

## **EXAMPLES OF VIOLATIONS OF SOME ARTICLES OF INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS IN THE REPUBLIC OF CROATIA IN THE PERIOD 1994 – 1998**

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### **INTRODUCTION**

This report are actualy the comments on the “Initial Report of the Republic of Croatia on the Implementation of International Covenant on Civil and Political Rights”. It is based on:

- a) International Covenant on Civil and Political Rights ;(C)
- b) Initial Report of Republic of Croatia on the Covenant; (IR)
- c) Work and experience of the Civic Committee for Human Rights (CCHR) from Croatia in the period 1994 - 2001.
- d) Exchange of information with other human rights organisations.
- e) Articles published in the independent newspapers in the period 1994 - 2001.

Initial Report of the Republic of Croatia talks about the period 1994 - 1998 . It is very comprehensive (123 pages), with statistical data, which prove that Croatian Constitution and Croatian laws are in keeping with articles of the Covenant. But the Initial Report does not mention examples of the serious violations of the articles of the Covenant that happened in the period 1994 - 1998. CCHR, on the other hand, has been working on concrete violations of human rights for the last ten years and, consequently, our comments are concentrated, in the form of examples, upon concrete cases in which, in our opinion, articles of the Covenant have been seriously violated. Our estimations are based upon information, which we have had; so this overview of the violations of human rights during the indicated period is certainly not complete.

## COMMENTS

### Article 2

(C) «Each State Party to the Covenant undertakes (..) to respect and to ensure to all individuals (..) the rights recognized in the Covenant, without distinction of any kind, (..) to ensure that any person shall have an effective remedy, (..) To ensure that the competent authorities shall enforce such remedies (..)»

(IR) : «In this period there were no electoral criminal offenses, with the exception of one case in 1995 (..) (p.7) (..) there were no criminal offenses of racial and other discrimination during the years under consideration (1994 - 1998). (p.7)»

(CCHR):

Example.1: In the period from 1991 to 1995 between 7000 to 10000 houses which were on the territory under the control of the Republic of Croatia have been blown up or burned down. Perpetrators chose houses almost exclusively according to ethnical criterion – the houses whose owners were Serbs. In spite the fact that in many cases perpetrators have been locally well known, very few were prosecuted and nobody was punished.

Ex. 2: In the fall of 1995, weeks and months after the end of all military action and in the time when Republic of Croatia had full control over all its territory, over 22000 houses were blown up or burned down. Those houses were owned by Serbs most of whom had fled as refugees during the actions of Croatian army in August 1995. Very few of the perpetrators were prosecuted, nobody was punished for that mass destruction.

Ex. 3: From 1992 to 1996 a number of houses and an orthodox church in the villages Crnogorci, Dragutinoviæi, Glavina, Nebriževac, Ninkoviæi were blown up and burned down and many peasants were expelled. Expelled people and the owners of the burned houses were Croatian citizens of Serbian nationality. Villages are from the area near town of Imotski where were no military actions taken place. No perpetrator was prosecuted.

Ex. 4: In summer 1998, when Croatian citizens of Serbian nationality who left their homes as refugees in August 1995 started to return in greater number, over 80 houses of returnees at Kordun were burned down. As a rule the houses were set on fire when returnees got all documents necessary for return. For those fires nobody was prosecuted.

Ex.5 : From 1992 to 1995 more than thousand families were evicted from their apartments. Evictions had been done without any writ from the court often accompanied by violence towards people who were evicted and by plunder of their personal belongings. Perpetrators were almost always members of military or special police or soldiers of Croatian army. In some cases they were accompanied by representative of local administration and, in that case, by civil police. Victims were in more than 80% Croatian citizens of Serbian nationality. Most of the victims lived (and had tenants rights) in the apartments, which were owned before the war by Yugoslav army. In 1995 Constitutional court made a decision that such evictions without the court warrant were unconstitutional.

