



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

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## Committee against Torture

### Fifty-third session

#### Summary record of the first part (public)\* of the 1266th meeting

Held at the Palais Wilson, Geneva, on Thursday, 13 November 2014, at 10 a.m.

*Chairperson:* Mr. Grossman

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(*continued*)

*Combined fourth and fifth periodic reports of Croatia*

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\* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.1266/Add.1.

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*The meeting was called to order at 10 a.m.*

**Consideration of reports submitted by States parties under article 19 of the Convention** *(continued)*

*Combined fourth and fifth periodic reports of Croatia (CAT/C/HRV/4-5; CAT/C/HRV/Q/4-5)*

1. *At the invitation of the Chairperson, the delegation of Croatia took places at the Committee table.*
2. **Mr. Kirigin** (Croatia), introducing his country's combined fourth and fifth periodic reports (CAT/C/HRV/4-5), said that, as a full member of the European Union (EU), Croatia had now brought its domestic legislation into line with EU requirements, which had improved its implementation of the Convention against Torture. The new Criminal Code had entered into force in January 2013, and amendments to the Criminal Procedure Act adopted in late 2013 had brought domestic legislation into line with EU law on trafficking in persons and on child sex abuse, sexual exploitation and child pornography. Other legislative improvements had included regulation of the right to compensation for victims of crime, the introduction of free legal aid for all, regardless of financial status, improvements in juvenile justice, and regulation of police conduct to ensure respect for human rights and non-discrimination. In line with a recommendation from the Ombudsman, the legislation on the national preventive mechanism was being amended in order to improve the regime governing visits to places of detention. New legislation on the protection of persons with mental health problems would enter into force in January 2015 and would cover the right to receive treatment outside institutional settings, voluntary accommodation and the application of force. Under the new Criminal Code, the definition of hate crime had been amended and the list of vulnerable groups requiring protection from such crimes had been extended to include persons with disabilities.
3. Enhanced protection measures had been introduced for unaccompanied foreign minors, guaranteeing their right to temporary stay and full protection from expulsion. An integrated system had been established to combat human trafficking, based on cooperation between competent government authorities and civil society organizations from the moment victims were identified to their successful reintegration into society. Measures had been introduced to improve the methods of identification of victims and ensure their best interests. Victims of trafficking were now protected in court through the use of appropriate communication technology and had the right to psychological treatment. In 2013 some 31 victims of trafficking had been identified, and as at 31 October a further 27 had been identified in 2014.
4. In 2010, a programme entitled "Living Life Without Violence" had been launched by the Ministry of the Interior, the Ministry of Science, Education and Sports, and a non-governmental organization (NGO). It aimed to prevent violence against women, domestic violence and youth violence, and to build a culture of non-violence, primarily among young people. Awareness-raising was the priority and adults and children alike were encouraged to report all forms of violence. In 2013, it had won the European Crime Prevention Award for the best primary prevention project in the EU. Since 2010, the Ministry of the Interior had been delivering a package of measures to address domestic violence and violence against women, in cooperation with other authorities, institutions and civil society. The police received ongoing training to raise their awareness of domestic violence and gender equality.
5. Since the submission of the periodic report, a new priority list of war crimes had been established in 2013: there were 70 cases at the regional level and 1 case at the national level. The General Police Directorate continued to cooperate with the competent State

Attorney's Offices in an attempt to identify both direct offenders and offenders holding command responsibility. Under the "FENIKS" operation, the police continued to collect and process information on persons who had been detained or had gone missing during the Homeland War, including those who had been killed during the "Bljesak" and "Oluja" operations. The authorities were currently searching for 1,538 persons who had gone missing during that war. Between 2011 and 2014, the authorities had received 40 requests relating to cases that had been brought before the European Court of Human Rights following alleged violations during that period.

6. The Aliens Act had been amended to improve the protection of irregular migrants, regulate the treatment of foreigners, and provide free legal aid to foreigners in expulsion and return procedures. The Ministry of the Interior monitored all forced removals and could enter into agreements with other State bodies, international organizations and NGOs on that question. The accommodation centres provided for unaccompanied minors and other vulnerable groups of irregular migrants were being modernized and new ones were being built. All asylum seekers were now accommodated separately from other categories of foreigners; there was one centre for vulnerable groups of asylum seekers and another for non-vulnerable groups.

