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the Elimination  
of all Forms of  
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

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SUMMARY RECORD OF THE 1276th MEETING

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on Monday, 3 August 1998, at 3 p.m.

Chairman: Mr. ABOUL-NASR

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CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4)

Initial, second and third periodic reports of Croatia (CERD/C/290/Add.1; HRI/CORE/1/Add.32)

1. At the invitation of the Chairperson, Mr. Palarić, Mr. Pešorda, Ms. Marković, Ms. Kos and Ms. Kopajtich-Škrlec (Croatia) took places at the Committee table.
2. Mr. PALARIĆ, (Croatia), explaining that the conditions necessary for implementing the Convention were in place, said that the Constitution of the Republic of Croatia guaranteed all Croatian citizens all rights and freedoms without distinction as to colour and that acts of racial discrimination were punishable in accordance with a number of provisions and legislative procedures. In practice, Croatia was a multi-ethnic State which fully guaranteed all the rights of ethnic minorities living in its territory, in particular, a wide range of political and cultural rights, as well as some degree of autonomy for minority groups commensurate with their size.
3. Racial discrimination based on colour, race, sex or religion did not exist in the Republic of Croatia, but relations between the Croatian majority and the other minorities, on the one hand, and the Serbian minority, on the other, were a matter of concern. Referring to the core document (HRI/CORE/1/Add.32, paras. 21-27), he briefly recalled the circumstances leading to the creation of the Republic of Croatia as an independent State following the disintegration of the Socialist Federal Republic of Yugoslavia. The Constitution of the new State, adopted on 21 December 1990 and ratified by 95 per cent of the electorate in a referendum, established the Republic of Croatia as the national State of the Croatian nation and the State of members of other nations and minorities who were its citizens and who enjoyed equality with citizens of Croatian nationality and the realization of their ethnic rights, in accordance with the democratic standards of the United Nations and countries of the free world. Consequently, the Croatian people constituted a community of free and equal citizens (para. 29).
4. He also referred to the general information on the organization of the Government contained in paragraphs 30 to 39 of the core document, pointing out that minority representatives, appointed by the President of the Republic on the basis of proportional representation, occupied seats in the House of Representatives. The report also described the general legal framework for the protection of human rights (paras. 40-45) and the mechanisms to ensure the independence of the judiciary, including the Constitutional Court, which monitored the constitutionality of laws and other legislative and regulatory provisions. The Ombudsman guaranteed respect for and the promotion of citizens' rights and made relevant recommendations to Parliament. Every year, he had to submit a report to Parliament on what he had been doing to protect human rights in conformity with his mandate.
5. He paid tribute to the efforts which had been made by the United Nations, in cooperation with the Republic of Croatia, and had allowed Eastern Slavonia to be reintegrated peacefully into Croatian territory, in particular by organizing internationally monitored local elections, some of

which had been won by members of the Serb minority. With the assistance of the Council of Europe, the Government of Croatia was setting up a programme, for the return and resettlement of Serbs who had taken part in the war in Eastern Slavonia and elsewhere, which had been fuelled by Serbian nationalism in 1995. The Constitution prohibited all forms of segregation and inequality among nationals. Furthermore, all international instruments ratified by the Republic of Croatia formed an integral part of domestic legislation and took precedence over it. Croatia had signed all the international instruments relating to the protection of human rights and the elimination of racial discrimination and had become a full member of the Council of Europe. It therefore complied with European standards relating to the protection of human rights and ethnic minorities.

6. In addition to the rights enjoyed by all citizens, Croatian law guaranteed ethnic minorities specific rights, including the use of minority languages for official purposes, as in the administration and in courts, and the right to cultural autonomy, as indicated in Croatia's periodic report.

7. Croatian legislation, particularly article 68 of the Constitution, which guaranteed Croatian citizens the right to carry out scientific and cultural activities freely and protected literary, artistic, scientific and intellectual property, did not encourage any form of racial discrimination relating to culture or the arts. Consequently, ethnic minorities freely carried out such activities within the context of a dozen or so publicly funded associations - Italian, Czech, Slovak, Hungarian, Ruthenian, Ukrainian, Serbian, German, Austrian, Jewish, Slovenian, Albanian, Macedonian, Roma and Montenegrin.

