives retained the power to resolve legislative deadlocks.

6. In order to empower the Croatian people to exercise some control over their elected representatives, the revised Constitution offered the

option of a citizens' referendum, in cases where 10 per cent of the electorate disagreed with the policies or actions of the House of Representatives. Other priorities in the revised Constitution were gender equality and the enshrinement of the Constitution as the basis for national economic, political, legal and social life and the organization of the State. The revised Constitution restored the title "Croatian Parliament", correcting an error promulgated in 1990.

7. The new Parliament and Government elected in January 2000 had also introduced a host of legislative reforms. They included amendment of the Act on the Status of Displaced Persons and Refugees, with a view to eliminating all discriminatory provisions and granting equal rights to returnees; amendment, in June 2000, of the Reconstruction Act, granting equal reconstruction rights to all owners of war-damaged property; and amendment, also in 2000, of the Act on Areas of Special State Concerned which introduced a more efficient programme for providing housing to temporary occupants of private property and to returnees who had once had tenancy rights to areas of special State concern. Under the revised Act, State-owned apartments and houses, land and basic construction materials were provided to the returning pre-war population and other settlers in Croatia. With the cooperation of the Office of the High Commissioner for Human Rights, non-governmental organizations and, particularly, the Council of Europe, her Government had established the Training Centre for Judiciary Personnel, which conducted human rights training projects for judges and State and private attorneys.

8. New legislation had been enacted to strengthen the independence and accountability of judges, including the Act amending the Courts Act and the Act Amending the State Judicial Council Act. The Parliament was now considering an act providing compensation for damage caused by terrorism and amendments to similar act relating to property seized during the Yugoslav communist regime.

9. Proceedings had been instituted against both Serbs and Croats accused of war crimes. Perhaps the most well-known were trials of members of the Croatian army charged with committing war crimes against civilians in Gospić. According to a survey of returnees of Serbian nationality, conducted by the Office of the United Nations High Commissioner for Refugees (UNHCR), 41 per cent of the Serbs in Croatia

had returned of their own free will; most had been afforded protection, exercised their rights on the basis of their returnee status, and were receiving food or humanitarian assistance. The results of the survey clearly refuted allegations of "insecurity reigning in the [returnee] territories". Indeed, only 15 per cent of the returnees expressed feelings of fear or insecurity. Nearly 95 per cent declared their intention to remain. Thus, the problems which had occurred in early 2000 had been nothing more than isolated incidents.

10. According to the survey, the main problem for most returnees, apart from finding their homes damaged or occupied, was the lack of a job and an income. However, 75 per cent of returnees considered they were better off in Croatia than in the State they had left, which in 77 per cent of cases was the Federal Republic of Yugoslavia. A majority (65.3 per cent) considered that they enjoyed a better standard of living after their return, and 58.4 per cent believed it was equal to that of their Croatian neighbours. The areas of return were predominantly rural, as many returnees had worked in agriculture before fleeing the country. A smaller control sample of returnees of Croatian nationality, consisting of 300 subjects, showed a slightly higher level of discontent, 37.1 per cent being of the opinion that their living conditions had worsened since their return. No returnees mentioned having problems with the issue of Croatian documents. It was important to note that a large number of intending returnees still in the Federal Republic of Yugoslavia or in Bosnia and Herzegovina held Croatian documents.

11. One of the biggest challenges facing the Government of Croatia was the fight against corruption and organized crime. In tackling them, it placed the emphasis on preventive action. A package of laws had been drafted in order to bring domestic legislation on those subjects into line with international standards, and Parliament had ratified the Criminal Law Convention on Corruption of the Council of Europe. The Government planned to set up a special agency to combat corruption and organized crime, and a draft national programme and plan of action against corruption had been drawn up. The new agency would implement and direct the activities in the national programme, which would focus on accelerating the prosecution of corruption cases, introducing measures to ensure financial liability and encouraging political and civic responsibility.