7. Thanks to the programme of building, refurbishment and conversion, prison capacity had increased from 3,771 places in 2013 to 3,900 in October 2014. On 31 October 2014, the prison population had stood at 3,883. Prison overcrowding was therefore much less severe than previously. Imprisonment was used as a measure of last resort for young offenders; the current juvenile prison population stood at 58, whereas capacity was for 110. Several measures had been taken to improve health care for all detainees, who were now obliged to have health insurance.

8. **Ms. Pradhan-Malla** (Country Rapporteur) welcomed the adoption in 2013 of the new Criminal Code, which defined torture as including mental and physical suffering. She asked whether victims of torture had a right to reparation and what steps the State party had taken to disseminate the anti-torture law.

9. It would be useful to learn how the national preventive mechanism could function effectively, given that the budget had been cut dramatically. She would welcome information on the mechanism for the implementation of the Ombudsman's recommendations and on steps taken to follow up such recommendations. Had the Ombudsman visited any places of detention without prior notice and without having received a specific complaint? If so, did the Ombudsman report to the Government on those visits?

10. She asked whether all detainees, including foreigners, enjoyed in practice in the first instance the rights to legal counsel, to inform their relatives of their detention and to be informed of their rights. What budget had been allocated to implement the new provisions on legal aid? Was legal aid available to victims only or also to perpetrators? She asked what information the Government had on cases of arbitrary arrest by the police and what steps it was taking to prevent such arrest. It would be useful to know whether detainees had the right to consult a doctor of their choice, which was particularly pertinent for persons diagnosed with mental health problems and detained in psychiatric units. Allegedly, Serbs were discriminated against with regard to medical care and male police officers were often present when women patients were asked to undress in psychiatric hospitals. She would welcome the delegation's comments on those allegations and on reports that foreigners and migrant workers had the right to emergency medical care only. It would be useful to know whether the new legislation on persons with mental health disorders responded to those concerns and what resources would be allocated for the effective implementation of that legislation.

11. While welcoming the reduction in the length of pretrial detention, she would appreciate the delegation's comments on reports that detainees were sometimes transferred from pretrial detention to prison hospitals, where they were detained for months on end. It would be useful to know whether there had been any documented cases in which police officers or other public officials had refused to carry out a superior's orders on the grounds that the action would constitute torture or ill-treatment.

12. The Committee would appreciate updated statistics for cases of human trafficking of foreigners into or through the State party. Could the increase in the number of reported cases of trafficking be the result of the new legislation or was the incidence of trafficking genuinely on the rise? She asked if people were trafficked within the State party as well as from abroad. She would welcome data on the outcome of cases of human trafficking, including details of convictions and acquittals. It would be useful to learn whether women engaging in prostitution were criminalized as well as their clients. Had any steps been taken to discourage demand for prostitution? She asked whether Croatia was a party to the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence and the United Nations Convention against Transnational Organized Crime, and if not, whether it planned to ratify those instruments. Given the alarming incidence of domestic violence and the number of recorded cases of female feticide, she asked whether the State party planned to improve the relevant legislation, take more effective prevention measures, and ensure that adequate support systems and protection mechanisms were in place.

13. The Committee would welcome additional information on the State party's policy and practice concerning the extradition of foreign nationals, even when the non-refoulement provision was violated. She asked whether the Government planned to take steps to improve the competence of officials and the courts to respect non-refoulement. It would be useful to learn how the State party differentiated between expulsion and removal, and whether children who were removed were unaccompanied or with their parents. She requested updated information on the number of people currently being held in the Foreign Nationals Reception Centre because they could not be deported. Had any foreigners ever been held there for over 12 months? While in that Centre, were they able to communicate with their families, friends and counsellors? She asked whether the Administrative Court, when deciding on appeals against confinement to the Foreign Nationals Reception Centre, conducted thorough investigations into possible threats faced by foreign nationals if they were returned to their countries of origin. The Committee would welcome data on the number of asylum applications received and granted, and the basis on which asylum was granted in each successful case.