8. In order to guarantee the cultural rights of minorities, national and university libraries, modelled on central libraries, and libraries intended specifically for minorities enabled members of the various ethnic communities to consult recent publications in their mother tongue and worked, as appropriate, in collaboration with community and school libraries. Central libraries had been set up to meet the needs of ethnic minorities locally on the basis of their size.

9. The Croatian Government believed that the cultural heritage of minorities was part of the cultural heritage of the Croatian State. It was therefore represented and given a prominent place in museums, ethnographic collections and cultural exhibitions, in addition to the collections of the ethnic communities themselves, which also helped guarantee ethnic minorities the full enjoyment of their rights.

10. The rights of ethnic minorities and foreign citizens were guaranteed by provisions of the Constitutional Law relating to the exercise and protection of basic human rights and fundamental freedoms, cultural autonomy and the other rights of ethnic and national communities and minorities. Thus, the Constitutional Law gave such persons the right to be brought up and taught in their own language and writing within the framework of special programmes. Class size was regulated and private schools were grant-aided by the State, which also funded the production of textbooks in minority languages. In addition, the Croatian authorities ensured that all minorities had the possibility of taking part in public life.

11. Recalling that confidence-building measures had been introduced by the Republic of Croatia in order to guarantee peaceful coexistence, harmony and mutual understanding in the wake of the armed conflict and had been the direct result of the recommendations of the international community, he said that the Croatian authorities intended to collaborate closely with the Committee by submitting regular reports under article 9 of the Convention.

12. Mr. YUTZIS (Country Rapporteur), recalling the dark historical background to the creation of the Republic of Croatia, said that, since the signing of the General Framework Agreement for Peace in Bosnia and Herzegovina, life seemed to be getting back to normal in the country. In June 1996, the United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium (UNTAES) had announced that the area had been completely demilitarized and the Agreement on the Normalization of Relations between the Republic of Croatia and the Federal Republic of Yugoslavia had been signed in August 1996. In resolution 1074 (1996), the Security Council had decided to lift economic sanctions against the Federal Republic of Yugoslavia and Republika Srpska and the international community had considered that its intervention was no longer necessary. However, it was impossible to forget the crimes against humanity committed between 1991 and 1995, the 2 million refugees and internally displaced persons and the 200,000 people who had lost their lives as a result of the fighting.

13. The Republic of Croatia had contributed enormously to the peace process in the region and the Government had demonstrated a firm desire to normalize inter-ethnic relations in the country. It was in that spirit that the Croatian parliament had promulgated the Constitutional Law on Human Rights and Freedoms and on Rights of Ethnic and National Communities or Minorities in the Republic of Croatia. He welcomed the cooperation and technical assistance activities carried out by the Office of the United Nations High Commissioner for Human Rights and the Centre for Human Rights in collaboration with the Croatian Government. He also welcomed the initiative taken by the Government to facilitate the visit of a Committee member to Croatia to assist the authorities in implementing the provisions of the Convention.

14. Although the third periodic report of Croatia complied, in form, with the Committee's guidelines, some questions raised by the Committee at earlier sessions still had not been answered. For instance, the implementation of article 4 of the Convention was not guaranteed by the provisions referred to in paragraphs 28 to 33 of the report. Those paragraphs dealt only with individual responsibility and penalties for legal entities. However, article 4 also referred to organizations which were based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin or which attempted to justify or promote racial hatred and discrimination in any form. Article 4 of the Convention could not be said to be implemented in the absence of relevant legislation. However, paragraph 92 indicated that the New Croatian Right Wing Party had not been registered as a political party because of its programme. If a political party could be prohibited from being created, was it not possible to prevent an existing organization from carrying out its activities?