12. Parliament had adopted a new Police Act, drafted with the assistance of experts from the Council of Europe, to replace legislation inherited from the former system. The new Act was rooted in the Constitution and in international legal human rights instruments. It emphasized the principle of proportionality in the use of police powers, and conferred certain new powers on the police, such as the power to offer rewards for significant information and the power to make recordings in public places for the purpose of preventing criminal offences. Rules were laid down for the use by the police of instruments of force. Under the Act, the police had a duty to protect victims of crime and sources of information. The Act specified the kinds of personal data which police were authorized to keep and the time limits for holding it, and citizens were given access to police records. In the matter of terms and conditions of employment, the Act was a *lex specialis*, regulating recruitment, promotion, training, pay and disciplinary procedures for the police separately from other members of the civil service.

13. There were still unresolved issues in Croatia stemming from its recent history of conflict. Unemployment was high, especially in the areas directly affected by the war, where housing and infrastructure still had to be rebuilt and the economy revived. The Government was seeking to create jobs, regenerate the economy and provide social assistance to vulnerable groups. Financial assistance from the international community had been less than expected, and improvements in the living standards of refugees and other inhabitants would depend mainly on economic recovery in the country as a whole. Following the parliamentary elections of January 2000, the Government was endeavouring to promote a genuine and fully functioning democracy. Its two strategic goals were full integration into European and Euro-Atlantic institutions, and the long-term stability of south-eastern Europe through increased cooperation, good neighbourly relations and trade. Croatia was committed to playing an active role in the Stability Pact for Southeastern Europe.

14. The Government's measures for further democratization of the country aimed to secure full respect for the human rights of all its citizens. Important legislative changes relating to the return of refugees had paved the way for the unimpeded return of all Croatian citizens, regardless of ethnicity and without the condition of reciprocity. Indeed the return

of refugees and displaced persons was regarded by the Government as the most important humanitarian issue it confronted.

15. The protection of minority rights was also a cornerstone of the Government's policy, involving a more proactive approach to inter-ethnic confidence-building measures and the involvement of non-governmental organizations and civil society. NGOs acted as partners of the Government in implementing such programmes as minority rights, welfare services, environmental protection and gender equality.

16. Now that all political obstacles to the country's democratic transformation had been removed, Croatia's main problems were economic, and she believed that the international community would help it in its efforts to join European institutions.

17. **Mr. Smerdel** (Croatia) replying to questions 1-3 in the list of issues (CCPR/C/71/L/HRV) said that the Constitution applied the monistic approach to the relationship between domestic and international law. According to article 141, formerly article 134, international agreements in force in Croatia were part of the internal legal order, and took priority over domestic law. The preamble to the Constitution stated that the constitutional order was in accordance with the democratic norms of the United Nations and the countries of the free world. Parliament had instructed the drafters of the Constitution to include in its bill of rights all the standards established in international human rights instruments. Courts and administrative bodies in Croatia could rely on the Covenant in their jurisprudence. The basic guarantees and rights enshrined in it were already part of the constitutional bill of rights. Indeed, in 1997, article 14 of the Constitution, which prohibited discrimination, had been amended to replace the word "citizens" by "everyone", in order to avoid the interpretation that some rights were applicable to Croatian citizens only. Since 1997, Croatia had been a party to the European Convention on Human Rights and Fundamental Freedoms, so that litigants claiming a violation of their human rights tended to seek protection from the European Court of Human Rights if the Constitutional Court did not admit their claims. The Constitutional Court examined such claims initially in the light of the Constitution, then in the light of the European Convention, and only after that, in the light of the Covenant.

18. As examples of the Constitutional Court's consideration of the validity of legislation deemed to be inconsistent with the Covenant, he cited a 1999 case in which the claimants, seeking restitution of property seized under the former Yugoslav regime, had argued that Croatia's Act on Compensation was inconsistent with the Constitution, and had invoked articles 2 (1) and 26 of the Covenant. The Court had dismissed the case, reasoning that those provisions of the Covenant did not refer to restitution or compensation, but merely to general principles of non-discrimination and equality before the law. The only exception, it said, was found in paragraph 19 of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, which recommended the incorporation into national law of norms proscribing abuses of power and providing remedies to victims of such abuses. However, the Court had not found the paragraph incompatible with the provisions of Croatia's Act on Compensation. In another case, in which the applicant contested the constitutionality of certain provisions of the Code of Criminal Procedure in the light of article 26 of the Covenant, the Court had found that it was not authorized to review the conformity of regulations, as opposed to laws, with international instruments. In any case, it said, the principles to which the applicant referred had been incorporated into Croatia's constitutional and legal order.