Until the end of 1998 nobody of those who were unlawfully or unconstitutionally evicted was returned to the apartment. Nobody was prosecuted for plunder of private property of evicted persons.

Ex. 6: One characteristic case out of many (that of Mrs. Slobodanka Postic) is described in more detail. It is added at the end of these comments.

Ex. 7: In 1996 at the elections for city assembly and the mayor of Zagreb opposition got 60% of votes while HDZ -Tudjman's ruling party, got only 40%. But Tudjman refused to recognize the results of the elections and publicly declared that votes for his party and those for opposition were not of equal value ("Every good farmer knows that two horses are worth more than two chickens"). For several months Tudjman was refusing to recognize five different candidates for mayor who were suggested by the opposition. At the end HDZ succeeded to buy off some councilors from opposition to switch over to HDZ so that HDZ became the strongest individual party in the City assembly and then Tudjman appointed the mayor of Zagreb from HDZ.

Similar cases where Tudjman's party refused to recognize the unfavorable results of local elections and tried to buy some members of the town assembly were recorded in Split, Rijeka, Trogir, Omis, Makarska, Varazdin, Metkovic and Daruvar.

There were no reactions by the judiciary.

Ex. 8: In 1997, at the elections of the representatives for the House of Counties the monitoring of elections by representatives of NGOs was forbidden in spite of the fact that there was no law which would have forbidden the monitoring. On the contrary, such monitoring was explicitly recommended in international agreement signed by Croatia. At the same elections ten different people have complained to CCHR that when they came to their voting place, half an hour before closing, their names were already circled – as if they had voted.

#### **Article 4**

(IR) : «The President of the Republic may pass decrees in the following three cases:

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- a) in the state of war
- b) in the state of an immediate threat to the independence of the State,
- c) when the governmental bodies are prevented from performing their duties»

Ex.9: During 1996 and 1997 the decree of the President about implementation of the Criminal Code was in power according to which

- there were no possibility of complain against prosecution (even if somebody was accused by mistake).
- The accused were not questioned by a judge but by an officer of the military police
- the sentence, up to 20 years of prison, could be passed on the basis of testimony given by the witness to the officer of military police.

There was no reason whatsoever that such “war decrees” derogated the laws in the mentioned period of time.

### **Article 5**

(C) : «There shall be no restriction upon or derogation from any of the fundamental human rights (..)»

(IR) : «Main articles of Croatian Constitution.»

Most of the stated examples are examples of violation of the Article 5 of the Covenant and of the Croatian Constitution.

### **Article 6**

(C) : «Every human being has the inherent right to life. This right shall be protected by law.»

(IR) : «The right to life is a constitutional right, protected by the Constitutional Court.»

Ex. 10: In the late summer and fall of 1995 several hundred civilians who were Croatian citizens of Serbian nationality and who stayed in their homes in Krajina after the “Storm” action (mainly old and very old people) were killed. Terrified peasants testified (among others, to representatives of CCHR) that people in uniforms, often black, had come, had taken cattle if there were any, killed peasants if they had found some and burned houses. At that time all those villages were under (theoretical) protection of Croatian police and administration. In most cases perpetrators of those crimes were not known and no investigation was done. Where perpetrators were known they were most often not prosecuted. And if they were prosecuted most often they were set free by court. According to the report of Minister of Justice issued in 1996, 1005 perpetrators (most of them members of Croatian army) were prosecuted for crimes against civilian population after the “Storm” action, 25 of

them for murders. At the end two were sentenced to very light sentences; courts set all others free.

For example, in 1996 Z. Sunjega, a Croatian soldier who killed M. Tisma, an old woman from the village Rudel, was set free of any guilt at the court. The explanation was that the unfortunate woman put her hand under her apron while the group of armed soldiers questioned her. (She was not armed and that happened far from any military action.)