14. She asked what was the legal provision for extradition. Was a separate extradition treaty required for persons accused of having committed torture and were there any grounds for rejecting an extradition request in such a case? It would be useful to learn whether there were any plans to address the ethnic bias in law enforcement. She asked what procedures had been in place for the documentation and reporting of war crimes trials in absentia. Was reparation provided in such cases and, if so, was it provided to victims' families only? She asked whether the Croatian and Serbian authorities had taken any measures to cooperate in war crimes cases. She requested information on the nature of the war crimes currently being tried in the State party, including any punishments that had been handed down, and on any cases currently before the International Criminal Tribunal for the Former Yugoslavia. She asked whether the decision of the State Attorney not to initiate criminal proceedings in the case of the 24 war crimes that had been recorded during Operation Storm was final and binding. If not, had any measures been taken to address the impunity resulting from that decision?

15. **Ms. Belmir** (Country Rapporteur) asked whether the provisions of the Convention and the identification of torture and ill-treatment formed an integral part of the curricula of the initial and ongoing training of the judiciary, doctors, the police and all officials who came into contact with detainees. What steps had the State party taken to assess the impact of that training on the number of cases of torture and ill-treatment?

16. In the light of ongoing reports of discrimination against Serbs, the Roma and foreigners in police custody, and allegations that cases reported to the Ombudsman were not always properly followed up, she asked what steps were being taken to ensure that all officials complied with the rules on questioning and detaining individuals. She enquired what measures had been taken to implement the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, particularly those concerning the use of force against prisoners, medical examinations, psychiatric treatment, the administration of medication and the use of padded cells. She failed to understand how the General Amnesty Act did not result in impunity.

17. She asked the delegation to comment on the state of the country's relationship with the European bodies responsible for investigating war crimes committed during the recent Homeland War. In particular, she requested information on the status of the State party's links with the International Criminal Court. A number of treaty bodies had noted that the persons being tried by the courts in the State party were frequently subjected to discrimination and it was in the interests of the State to undertake a thorough reform of its judicial system. Additional information on how witness protection was dealt with would also be welcome. Whether victims of torture could obtain adequate compensation was likewise an issue of interest to the Committee. In that connection, and since the rejection of an application for compensation entailed the payment of fees, she wished to know whether any funds were available to help rejected applicants.

18. **Mr. Bruni** asked the delegation to provide information on steps taken by the State party to reduce the length of pretrial detention, including any non-custodial alternatives, the number of remand prisoners and the average length of detention of prisoners awaiting sentencing. In addition, he wished to know whether remand prisoners were detained separately from convicted prisoners and why, after several years of steady increases, the overall prison population had suddenly posted a sharp drop. He wondered whether the Government had taken any measures to implement recommendations that non-custodial measures should be envisaged, since building new prisons was not a lasting solution. Lastly, he requested additional information on the practice of solitary confinement in the State party. Was it always registered and supervised to ensure that it was not tantamount to cruel or degrading treatment?

19. **Mr. Modvig**, referring to the 2012 report produced by the European Committee for the Prevention of Torture following its visit to Croatia, asked whether the State party had addressed such problems as its failure to ensure that persons under arrest were informed of their right to a medical examination before they were transferred to detention centres, the presence of police officers during medical examinations and the apparent lack of a well-defined procedure for reporting possible ill-treatment to the public prosecutor. He wished to know whether the distribution of medicines to prisoners by prison guards with no medical training, a practice described in that report, had been dealt with. Lastly, he asked whether health-care personnel in places of detention reported to medical and health authorities or to law enforcement and prison authorities.

20. **Mr. Domah** asked whether there had been any administrative or court decisions that applied the principle that evidence obtained through torture was inadmissible. He asked how successful the State party's programmes and policies on combating domestic violence had been and wondered whether the absence of a legal regime applying specifically to that problem left loopholes that allowed offenders to go unpunished. He also enquired whether a

humane system for early identification of asylum seekers and for the determination of refugee status had been put in place.

21. **Mr. Zhang Kening** asked the delegation to elaborate on how exactly the State party had managed to increase its capacity to house prisoners and reduce the prison population. He wished to know, for instance, whether that increased capacity involved prisons alone or whether it also included such alternatives as halfway houses or community-based corrections centres. He would also welcome information on how immigration officials were trained to identify migrants in need of international protection.