19. In another case, the Court had repealed certain provisions of the Defence Act, citing article 18 of the Covenant, on the basis that the freedom to change one's beliefs was protected not only by the Constitution but also by the international instruments incorporated in Croatia's internal legal order.

20. Another case in the Constitutional Court had involved the Electric Power Supply Act, article 35 (1) of which was said to be unconstitutional. The Court had upheld that claim, on the basis that the article was not in conformity with article 11 of the European Convention on Human Rights, article 8 of the International Covenant on Economic, Social and Cultural Rights, or article 22 of the International Covenant on Civil and Political Rights, all of which were part of Croatia's internal legal order and were superior to statute law, within the meaning of article 134 of the Constitution.

21. Trade union rights, including the right to strike, could be restricted only by statute law and in the interest of national security or public order, or to

prevent riots or crime, to protect health or morals or the rights and freedoms of others. No legislative measures could be adopted which ran counter to the provisions of Convention (No. 87) of the International Labour Organization concerning Freedom of Association and Protection of the Right to Organise, and it was necessary to protect the right to strike, subject to lawful restrictions for members of the armed forces, the police and the civil service. Thus the disputed article of the Electric Power Supply Act was not in conformity with article 3 of the Constitution.

22. The Constitutional Court, in another case, had rejected a claim that articles 1 and 2 of the Criminal Procedure Act, on the grounds for ordering detention, infringed article 24 of the Constitution, article 5 (1) © of the European Convention on Human Rights and Fundamental Freedoms, and article 9 of the Declaration of Human Rights, because the applicant had failed to adduce any grounds, and moreover the Act had been framed to the highest standards and in line with international conventions.

23. In another case, the applicant had claimed that a ruling of the Karlova County Court violated article 14 of the Covenant. The claim had been rejected because the disputed decision was based on procedural grounds which did not violate either the Covenant or articles 26 or 29 of the Covenant.

24. Finally, there had been a case in which the applicant had claimed that a Supreme Court ruling relating to himself violated articles 14, 15 and 16 of the Covenant, but had failed to specify grounds for his complaint.

25. In reply to question 2, he explained that article 101 of the Constitution had to be interpreted together with article 17, which provided for a derogation of certain constitutional guarantees, and also with article 141 (previously article 134), the only article which permitted a derogation within the meaning of article 4 of the Covenant. A derogation had to be decided by a two-thirds majority of Parliament, or by the President alone if the Parliament was unable to convene owing to the exigencies of the situation. Article 17 also complied with all the limits on derogation found in article 4 (2) of the Covenant. It stipulated that any restrictions on individual freedoms and rights guaranteed by the Constitution "during a state of war or an immediate threat to the independence and unity of the State, or in the event of severe natural disasters"

must be adequate to the nature of the danger, and must not result in the inequality of citizens in respect of race, colour, gender, language, religion, or national or social origin. Restrictions must not be imposed, even in the case of an immediate threat to the existence of the State, on the application of provisions of the Constitution concerning the right to life, prohibition of torture, cruel or degrading treatment or punishment, on the legal definitions of criminal offences and punishments, or on freedom of thought, conscience and religion.

26. Article 101 empowered the President of the Republic, in time of war, to issue decrees with the force of law, subject to the authority of Parliament, or on the proposal of the Prime Minister in a case of immediate danger to the independence, unity and existence of the State, "or if the governmental bodies are disabled to perform their duties". In the latter case, such decrees must be submitted for approval to Parliament as soon as it was able to convene. On a strict interpretation, the derogation which was permitted if governmental bodies were unable to act must be construed according to article 4 of the Covenant, meaning that such a situation was an emergency threatening the life of the nation. That provision had never been invoked in practice; however, during the armed conflict in Croatia the President of the Republic had issued a number of emergency decrees, introducing measures such as the establishment of military tribunals and a military prosecutor, on the ground of an "immediate threat to the existence of the Republic". At that time, war had not actually been declared either by Croatia or by any other government engaged in the conflict. Those decrees had been revoked in 1996.