Ex. 11: Through all that period (1994 – 1998) there was no attempt to investigate mass murders of civilians (mostly Serbs), which happened in Gospic in 1991. Members of police and high-ranking officers of the Croatian army had publicly testified about those crimes in 1997, names of people whom they accused in their testimonies were publicly known (among others Oreskovic, Norac, Rozic; see Ex.12, ) but through all the period 1994 – 1998 public prosecutor didn't do anything. On the contrary, Oreskovic was appointed as president of the municipality of Perkovic, Norac has become one of the youngest general in the Croatian army and the case of Rozic is described in the following example.

(Epilog: At the end of August 2000 the main witness against the mentioned group, Milan Levar, was killed by a bomb connected with a wire (very characteristic way, see Ex 12 ) which was placed in a car he was repairing. Soon after that murder Oreskovic, Rozic and three other persons from Gospic were arrested under the charge that they had killed civilians in Gospic in fall of 1991. In January 2001 after the investigation of many witnesses the court in Rijeka extended the prosecution and accused also general Norac. The consequences are internationally known.)

Ex. 12: During period 1995 – 1998, in the broader area of Gospic, happened a number of murders by explosive devices, which were placed in the houses or gardens of victims. In 1996 M.Miscevic was killed by a bomb, which was activated by a wire when he opened the doors of his house near Gospic. In 1996 Dusan and Marica Matijevic were very severely injured by a bomb, which was activated by a wire. The bomb was placed under the door of their house. In 1996 D. Cvijanovic and D. Masnikoza were killed by a mine, which was placed in the garden of Cvijanovic. In 1997 D Cupic, a woman from Medak near Gospic was blown up by a bomb activated by a wire placed under her pillow.

And so on. From 1996 to 1998 five people were killed and 11 severely wounded by bombs placed in the houses or gardens in the vicinity of Gospic. Through all that period police didn't find the perpetrator. But at the same time police headquarters from Gospic were buying explosive devices from Rozic (Rozic has been a plumber !?) and from March 20<sup>th</sup> 96 to September 10<sup>th</sup> 97 paid him for such explosive devices 99428 kunas (over 12000 \$).

(Epilogue: Rozic was arrested in autumn 2000 charged as one of the perpetrators of mass murders of civilians in Gospic in 1991. During the examination he confessed the described crimes)

Ex. 13. In 1996 M. Dekic (19 years old) was killed without any reason by V.Budisa, commander of special police in Split (who was maybe drunk). In 1999 the case was still at the court and V.Budisa was still free.

## **Article 7**

(C): «No one shall be subjected to torture or to cruel, inhuman or degrading treatment.»

Ex. 14: In 1992 seven Croatian citizens of Serbian nationality from village Uble were arrested and brought to prison Kuline at Sibenik. P. Novakovic accused them that they had prepared a mutiny against Republica of Croatia. The fact was that the accusation was completely unrealistic and without any supporting evidence. Accused were severely beaten for many days in military prison and Marko Madzar died from beatings. Nobody from military police was prosecuted or punished.

Ex. 15: In 1991 and 1992 in the military prison in Lora, Split, a number of people were tortured and many of them didn't survive the beatings. The name of victims and their testimonies were well known through the period 1994 – 1998. For example D.Katic testified how he had been beaten for days and kept with a chain around his neck in a doghouse, forced to bark. Nobody from military police was prosecuted or punished.

Ex. 16: In 1996 N. Violic was sent to military service. Out of his religious convictions (he has been Witness of Jehovah) he refused to take arms. He ended in military prison of Lora where he was so severely beaten that military police, in fear that he might die, transported him to the hospital. When he recovered, military policemen started to beat him again in front of the terrified medical personal in the hospital ! Nobody from military police was prosecuted or punished.

Ex. 17 : Through all the period from 1994 to 1998 it was well publicly known that the unit of special police, whose commander was T. Mercep, murdered and tortured civilians in village Pakracka Poljana. The citizens were detained there without any warrant. In 1997 one member of that unit, M.Bajramovic, testified in independent newspapers (Feral Tribune) about their atrocities. The details of tortures were so horrible that under the pressure of public opinion some perpetrators, but not Mercep, were prosecuted in the court. In 1999 most of them were set free.

