



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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***Conclusions and recommendations of the Committee against Torture :
Croatia. 11/06/2004.
CAT/C/CR/32/3. (Concluding Observations/Comments)***

Convention Abbreviation: CAT

COMMITTEE AGAINST TORTURE
Thirty-second session
3-21 May 2004

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 19 OF THE CONVENTION

Conclusions and recommendations of the Committee against Torture

Croatia

1. The Committee considered the third periodic report of Croatia (CAT/C/54/Add.3) at its 598th and 601st meetings (CAT/C/SR.598 and 601), held on 6 and 7 May 2004, and adopted the following conclusions and recommendations.

A. Introduction

2 The Committee welcomes the third periodic report of Croatia, while noting that the report was not prepared in complete conformity with the Committee's guidelines for the preparation of periodic reports. The Committee nevertheless expresses its appreciation for the oral information provided by the State party's delegation and the constructive dialogue which took place during the consideration of the report.

B. Positive aspects

3. The Committee notes with satisfaction the ongoing efforts by the State party to reform its legislation in order to ensure better protection of human rights, including the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment, namely:

(a) The adoption of the Law on Asylum in June 2003, which is scheduled to enter into force in July 2004 and which sets out the procedure for applying for asylum in the State party;

(b) The entry into force in February 2004, of the new Law on Foreigners which includes a provision prohibiting the deportation of individuals who could face torture if returned to their own country;

(c) The entry into force in January 2001 of the Law on the Police Force, which regulates the use of coercive measures, including the use of firearms;

(d) The entry into force in 2001 of the Law on the Execution of Penalties of Imprisonment which regulates the treatment and the rights of inmates.

4. The Committee welcomes:

(a) The signing of the Optional Protocol to the Convention against Torture in September 2003 and the assurances given by the State party's representative that ratification is envisaged;

(b) The ratification of the Rome Statute of the International Criminal Court in May 2001.

5. The Committee takes note with satisfaction of the assurances given by the State party's representative that the 1996 Amnesty Act has not been applied to acts of torture.

6. The Committee also takes note with satisfaction of the assurances given by the State party's representative that each prison inmate is given a minimum of 4 m² of living space.

7. The Committee expresses its satisfaction at the fact that the State party has extended a standing invitation to the special procedures of the Commission on Human Rights to visit the country.

C. Subjects of concern

8. The Committee is concerned about the following:

(a) In connection with torture and ill-treatment which reportedly occurred during the 1991-1995 armed conflict in the former Yugoslavia:

(i) The reported failure of the State party to carry out prompt, impartial and full investigations, to prosecute the perpetrators and to provide fair and adequate compensation to the victims;

(ii) Allegations that double standards were applied at all stages of the proceedings against Serb defendants and in favour of Croat defendants in war crime trials;

(iii) The reported harassment, intimidation and threats faced by witnesses and victims testifying in proceedings and the lack of adequate protection from the State party;

(b) The fact that, to date, there have been no prosecutions or convictions for alleged crimes pursuant to article 176 of the Penal Code, which criminalizes acts of torture and other cruel, inhuman or degrading treatment or punishment;

(c) The reported lack of prompt and adequate access by persons deprived of their liberty to legal and medical assistance and to contact with family members;

(d) In connection with asylum-seekers and illegal immigrants:

(i) The poor conditions of detention of those held in the Jezevo Reception Centre for Foreigners, including poor hygienic conditions and limited access to recreational activities;

(ii) The alleged cases of violence against those held in the Jezevo Reception Centre for Foreigners and the lack of prompt and impartial investigations into this matter;

(iii) The deprivation of their liberty for prolonged periods of time;

(e) The alleged failure of the State party to address the issue of violence and bullying between children and young adults placed in social care institutions;

(f) The alleged failure of the State party to prevent and fully and promptly investigate violent attacks by non-State actors against members of ethnic and other minorities;

(g) The poor regime for remand prisoners, who spend up to 22 hours a day in their cells without meaningful activities.

D. Recommendations

9. The Committee recommends that the State party:

(a) Take effective measures to ensure impartial, full and prompt investigations into all allegations of torture and other cruel, inhuman or degrading treatment, the prosecution and punishment of the perpetrators as appropriate and irrespective of their ethnic origin, and the provision of fair and adequate compensation for the victims;

- (b) Ensure full cooperation with the International Criminal Tribunal for the Former Yugoslavia (ICTY), inter alia by ensuring that all indicted persons in their territory are arrested and transferred to the custody of the Tribunal;
- (c) Enforce all relevant legislation providing for the protection of witnesses and other participants in proceedings and ensure that sufficient funding is allocated for effective and comprehensive witness protection programmes;
- (d) Make judges, prosecutors and lawyers fully aware of Croatia's international obligations in the field of human rights, particularly those enshrined in the Convention;
- (e) Take measures to ensure in practice the right of all persons deprived of their liberty to have prompt access to counsel and a doctor of their choice, as well as to contact family members;
- (f) Adopt all necessary measures to improve the material conditions of the reception centres for asylum-seekers and immigrants and ensure the physical and psychological integrity of all individuals accommodated in these centres;
- (g) Refrain from detaining asylum-seekers and illegal immigrants for prolonged periods;
- (h) Discontinue the practice of refusing access to asylum procedures because the authorities are unable to verify the identity of asylum-seekers owing to a lack of documentation or interpreters;
- (i) Provide an information sheet in the appropriate languages to inform asylum-seekers of the asylum procedures immediately after they are apprehended or arrive in the territory of the State party;
- (j) Allow the Office of the United Nations High Commissioner for Refugees (UNHCR) full access to asylum-seekers, and vice versa. UNHCR should normally be given access to individual files so that it can monitor asylum procedures and ensure that the rights of refugees and asylum-seekers are respected;
- (k) Increase the protection of children and young adults placed in social care institutions, inter alia by ensuring that violent acts are reported and investigated, providing support and treatment for children and young adults with psychological problems, and ensuring that these institutions employ trained personnel, such as social workers, psychologists and pedagogues;
- (l) Ensure the protection of members of ethnic and other minorities, inter alia by undertaking all effective measures to prosecute and punish all violent acts against these individuals, establishing programmes to raise awareness, prevent and combat this form of violence, and including this issue in the training of law enforcement officials and other relevant professional groups;

(m) Improve the regime of activities for remand prisoners in accordance with international standards;

(n) Provide information to the Committee on legal and other measures undertaken to ensure the systematic review of interrogation rules, instructions, methods and practices for persons deprived of their liberty;

(o) Continue with its efforts to strengthen human rights education and training activities on the prohibition of torture and ill-treatment for law enforcement officials, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment;

(p) Provide to the Committee statistical data regarding cases of torture and other forms of cruel, inhuman or degrading treatment or punishment reported to administrative authorities and the result of the investigations, disaggregated by, inter alia, gender, ethnic group, geographical region, and type and location of place of deprivation of liberty, where it occurred. In addition, information should be provided regarding complaints and cases filed with domestic courts, including the results of investigations and the consequences for the victim in terms of redress and compensation.

10. The Committee also recommends that the State party ensure the wide distribution in its territory of the Committee's conclusions and recommendations.

11. The Committee requests that the State party provide, within one year, information on its response to the Committee's recommendations contained in paragraph 9 (a), (b), (f), (n) and (p) above.

12. The Committee recommends that the State party submit its next periodic report on 7 October 2008, the due date of the fifth periodic report. This report will combine the fourth and fifth periodic reports.