27. **The Chairperson** invited the delegation to reply to the question in paragraph 3 of the list of issues relating to the procedures or mechanisms in place for the implementation of any Views adopted by the Committee under the Optional Protocol.

28. **Mr. Smerdel** (Croatia) said that a special Department for Human Rights had been established within the Foreign Ministry in 1993. The Department, which reported to the Foreign Minister, was in charge of reporting on and implementing Views expressed within the framework of international human rights instruments. The Foreign Minister reported to the Prime Minister and the Government, which in turn informed the Committee on Human Rights of the

House of Representatives of the Croatian Parliament on implementation measures to be taken, particularly proposals to amend legislation.

29. These new mechanisms had been used following the initial and first regular reports submitted by Croatia to the United Nations Committee on the Convention on the Elimination of All Forms of Racial Discrimination in 1993 and 1994. He added that the Government had recently set up a Commission on Human Rights.

Freedom of movement (art. 12)

30. **The Chairperson** invited the delegation to reply to the questions in paragraph 4 of the list of issues regarding the situation of Croatian refugees of Serbian origin, particularly their ability to obtain identity documents and to recover their property.

31. **Mr. Sočanac** (Croatia) said that the Decree on the Conditions and Criteria for Housing Accommodation on the Territories of Special State Concern had been adopted in February 2001 in order to strengthen Croatian housing policy. Priority had been given to temporary occupants of property who were entitled to alternative accommodation, although returnees who did not have vacant housing were also covered by the Decree.

32. Cross-border return procedures had been simplified and speeded up, with shorter deadlines for dealing with applications and temporary accommodation being offered to returnees whose property had been destroyed or occupied.

33. The obstacles to unconditional return and reintegration of refugees had been removed. All returnees had been guaranteed equal rights to reconstruction, return of property and social services.

34. The number of returnees totalled 2,270,957 to date, including 79,163 returnees of Serbian nationality and 191,794 formerly displaced persons, mainly Croats.

35. There had been a total of 32,817 returnees in 2000, including 18,109 Croatian Serbs and 14,708 displaced Croats.

36. Applications for return to Croatia were still being filed, primarily by Croatian refugees living in the Former Republic of Yugoslavia and Bosnia-Herzegovina. Processed by the UNHCR, those applications were being dealt with by the Government

within a month of being filed, with the majority of requests being granted. Returnees could also apply for and be issued travel documents at Croatian diplomatic and consular offices. Croatian refugees had not encountered significant problems in being issued such documents and many potential returnees living in the Former Republic of Yugoslavia and Bosnia-Herzegovina still possessed Croatian documents. Government activities including support for improved multi-ethnic cooperation at the local level, had resulted in significant improvements in the refugee return process. Associations of Serbian returnees and refugees from Bosnia-Herzegovina had signed a joint statement on cooperation with the backing of the Croatian Government. The number of minority returnees had increased significantly in 2000 (18,000 versus 12,000 in 1999) as a result of those improvements.

37. Significant efforts had been made in 2000 to return occupied property, mainly owned by Serbian returnees. Housing commissions had received 11,500 applications and some 4,000 housing units had been returned to their rightful owners. A review of all property allocated under the Act on the Temporary Occupation and Management of Specific Property (since repealed) had begun in February 2001, and by 10 March 2001, 7,498 decisions had been reviewed. In approximately half those cases, temporary occupants were entitled to alternative accommodation and appropriate directives needed to be issued. In all, some 7,000 housing units would be required for alternative accommodation. In addition, 88 cases of multiple and illegal occupancy had been discovered, 30 of which had been resolved.

38. In addition to reviewing allocated properties, the Government had streamlined procedures for the return of property, undertaken to provide approximately 2,000 housing units through the credit programme of the Council of Europe's International Bank for Reconstruction and Development (IBRD) and decided to give special priority to identifying and solving all cases of multiple or illegal occupancy.