## **Article 8**

(C): «No one shall be held in slavery»  
(IR): “No one shall be held in slavery”

Ex. 18. Through the period from 1995 to 1998 a high-ranking official of the police in Osijek kept an old Serb, whose house he had taken, as his slave. In 2000 he was prosecuted and sentenced to imprisonment.

## Article 9

(C) : «Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest.»

Ex. 19: Through 1997 and 1998 Serbian returnees to villages near Kostajnica, old men and women, were systematically beaten by refugees from Bosnia. At one occasion the man was killed (a Croat who tried to protect an old Serbian woman)

Nobody was prosecuted or punished.

Ex. 20 : In 1997 in villages near Glina (Kobljak, Oblaj) cattle were systematically stolen from local old Serbian population. When frightened peasants asked help from the local police they got advice not to go out of their houses during the night (to check stables and cow-sheds). After such advice the number of cattle lifting increased and peasants were convinced that cattle-lifters worked together with local police.

No one cattle-lifter was caught.

Ex. 21 : A well-known politician from opposition, S. Suvar, his wife and their friends were beaten by T.Oreskovic (see Ex. 11) and Z.Ivankovic in the restaurant when Mr. Suvar refused to sing ustashi songs and to salute with nazi (ustashi) salute.

Nobody was prosecuted or punished.

Ex. 22: In November 1995 G. Pozder, a Croatian citizen of Serbian nationality who was soldier in the army of so called Republic of Serbian Krajina was imprisoned under the charge that he committed a war crime. There was no evidence to support such prosecution but nevertheless he spent in prison a year and a half. He was beaten and a judge without presence of his barrister several times investigated him. Because of the same procedural error five members of Croatian special police (from the unit of T. Mercep, see Ex. 17) who killed family Zec (a 12 years old girl among others) in 1991 and confessed the crime to judge who questioned them were set free by court in Zagreb.

The court set G.Pozder free in 1997.

Ex. 23 : In 1996 M Graovac, Croatian citizen of Serbian nationality was sentenced to 20 years of imprisonment at the court in Split. He was prosecuted for war crimes in the concentration camp at Manjaca, organized by Republic Srpska of Karadzic. There was no evidence that he ever had been in Manjaca and strong evidence that he hadn't. The court allowed only testimony of the witnesses of the prosecution and not those of the defense (!?). (See report of Amnesty International for 1998 – Shortchanging justice – War crimes trials in former Yugoslavia.)

See also Ex. 17.

### **Article 10**

(C): «All persons deprived of their liberty shall be treated with humanity and with respect»

See previous examples.

### **Article 12**

(C): «Everyone shall be free to leave any country, including his own.  
No one shall be arbitrarily deprived of the right to enter his own country.»

(IR): «Article 32 of the Croatian Constitution»

Ex.24. During the military action of the Croatian army in August 1995 («Storm» action) when the territory of Krajina was joined back to Republic of Croatia, 150 000 Serbs who lived in that area fled to Republic Srpska and to SRYugoslavia. Those Serbs were born in Croatia, lived and worked all their life in Croatia and were entitled according to Croatian laws to Croatian citizenship. After the end of military operations, starting from the fall of 1995, many of them wanted to return. But for years most of those who wanted to return couldn't get permission of Croatian authorities to return. President of Croatia publicly stated that Croatia would allow only small numbers of individual returns out of humanitarian reasons. Such policy (and practice) was in direct collision with Article 32 of Croatian Constitution and with Article 12 of the Covenant.

### **Article 13**

(C): An alien lawfully in the territory of a State may be expelled only in pursuance of a decision reached in accordance with law

In the case of Croatia the important question has been who was an alien.