15. The Committee was concerned about the large number of reports it had received, including many from official United Nations bodies, that the

Government was not fulfilling its obligation to guarantee the independence of the judiciary. Undue pressure was said to be exerted on persons responsible for appointing and dismissing judges. The Special Rapporteur of the Commission on Human Rights on the situation of human rights in the territory of the former Yugoslavia had denounced the dismissal, in April 1997, of nine prosecutors seemingly on the basis more of the nationality of the persons concerned than of their professional qualifications. The Committee was particularly concerned about the threat to justice constituted by the dismissal of Judge Olujic, President of the Supreme Court, by the High Judicial Council on 26 November 1996. Could the Croatian delegation provide details on that case and indicate how the independence of the judiciary was guaranteed in Croatia?

16. Referring to the right to equal treatment before the tribunals and all other organs administering justice, guaranteed by article 26 of the Constitution (paragraph 35 of the report, article 5 (a) of the Convention), he requested information on the implementation of the Amnesty Law of 25 September 1996, which had admittedly, contributed greatly to creating the climate of confidence necessary for Croatian Serbs to return to their country. If the Law applied to persons convicted of offences, attacks or acts of rebellion between August 1990 and August 1996, then all criminal proceedings instituted against such persons should be cancelled. The Committee had received a number of reports about the rearrest of 27 persons a few days after they had been released again. What was the reason for such measures and how many of those persons were still being detained?

17. The Committee requested the Croatian delegation to explain the conditions in which trials of persons accused of war crimes and crimes against humanity were being held, as some witnesses present at the hearings had said that there was insufficient evidence.

18. Turning to the right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or by any individual group or institution, guaranteed by articles 21 and 22 of the Constitution, he said the Committee had received a considerable amount of information that security of person was not ensured in the former Sectors, where looting, arson and other forms of violence had become everyday occurrences. The latest Amnesty International report also contained testimonies of ill-treatment inflicted by police officers on human rights defenders and members of ethnic minorities. Could the Croatian delegation provide details in that regard?

19. As to the issue of disappeared persons (paragraph 45 of the report), he expressed surprise at the number - over 2,200 during the conflict, according to the Government, and close to 3,000 between 1995 and 1996 alone, according to Mr. Nowak, the expert of the Working Group on Enforced or Involuntary Disappearances with responsibility for that issue. That included a large number of Croatian Serbs who had been victims of Croat attacks in May and August 1995 in the fight to recover territory in the United Nations protected areas. In view of the slow progress in handing over the bodies of disappeared persons to their families the international community should firmly demonstrate its political will in conducting those searches successfully.

20. Paragraph 54 was one of the most important paragraphs in the document because it dealt with the participation of ethnic and national communities or minorities in the political life of the country. In December 1991, the Croatian Parliament had promulgated the Constitutional Law on Human Rights and Freedoms and on Rights of Ethnic and National Communities or Minorities in the Republic of Croatia. The amended law organized the proportional representation of minorities in Parliament and in the autonomous units of local self-government. It accorded a special status to the districts in which the majority of the population was of Serbian origin. In 1995, when Croatia had engaged in military operations to regain control of certain areas of its territory formerly dominated by the Serbs, some provisions of the Law had been suspended, notably those which had accorded a special status to Serb-majority areas and those which had stipulated that a minority group representing at least 8 per cent of the population of a particular district had the right to a representative. In her report on the situation of human rights in the Republic of Croatia (E/CN.4/1998/14), Ms. Elisabeth Rehn, Special Rapporteur of the Commission on Human Rights, had said that the adoption of that special Constitutional Law had been seen as one of the primary conditions for international recognition of Croatia and had questioned the extent of protection that would be accorded to minorities, in particular the Serbian minority under the suspended Law. He requested details in that regard.

21. Freedom of movement was particularly important in Croatia since it was directly linked to returnees, especially those of Serbian origin. The significant disparities between the different figures furnished by the Croatian authorities themselves reflected the chaotic nature of the influx of returnees and the serious incidents, such as attacks against refugees seeking to recover their property, demonstrated the complexity of resettling returned refugees. Furthermore, even a valid certificate of citizenship was not always sufficient to obtain permission to return to Croatia. He asked whether it was possible for Croatian ambassadors abroad to issue a passport or travel document recognized by the Croatian authorities to Croatian citizens wishing to return to Croatia.