39. Approximately 103,500 housing units had been rebuilt to date and US\$ 99 million had been earmarked for the reconstruction of 10,860 damaged units in 2001.

40. Social services were being provided to some 66,274 displaced persons, returnees or refugees at a total monthly cost of US\$ 2.4 million. Additional humanitarian assistance would soon be provided to

250,000 of the most needy inhabitants in the affected regions.

41. In addition to the US\$ 124 million budgeted by the State for returnee support, US\$ 63.4 million had been made available under the Stability Pact for South-eastern Europe and a loan in the amount of 30 million euros had been secured from the IBRD.

42. A total of 68,024 persons were in need of housing, including Croatian citizens of Serbian nationality and refugees currently living in the Former Republic of Yugoslavia and Bosnia-Herzegovina, as well as displaced persons and refugees within Croatia. The issue of reintegrating returnees was no longer political but had become economic and social. The current unemployment rate in the areas affected had reached 60 per cent. Rebuilding the country's infrastructure and economy was of the utmost importance.

43. Croatia had accepted the principle that human rights were no longer simply an internal issue but were of concern to the entire international community. The country was committed to respecting the rights and freedoms of its citizens in accordance with the international conventions and treaties referred to in the Act on Human Rights and Freedoms and the Act on the Rights of Ethnic and National Communities and Minorities in the Republic of Croatia. Accordingly, in December 1993 the Constitutional Court had repealed the provision of Article 26 (3) of the Croatian Citizenship Act which provided that the statement of reasons for the ruling by which an application for acquisition of citizenship is rejected need not indicate the reasons for rejecting such application.

44. The Travel Documents of Croatian Citizens Act had also been amended in order to increase the level of security and reduce the possibility of abuse in the production and use of travel documents. For example, the new Croatian passport had been modified to conform with international standards and a more appropriate balance had been reached between the gravity of unlawful behaviour and the sanctions imposed by the Act.

Rights to life, liberty and security (arts. 2, 6, 7, 9, 16 and 17)

45. **The Chairperson** invited the delegation to reply to the question on ethnically motivated killings in paragraph 5 of the list of issues.

46. **Mr. Kukavica** (Croatia) said that during the armed conflict in Croatia from 1991 to 1995, there had been a number of ethnically motivated war crimes and murders. All cases reported to the police had been investigated, crime reports had been filed and court proceedings had been initiated, as appropriate.

47. As a result of the Croatian security force operations in 1995, 46 civilians, mostly Serbs, had been murdered in the liberated territory. Police had identified 21 suspects and filed crime reports related to the murder of 32 individuals. Criminal proceedings had been initiated by the State Prosecutor in all those cases, some of which had been finalized.

48. Ethnically motivated murders had been on the decline, with only 6 out of 435 murders over the past five years having been identified as ethnically related. Suspects had been identified and charged in all those cases. He pointed out that all State agencies in charge of collecting data related to criminal proceedings paid special attention to ethnically motivated offences.

49. **The Chairperson** invited the delegation to reply to the question on cooperation with the International Criminal Tribunal for the Former Yugoslavia in paragraph 6 of the list of issues.

50. **Ms. Karajković** (Croatia) noted that in April 2000 the Croatian Parliament had adopted a Declaration on Cooperation with the International Criminal Tribunal for the Former Yugoslavia (ICTY) at The Hague, thereby committing itself to pursue and prosecute actively the perpetrators of war crimes. Among the concrete examples of the Government's determination to cooperate with the ICTY, she cited the exhumations carried out by the Prosecutor's Office of the ICTY in cooperation with the Ministry of the Interior; documents related to the armed conflict had been delivered to the Prosecutor's Office and active members of the Croatian Armed Forces had been interviewed as potential witnesses; all documents held by Croatia relating to Bosnia-Herzegovina had been transferred to the State Archives and 36 investigators and translators from the Prosecutor's Office had worked in the Archives for more than six months during 2000.