Ex. 25: When the Croatian parliament proclaimed independence many people who had lived in Croatia for 10, 20 or 30 years but had been born elsewhere in ex-Yugoslavia and were not ethnically Croats become aliens overnight. For years they have tried to regulate their status and citizenship and most of them didn't have any place to go. The reason for expulsion most often was security of the State, in which case authorities were not obliged to give any further explanation. The administration and the Law of citizenship have treated those people as if they had come from another state. But in reality they didn't change their address but another state came to them.

Ex. 26: The Law of Croatian citizenship has been applied discriminatory – For Serbs, Muslims, Albanians and Romas it has been much more difficult to get Croatian citizenship,

under the same conditions, then for citizens of Western European countries. For example, one Roma woman, who asked help from CCHR, got Croatian citizenship (she was born and has lived in Croatia). She gave birth to twins after she had got citizenship but before it was officially delivered to her. For this reason police refused to give Croatian citizenship to her newborn children and suggested to her to go to SR Yugoslavia (nobody knew why because she had never lived there) and from there their children should have applied for Croatian citizenship as foreigners.

#### **Article 14**

(C): All persons shall be equal before the courts

(..) Everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.

(Everyone shall) be tried without undue delay;

See Ex. 10, 22 and 23

Ex. 27 : In 1997 Minister of Justice, I. Crnic, in his written resignation accused M. Vukovic, president of the Supreme court (well known for his statement that Croats couldn't commit war crimes) that he predetermined the result of voting for elections of judges of Constitutional court.

Ex. 28: In 1998 President Tudjman publicly blamed those judges of the Constitutional court who didn't put their hands upon their hearts while the national anthem was played. (Such position of the hand was compulsory for members of Tudjman's party.)

Ex. 29: Due to almost one million unsolved cases courts in Croatia are sometimes so slow that they lose their principal meaning. But sometimes they are slow deliberately. Just two examples: a) In 1995 three men in Split had stolen a great number of Feral Tribune (independent weekly, critical towards President Tudjman and the Government) and publicly burned them on the main square in Split. Lawyers of Feral Tribune started a private prosecution but the court was so slow that at the end the process was stopped because of limitation period.

b) In 1994 I was beaten by police because I tried to prevent (by sitting peacefully on the floor) the eviction of a woman and her two small children from their apartment. I accused the police and started a private process – five years later the process was stopped through the statute of limitation.

### **Article 17**

(C): «No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home (..)

Everyone has the right to protection of the law against such interference or attacks.»

Ex. 30: From 1992 to 1995 more than thousand families in Croatia were evicted from their apartments by members of Croatian army and by refugees from occupied parts of Croatia. According to special decree promulgated by Parliament if the refugee took one's apartment (break in while the owner went to the market, for example) the owner couldn't start the process against him at the court. The owner could get the refugee out only by offering him another apartment !

Ex. 31: From 1995 to 1997 refugees from Bosnia took more than 10000 private houses of Serbs who fled in August 1995 and who couldn't return. Those who returned couldn't enter their houses because of the decree described in Ex 30. This has been main problem for returnees through the period 1995 – 1998. But it was also part of the strategy of HDZ government to prevent or slow down the return of Serbian refugees.

### **Article 18**

(C): «No one shall be subject to coercion which would impair his freedom to have or to adopt

a religion or belief of his choice.»

Ex. 32: In some villages and small towns orthodox churches were blown up (for ex. in Karin in 1996) or burned down (for ex. in Okucane in 1997) .

Nobody was prosecuted or punished.

Such examples spread fear to express ones religious beliefs what is in contradiction with freedom of choice.

### **Article 19**

(C): «Everyone shall have the right to freedom of expression»

Ex. 33: In modern society freedom of expression may be quite theoretical if the most influential media like most daily newspapers and TV are controlled and used by political party, which is in power. The report of Freedom House for 1999 judge situation with media in Croatia as «not free». Government tried to «bring in order» some independent and politically critical newspapers by different means of pressure.