22. The right to return to one's country and the right to a nationality were closely linked in Croatia. Despite what the Croatian authorities had said, it was obvious that the acquisition of Croatian nationality was governed by discriminatory criteria such as good knowledge of Croatian and the Latin alphabet. Furthermore, the Minister of the Interior could easily refuse Croatian nationality "in the interest of the State" and Muslims seemed to be the main targets of such discriminatory measures.

23. Special attention should be paid by the Committee to the cases of persons wishing to return to Eastern Slavonia, which were referred to in paragraph 14 of the report. It was true that the situation in that region was no longer so stable and that the Croatian authorities had made concessions to the displaced Serbs in the region, but the latter were still having great difficulty reintegrating into society and exercising their rights under the Convention. Two very positive aspects of the situation in Eastern Slavonia had been the elections of 13 April 1997 and the marked increase in the number of Croatian candidates. However, sources had reported that the Transitional Police Force (TPF) had been inciting and taking part in acts of hostility against Croatian Serbs, who seemed to be discriminated against in all areas,

including employment, health care, education and reintegration in the public service. The disappearance of the files of Serbs who had been amnestied could only heighten existing tensions.

24. Referring to Croatia's cooperation with the International Criminal Tribunal for the Former Yugoslavia, he said that, although the Croatian authorities had repeatedly stated that they wanted to help the Tribunal and had put a department in charge of such cooperation, they were not showing much goodwill and tended to play for time. They criticized the Tribunal for saying that all parties were equally to blame, whereas the Tribunal was trying to be impartial. Moreover, the State-controlled media influenced public opinion in that direction, thereby preventing the situation from being settled peacefully and hampering collaboration with the Tribunal.

25. It was absolutely essential to do everything possible to find the missing persons and for all inhabitants of Eastern Slavonia, Baranja and Western Sirmium to feel safe and that they were fully-fledged members of Croatian society. The human situations arising from the conflicts were extremely painful, but also very difficult to handle. The Croatian Government must be able to count on the cooperation of the entire international community and must itself work towards establishing peace in the country. He sincerely hoped that his questions would serve as guidelines for the Croatian Government's efforts.

26. Mr. van BOVEN said that he welcomed the wealth of information provided on the country's legal framework and institutions, as well as on confidence-building measures. He also welcomed the efforts made to guarantee the enjoyment of economic, social and cultural rights. They were dealt with in article 5 of the Convention, but were rarely taken into account. He also noted with satisfaction the number of international human rights instruments to which the Republic of Croatia was a party. He was, however, disappointed that the Committee's conclusions formulated in 1993 had remained a dead letter and hoped that the next report would show what efforts had been made to implement them.

27. With regard to the implementation of articles 4 and 5 of the Convention, he referred to the final report of Ms. Elisabeth Rehn, Special Rapporteur of the Commission on Human Rights on the situation of human rights in the territory of the former Yugoslavia (E/CN.4/1998/63). Security of person, particularly in Eastern Slavonia, Baranja and Western Sirmium, was the first matter of concern. The Special Rapporteur had mentioned misconduct by officers of the Transitional Police Force (TPF), which was, moreover, not vigorously investigating alleged abuses committed against Serbs.

28. He was also concerned about the return of refugees and displaced persons, pointing out that fewer than 10 per cent of the approximately 200,000 Croatian Serbs who had fled had returned. There were various reasons why they had stayed away, but, they were deterred by, inter alia, fear and by uncertainty about the future, as well as by the difficulties they came up against in trying to recover their property rights. In that regard, the Committee had adopted General Recommendation XXII, in which it had affirmed the right of persons who had fled their country because of conflict to return and recover their property or, where that was not possible, to be compensated.

29. Another matter of concern was the fact that it was difficult for Serbs and Muslims to regain their citizenship and thus benefit from the basic social services available to the general population.

30. He requested the Croatian delegation to inform the Committee about the progress made in cooperation between the Croatian Government and the International Criminal Tribunal. In that connection, he drew attention to the importance of the media, which tended to keep intolerance among nationalities alive, and the need not to impose censorship, but to implement article 4 of the Convention in order to guarantee respect for freedom of the press in a democratic society.