51. The Office for Cooperation with the ICTY and the International Court of Justice had dealt expeditiously with more than 120 requests for legal assistance during the period April 2000 to February 2001. Liaison officers had been appointed to assist the

Prosecutor's Office. In December 2000, the Government had adopted a document entitled "Standpoints Relating to the Cooperation with the Prosecution of the International Criminal Tribunal for the Former Yugoslavia". In short, Croatia had demonstrated its firm commitment to prosecute war crimes committed on the territory of the former Yugoslavia.

52. **The Chairperson** invited the delegation to reply to the question on disappeared persons in paragraph 7 of the list of issues.

53. **Mr. Sočanac** (Croatia) said that the cases of 1,567 missing and forcibly removed persons were still being investigated by the Office of the Government of the Republic of Croatia for Confined and Missing Persons. Approximately 82 per cent were individuals unaccounted for since 1991. However, a considerably larger number of individuals (18,000) had been registered as confined or missing in late 1991 as a result of the aggression against Croatia, the majority being from the Danube region. Since that time, the Government of Croatia had secured the release or identified the remains of thousands of individuals, particularly following the liberation of the previously occupied Croatian territories. Mass graves had been found in all those territories with the largest and most numerous having been uncovered in the Danube region. Despite its efforts, the Office of the Government of the Republic of Croatia for Confined and Missing Persons had been unable to trace the remains of thousands of victims, including 833 individuals reported missing following the aggression in the Croatian Danube region.

54. Turning to persons reported missing following the Flash and Storm operations (code names given to Croat military and police operations carried out in the summer of 1995) he said that data on the number of persons missing differed considerably depending on its source.

55. Although not obligated to do so, Croatia had provided information to the Federal Republic of Yugoslavia (FRY) on individuals killed who had family members living on FRY territory. The identity of more than 200 victims had been established based on that information. Similarly, the International Committee of the Red Cross (ICRC) had completed tracing procedures for 139 individuals and the Croatian Red Cross had closed 233 cases.

56. The Government had also been collaborating with ICRC in order to compile an accurate list of missing persons — a prerequisite to definitively determining their fate. Once the list had been compiled, families would be contacted, relevant data would be collected, and the process of exhumation and identification of mortal remains would be completed. Croatia had also attempted to establish the fate of citizens of Serbian nationality reported missing before the Flash and Storm operations. Graves had been exhumed in Vukovar, Western Slavonia, the Gospić area, the Croatian Danube region, Banovina and Southern Croatia. Exhumations had been carried out based on availability of information rather than nationality or religion.

57. Croatia attached the highest priority to discovering the fate of all detained and missing persons. Accordingly, since 1991 it had actively cooperated with ICRC, the United Nations Commission on Human Rights, the United Nations Special Process on Missing Persons in the Territory of the Former Yugoslavia, the European Community Monitoring Mission and the International Commission on Missing Persons in the Former Yugoslavia. Furthermore, at Croatia's initiative, the issue of detained and missing persons had been included in the Dayton Peace Accords, as well as in a series of bilateral agreements.

58. **Mr. Mrčela**, replying to the questions in paragraph 8 of the list of issues, said that the Organization of State Administration Act provided that the Government of Croatia would pay compensation for damages incurred by a citizen, legal person or other party through the unlawful or improper activities of government bodies or legal persons vested with public power. Settlements regarding the amount of compensation and arrangements for their payment were reached in writing. If it could not be established that damage had been inflicted, and the damaged party insisted on the claim, he or she would be instructed to institute compensation proceedings before the competent court.

59. The Civil Servants and Government Employees Act specified that a civil servant was obliged to pay compensation for any damage he or she inflicted on a State administrative body. The procedure for identifying unlawful or improper activities committed by police staff of the Ministry of the Interior was conducted by the Internal Control Office and other services responsible for assessing lawfulness of staff conduct.

60. The Penal Code provided for offences by members of the police force or of other law enforcement services in the performance of their duties, including torture and other cruel, inhuman or degrading treatment, violating a dwelling, unlawful search, deprivation of freedom, extortion of statements through coercion, maltreatment, violating the privacy of correspondence, unauthorized recording and wiretapping, and the unlawful appropriation of objects during investigation or search.