Well known are such attempts against Feral Tribune (which got in the period 1995 – 1998 several international awards for the freedom of the press and as the best satirical weekly in the world). Government tried to make its publishing impossible by starting processes against it or

its journalists in the court, by groundless imposition of heavy taxes for pornography, or by direct threats – see Ex. 29.

## **Article 20**

(C): «Any advocacy of national, racial or religious hatred (..) shall be prohibited by law.»

Ex. 34: In 1994, Bosiljko Miletic, who was then Minister of Justice, publicly said: «Children should be educated to hate Serbs».

Ex. 35: In 1995, Bosiljko Miletic, who was then Vice-president of Croatian government publicly said: «Croatia doesn't want that people who belong to other nationality live in its territory».

Ex. 36: In 1995, Anto Dapic, president of the Croatian Law party and member of Parliament said in Parliament: «Serbs in Croatia are not a political question but an ecological one.»

Ex. 37. In the newspaper Horizont, Mate Cavar: «We, the Croats, raze down in Mostar what belongs to us (the old Turkish bridge). In Mostar there should be no place for any Asiatic Bosnjaks.»

Ex. 38: In 1998, in Zagreb, at his inauguration as president of Croatian Popular party, T. Mercep (see Exs. 17 and 22) was asked by a journalist: «Is it true that you killed all Serbs in Gospic». The question refers to the Serbian civilians who disappeared in the town of Gospic in October 1991, when Mercep, who was then high-ranking officer of the special police, came with his unit in Gospic. Mercep answered: «No, unfortunately, I didn't».

And so on. There have been hundreds of similar cases of provocation of ethnical hatred where public prosecutor should react in accordance with Croatian laws. But he didn't.

## **Article 26**

(C): «All persons are equal before the law (..) law shall prohibit any discrimination (..) on any ground (..)»

(IR) : «All shall be equal before the law (Croatian Constitution)»

See and compare previous examples, especially Ex.31.

Ex. 39: In 1995 the Croatian Parliament promulgated the «Law on temporary taking over and administration of a certain real property». According to this law the state took over the private property (fields, houses) of certain category of Croatian citizens (in practice only of some

Croatian citizens of Serbian nationality) without any compensation and for an indefinite period of time.

## **Article 27**

(C): «(..) persons belonging to minorities shall not be denied the right (..) to enjoy their own culture (..) use their own language.»

Ex. 40: In 1997, Isabel Skokandic, librarian in the town of Korcula, threw into the garbage container a great number of books from the public library. The criterion was that the books had been written by writers and poets from Serbia and Bosnia and/or were written in Cyrillic. In January 1999 by the same criterion she burned up what remains. For her work she was appointed by the town assembly as chief librarian.

Ex. 41: In 1995, Ljilja Vokic, Minister of Education, sent instruction to schools about education of national minorities. According to that instruction

- classes for pupils from minorities could be opened only in the area where a minority constituted the majority of the population
- children who are ethnical Croats could have education only in Croatian.
- children of different nationality were assigned to different classes of their own

Italian minority submitted an appeal against this instruction to the Constitutional Court. The Court decided that it was not competent because the dispute was over instruction and not over law.

## **CONCLUSION**

Working in the organization for protection of human rights we have experienced the significant improvement in the attitude of the State towards fundamental human rights from the beginning of 2000.

Of course the courts are still very slow, the number of unemployed has increased, refugees and returnees face difficult problems and there have been still violations of individual human rights. But the situation with civil and political rights has shifted from the area where violations had been done out of ideological prejudice to the area of economic difficulties. At local level there will be still a lot of discrimination but we hope that such examples as we quoted in the Comments are matter of the past.

There is still a lot to be done and to be improved. But not only our experience but also international reports about human rights in Croatia for last year, from State Department to Freedom House, have been, after long time, positive and encouraging.