22. **Mr. Tugushi** asked how many police officers had been prosecuted or sanctioned for ill-treatment of prisoners in the past two years, what steps had been taken to ensure that prisoners were offered at least one hour of outdoor exercise a day and whether any major refurbishment of police holding facilities or prisons had been undertaken. He wished to know whether the shortage of health-care personnel in the prison system had been addressed. Information on prison health-care budget allocations would be of interest as well. He asked whether Croatia had adopted any guidelines for the use of means of restraint, in particular in psychiatric institutions, but also in prisons and police stations, where, according to reports, persons at risk of self-harm were forcibly immobilized or held for lengthy periods in padded rooms. He enquired whether medical personnel were obliged to report injuries to detainees or whether they did so at their own discretion. Lastly, he asked what was done when the injured person did not consent to having the injury reported.

23. **Ms. Gaer** noted that, according to State party's report, perpetrators of the most serious violations of humanitarian law were excluded from the general amnesty for acts committed during the recent Balkan Wars. Among those serious violations were instigating genocide, war crimes against the civilian population, war crimes against sick and wounded persons, war crimes against prisoners of war, and destruction of historical and cultural monuments. Torture, however, seemed to have been omitted. She therefore wondered whether that omission was an oversight and, if not, how it could have been omitted. She also wondered whether any of the nearly 22,000 people who had benefited from the amnesty had been accused of acts of torture or ill-treatment. Lastly, she would welcome comment on reports from non-governmental sources that journalists and human rights defenders were subjected to harassment or persecution and that the police were not trained to respond to domestic violence.

24. **The Chairperson**, speaking as a member of the Committee, asked how the authorities had responded to the shortcomings identified by the Ombudsman's Office during its unannounced inspections of police facilities in several Croatian cities. An overview of the work done by the country's national preventive mechanism, the staffing levels of which appeared insufficient, would also be welcome. He wondered whether he had understood correctly that no foreign nationals residing illegally in the country had availed themselves of the free legal aid that they were entitled to. It would also be of interest to the Committee to know how police training procedures had changed in the wake of two judgements against Croatia by the European Court of Human Rights.

25. He asked for information, if possible broken down by sex and ethnicity, on the number of requests submitted to and granted by the office responsible for compensation and redress for crimes committed during the recent wars, and on the amounts paid out. He wished to know what measures were being taken to enhance the protection of journalists investigating war crimes or organized crime, what was being done to ensure that Roma children did not suffer discrimination in school, whether reports that lesbian, gay, bisexual and transgender persons were sometimes committed to psychiatric hospitals were accurate and how the authorities were responding to allegations by NGOs of irregularities in juvenile detention centres. Lastly, he asked what measures the State party was taking to ensure that its participation in the global war on terror was entirely consistent with the rule of law.

26. **Ms. Belmir** drew attention to the fact that the State party had been displeased by the initial decision of the International Criminal Tribunal for the Former Yugoslavia to convict two Croatian generals for their role in Operation Storm, an operation that was a source of pride for Croatia. In that connection, she wished to know whether any of the 70 cases of war crimes that had appeared at the top of the list of cases to prosecute had involved the regions targeted by Operation Storm. She would also welcome comment on reports that defendants being prosecuted for acts of torture were more likely to benefit from mitigating circumstances if they had been members of the Croatian Armed Forces than if they had served in the military of other countries. Other issues on which she requested comment included the State party's establishment of a juvenile justice system and its treatment of victims of human trafficking.

27. **Mr. Bruni** asked what steps the State party had taken to ensure adequate training for all medical personnel dealing with detainees in the detection of signs of torture and ill-treatment, and for personnel involved in the documentation and investigation of torture, in accordance with international standards, as outlined in the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol).

28. **Mr. Tugushi** asked whether the State party had made plans to reduce the large number of persons with intellectual or emotional disabilities who were institutionalized and to strengthen support services in the community. He also wished to know whether safeguards relating to involuntary commitment to psychiatric hospitals had been put in place and whether judges ordering such commitment now interviewed the patients.

29. **The Chairperson**, speaking as a member of the Committee, asked what the range of penalties for torture was and whether the delegation could provide the Committee with any examples of such penalties handed down by the courts. He wished to know what had happened to the victims of human trafficking identified in the State party between 2002 and 2011 and requested comment on the results of the country's commendable campaign to raise awareness of trafficking in persons. He enquired whether the 12-month maximum confinement to reception centres for foreign nationals would be shortened, how long most foreign nationals actually stayed in those centres, whether hate crimes would be prosecuted as such and what the budget was for the protection of high-value witnesses.

*The public part of the meeting rose at 11.50 a.m.*