61. Within the compensation scheme, persons convicted without justification or arrested without foundation were entitled to compensation for physical and consequential damages; 140 such claims had been received in 2000. If an application was not granted or if no decision was made within 3 months, the damaged party could file a complaint for compensation with the competent court. If the case related to unjustified conviction or unfounded deprivation of liberty had been broadcast in the media, damaging the person's reputation, the court would, on request, publish an announcement of the decision to overturn the previous conviction or arrest. If the case had not been mentioned by the media, the announcement would be submitted to the person's employer.

62. A person whose employment or social insurance status was terminated because of an unjustified conviction or unfounded arrest was entitled to recognition of the period missed, and to calculation of unemployment, provided the unemployment occurred through no fault of his or her own.

63. **Mr. Kukavic**, replying to the question raised in paragraph 9, said that, following the change of Government in early 2000, the Ministry of the Interior had intensified its investigation of information and facts about perpetrators and criminal offences committed during armed rebellion and armed conflicts, and of crimes prohibited by international law.

64. In addition, a law was currently being drafted that would establish a separate department within the Office of the Public Prosecutor to deal exclusively with the prosecution of war crimes, as well as separate specialized investigation departments and trial chambers within the county courts. Special attention would be paid to checking information and facts obtained from returnees who had left their homes during the war. During 2000 and 2001, criminal reports had been lodged against 37 persons reasonably

suspected of having committed 8 war-related criminal offences; proceedings had been instituted and were currently pending.

65. **Mr. Mrčela**, replying to the questions raised in paragraph 10, said that the Penal Code prohibited anyone from luring, recruiting or inciting another person to offer sexual services for gain or from coercing anyone, particularly a child or minor, to go to another State for the purpose of offering such services. Whether such a person had a record of involvement in prostitution was considered irrelevant.

66. The criminal offence of international prostitution was derived from many sources, including the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others. There had been no cases of unlawful transport of foreign citizens into Croatia for the purpose of committing such an offence; such women tended to come to Croatia as tourists and to voluntarily engage in prostitution. Thus far, although there had been no cases of unlawful traffic in persons across the State border for prostitution, there had been cases of unlawful transit of persons across Croatia en route to Western European countries.

67. The Criminal Proceedings Act established that, in order to collect the necessary information and evidence to initiate criminal proceedings in those cases, special methods could be applied such as recording or taping of telephone conversations, surveillance of premises, persons and objects, the use of undercover investigators, offers of bribes, and surveillance of the transport and delivery of objects. Such methods were carried out at the request of the public prosecutor, on the order of the investigating judge, and implemented by the police.

68. **Mr. Kukavica**, replying to the questions raised in paragraph 11 of the list of issues, said that the municipal or county courts could order the expulsion of a foreigner as a security measure whereas the misdemeanor courts handed down protective measures of removal. The Movement and Stay of Foreigners Act provided for the removal of a foreigner when all available legal remedies had been exhausted.

69. In such cases, the Act provided that the competent authority would fix a time limit within which the foreigner must leave Croatia, failing which he or she would be removed by force.

70. In response to the questions raised in paragraph 12, he said that under the Movement and Stay of Foreigners Act, a temporary stay meant the stay of a foreigner with a transit visa, entry visa or border pass. A foreigner with a transit visa could stay until the expiration of the visa, but not more than 7 days after his entry. A foreigner with an entry visa for a tourist or business visit could stay until the expiration of the visa, but not more than three months after the date of his entry. A border pass was valid for a period of three months.

71. A foreigner who wished to stay for longer than three months, and who had come to Croatia for the purposes of education, specialization, scientific research, employment, the performance of a professional activity, medical treatment, a tourist stay, or had married a Croatian citizen or had come for some other legitimate reason must submit an application for an extension before the expiration of the time limit. An extension would only be granted for the reasons for which the visa was originally issued; applications for extension were filed with the police department where the person's residence was registered. Evidence of means of subsistence, a residency certificate and other required evidence must be included with the application. The Act established the same conditions for extensions of stay to all foreigners, regardless of their citizenship.