31. He also drew attention to the conclusions of a fact-finding mission, which, in 1996, had highlighted the lack of human rights training. As recommended by that mission, public opinion and law enforcement officials had to be made aware of respect for human rights, starting in schools. That point, which had been stressed by the Special Rapporteur, had also been made in the Committee's General Recommendation XIII.

32. He asked whether the Croatian Government intended to make the declaration provided for in article 14 and to ratify the amendment to article 8 of the Convention relating to the financing of the Committee's activities.

33. Ms. McDOUGALL, taking note of the large number of international instruments on which the Constitutional Law had been based, asked to what extent those instruments were being implemented in Croatia.

34. According to several NGOs, members of the armed forces, representatives of local Governments, police officers and judges turned a blind eye to many serious cases of discrimination against minorities, particularly Serbs. What was the Croatian Government doing to ensure that national guidelines were enforced by local authorities without discrimination against persons who were not of Croatian origin? What measures did it intend to take to prevent police officers and members of the armed forces from committing acts of discrimination? What measures had been taken to guarantee minority participation in the police force?

35. She asked whether the government bodies for the protection of minorities, as mentioned in paragraphs 18 and 19 of the report, had only an advisory role or whether they also had the power to bring about real changes.

36. The report contained very interesting demographic information, but many questions had still not been answered. Were there demographic statistics on measures guaranteeing equality of access to housing, employment, education and social services, for example? She also asked whether there were any statistics indicating what proportion of the total prison population ethnic groups represented. What was the ethnic composition of Croats who attended public and private institutions of higher education? Did the Government intend to set up databases that would indicate whether members of different ethnic groups fully enjoyed the rights guaranteed to them and was another population census going to be conducted?

37. She asked whether a claimant for criminal indemnification could file for compensation for an act of discrimination. She also wished to know whether needy persons could benefit from free legal aid in order to assert their rights.

38. Mr. de GOUTTES said that the report contained interesting information on the implementation of articles 2 to 7 of the Convention, but it was lacking in two respects. The general part went back to May 1994 and was therefore no longer up to date. The report also contained too little information on the inter-ethnic tension in Croatia and the problems related to the consequences of ethnic cleansing. The information given related primarily to the Croatian victims of Serbian repression, but not to the opposite situation. Nothing had thus been said about the situation of displaced Serbs who wished to return to their homes in Croatia.

39. In its 1998 report, Amnesty International estimated that around 17,500 Bosnian-Croats and 3,000 Croats from the Socialist Federal Republic of Yugoslavia had settled in Croatia. Many of those persons were being urged to move into houses belonging to Croatian Serbs and, in some cases, dwellings had deliberately been allocated to refugee families even though the authorities had been aware of the owners' imminent return. In a report prepared with a view to the consideration of the periodic report of Croatia, the Croatian Committee for Human Rights had said that Croatian politicians had made racist statements and had reported many cases of discrimination in legislation, education, employment and sports. What did the delegation think of those conclusions?

40. As Mr. van Boven had already pointed out, the report did not contain enough answers to the questions the Committee had asked about the situation in Croatia in March 1993 as part of urgent action procedures. The Committee had asked what measures had been or would be taken to facilitate the arrest of offenders under the jurisdiction of the International Criminal Tribunal for the Former Yugoslavia and whether measures had been taken to prohibit ultranationalistic and extremist activities based on ethnic grounds. It had also asked how the Croatian authorities supported the multi-ethnic organizations working for the re-establishment of the dialogue between the different communities. Could the delegation answer those questions?

41. With regard to paragraph 33 of the report, he asked the delegation to explain why so few proceedings had been instituted under the provisions of the Penal Code relating to racial discrimination, bearing in mind the extraordinary inter-ethnic tensions which existed in Croatia. He also wished to know which persons and bodies had actually been convicted. Was it just members of the Serb minority or were all ethnic groups involved? According to paragraph 215 of the report, the Constitutional Court had received 2,395 complaints of violations of constitutionally guaranteed human rights and freedoms. He requested further details in that regard and asked how many complaints related to the implementation of the Convention.