72. **Ms. Karajković**, in response to the questions raised in paragraph 13, said that her delegation had circulated a chart containing statistics on the revocation of permanent residence.

73. Replying to the questions raised in paragraph 14, she said that the Rules of Court Proceedings regulated the timely and orderly performance of court activities. The President of the Court examined the work of court chambers, single judges, investigating judges and other court employees, by examining cases and decisions and by inspecting registers, dockets, auxiliary books and lists, and by supervising the work of the clerk's office, the public records service, and other offices.

74. Furthermore, the presidents of the higher courts, personally or through designated judges and other professionals, carried out yearly inspections of the operations of the lower courts within their competence. They submitted a report on their inspection, including methods, results and measures taken, to the Ministry of

Justice, Administration and Self-Government, as well as to the court being inspected.

75. In addition, a working group of the Ministry of Justice, Administration and Self-Government had prepared a draft law amending the Civil Procedure Act, the object of which was to accelerate and improve the efficiency of court proceedings, and which would be submitted to the Government during the current year. In the view of that Ministry, the problem of backlogged cases and court inefficiency was the most severe problem confronting the Croatian judicial system, and data on backlogged cases suggested that the courts did not yet provide sufficient legal protection either to individuals or legal entities.

76. Moreover, an efficient judicial system was a basic prerequisite for the development of a market economy. In that regard, the principle of the rule of law established by the Croatian Constitution had not been fulfilled. By becoming a member of the Council of Europe and by adopting the European Convention on Human Rights, Croatia had undertaken to deliver court decisions within a reasonable period of time. With a view to more quickly settling pending court cases, and to achieving greater judicial efficiency, the Act on the Amendments to the Courts Act and the Act on the Amendments to the State Judicial Council Act had been passed in 1990, along with related draft regulations. The Public Prosecution Act was also under review.

77. Work had also begun on amendments to the Civil Procedure Act, aimed at speeding up the proceedings and tightening procedural discipline, which would include changing the role of the preparatory hearing so as to collect all procedural documentation before the trial began. The long-term changes envisaged included the individualization of measures for each particular court; the establishment of conditions for the commencement of operations of newly created courts and a halt to the creation of additional courts; amendments to procedural regulations, improvements in procedural discipline, and the establishment of time limits for the courts in specific circumstances; the improvement of premises and of financial and technical equipment; accelerating the computerization of the judiciary; and strengthening the control of the Ministry over the work of judicial bodies vis-à-vis the judicial administration.

78. With reference to the application of article 14 to minors, she said that the Police Act specified that police officers specially trained to deal with juvenile delinquency should be responsible for implementing measures against minors and young adults, as well as any measures handed down under the criminal law for the protection of children and minors. Furthermore, a parent or guardian must be present, except under special circumstances and in cases where proceedings could not be deferred.

79. Replying to the question raised in paragraph 15 of the list of issues, she said that the Execution Act regulated court procedure in the enforcement of claims on the basis of enforceable and authentic documents (execution procedure) and in providing security for a claim (security procedure). Accordingly, a court ordered an execution only on the basis of an enforceable and authentic document. The municipal court in the area in which the property was located was empowered to hand down an execution motion for vacating and delivering property, and for carrying out the motion. Eight days after the ruling on execution was served on the defendant, the vacating and delivery of the property commenced, even if the decision had not become final. During the execution, the distraining officer evicted persons, removed objects from the property, and turned over the property to the execution plaintiff. The court could impose fines or detention on persons who obstructed the execution. At the request of the court, the police and social welfare services were obliged to provide assistance in carrying out the order.

80. The Execution Act regulated the enforcement of court decisions to evict person illegally occupying land, houses or apartments and established the territorial jurisdiction of the courts. The Courts Act regulated the jurisdiction of the courts in execution proceedings. A motion for execution could only be ordered on the basis of an enforceable decision if the time limit for voluntary fulfilment had expired. The defendant had the right to lodge an appeal against the ruling.

81. A court of first instance could either grant an appeal, or forward the case to a court of second instance. The execution could only be carried out after the ruling on execution was final.

The meeting rose at 1 p.m.