42. He also asked whether the two Serbian political parties mentioned in paragraph 91 of the report were able to carry out their activities freely.

43. Mr. VALENCIA RODRIGUEZ said he welcomed the fact that Croatia had submitted a very comprehensive and detailed report. He noted with interest that the constitutional provisions mentioned in the report were intended to guarantee the principle of equality before the law and the punishment of any act of racial discrimination. He also noted that, during the period covered by the report, the Constitutional Court had handed down 44 decisions overturning legislative and regulatory provisions which violated basic human rights and fundamental freedoms. He asked whether the Court had considered issues relating to racial discrimination.

44. He was pleased that the Republic of Croatia had signed several bilateral and multilateral agreements in order to protect the rights and interests of ethnic and national minorities. He also welcomed the fact that financial resources had been allocated to protect their rights. He asked what results had been achieved by government bodies responsible for protecting minority rights, especially the National Committee on the Normalization of Croat-Serb Relations, the Office for Ethnic and National Communities or Minorities and the Parliamentary Commission for Human Rights.

45. He welcomed the provisions of the Penal Code on segregation, racial discrimination and the crime of genocide. The provisions of article 39 of the Constitution of the Republic of Croatia, which were implemented by articles 45, 76, 133 and 240 of the Penal Code and which prohibited any incitement or instigation to war, use of violence, national, racial or religious hatred or any form of intolerance, seemed to be consistent with the obligations laid down in article 4 of the Convention. However, only physical persons were mentioned in article 133 of the Penal Code and he asked the delegation to explain whether the prohibitions also applied to organizations.

46. As to article 5 of the Convention, paragraph 36 of the report indicated that 138 constitutional complaints had been filed before the Constitutional Court on the grounds of the violation of the right to equal treatment before the courts and other State bodies. He asked whether any of the complaints related to allegations of racial or ethnic discrimination.

47. He commended the efforts made to allow ethnic and national minorities to participate in the Parliament of the Republic, and bodies representing autonomous units of local self-government and local authorities and requested additional information in that regard. Noting with satisfaction that there were 65 political parties in Croatia, of which 11 were composed predominantly of members of ethnic and national communities or minorities, he asked why the new Croatian Right Wing Party had been denied registration as a political party.

48. There were restrictions on foreigners with regard to the exercise of certain civil rights, such as the right to leave and return to the country and the right to own property. Did those restrictions apply to all foreigners without distinction as to national origin? Of the 38,566 applications for Croatian citizenship that had been denied, had any been denied for reasons based on ethnic or national origin? Had account been taken of the ethnic or national origin of the 6,465 foreigners who had been refused a work permit?

49. He welcomed the measures that had been taken in favour of minorities, especially in relation to education, language training and protection of the cultural heritage.

50. He asked the delegation whether it was true that, according to article 154 of the Constitution, international treaties ratified by Croatia were incorporated into domestic law and that the provisions of those instruments could be invoked directly in Croatian courts. He also asked whether the courts had the necessary resources to grant satisfaction or compensation for injury caused by an act of racial discrimination.

51. Ms. ZOU said that she welcomed the very detailed description of constitutional provisions at the beginning of the report, but pointed out that it did not contain enough information on problems in implementing those legislative texts. It also did not refer to the problems encountered by minorities in Croatia. It was completely silent about the fact that, during the war, in 1991 and 1992, and even afterwards, many Serb villages had been attacked and a large number of Serbs had been hunted down and massacred.

52. It had been alleged that, since coming to power, the Croatian Government had tried to remove all Serbs from the Government and the armed forces. She asked whether the delegation could provide the Committee with additional information in that regard. The Government and the President of the Republic of Croatia had repeatedly appealed to Serbs not to leave the country. However, many had left and the report gave no explanation for those departures. It was highly unlikely that the Serbs would have left if their rights had been adequately guaranteed.

53. The CHAIRPERSON suggested that the consideration of Croatia's report should be completed at the next meeting.

54. It was so decided.

The meeting rose at 6 p.m.