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**OSCE CONFERENCE ON TOLERANCE,**  
**AND THE FIGHT AGAINST RACISM, XENOPHOBIA AND**  
**DISCRIMINATION**  
**Brussels, 13 – 14 September 2004**

**Statement by CROATIA**  
**On the Legislative and Institutional Mechanisms and**  
**Government activities in combating Racism, Xenophobia and**  
**Discrimination**

13 September 2004-09-10 11:15-13:00

## SESSION 1. LEGISLATIVE AND INSTITUTIONAL MECHANISMS AND GOVERNMENTAL ACTION, INCLUDING NEW LAW ENFORCEMENT

\* How can Governments ensure that their laws and policies are not discriminatory, and how can they prevent manifestations of discrimination?

Introduction - We live in a globalised world. This fact, although in itself indicating progress in many ways, is still insufficiently helpful in fighting the phenomenon of discrimination, modern and ancient at the same time. When we think how a conflict among the first humans had erupted over, say, food, and that the conflict had been practically resolved - by the strong overpowering the weak i.e. by introducing discrimination, it is difficult to overlook the fact that in spite of all our progress and civilisation we still have to deal with the problem of discrimination. However, there is one difference, which entitles us to be optimistic. Today, there is general awareness of the danger of this social occurrence, some instruments are at our disposal to deal with it, and no-one can shirk their responsibility, owing to the globalisation and the role of the media. Today, discrimination on the basis of race, colour, ethnic origin, religion, gender, sexual orientation, accounts for most violations of human rights throughout the world, particularly various forms of racial discrimination for manipulating masses to political ends, such as hatred against Romanies, black population and anti-Semitism or islamophobia. No state is immune from the manifestation of racial discrimination, there is no absolute equality in any society or part of the world (America, Europe, or Africa...). Discrimination in individual areas is related to poverty and poor education, but many forms of discrimination exist and are being made fashionable in democratic and rich countries. So, what are we to do?

Answer - or what a government must do to fight discrimination

/In answering this question I will try to be quite specific and present the main focuses of action in this respect, with an emphasis on the situation in my country/

The policy for fighting discrimination should be broadly based, with numerous inter-linked participants. It is, therefore, recommended to:

- Sign and join i.e. ratify international instruments related to the issue, and to regularly follow the development of international standards with a view to harmonising domestic legislation.

Croatia has ratified most of - or all key - international instruments in the field of human rights, and from here it would like to send out an appeal for their universal acceptance. Croatia has practically had no reserves with regard to such instruments, and it pretty successfully follows up on new protocols expanding the effects of such instruments and increasing the quality of protection of human rights. Consequently, in fighting discrimination Croatia is a party to all the major UN Agreements (CERD, CEDAW and its Protocol, CRC and its Protocols, CAT) and several MOUs, as well as regional instruments (ECHR, CoE Framework Convention for the Protection of Ethnic Minorities etc.). Currently, the procedure for the ratification of the CAT Protocol is under way to set up a universal mechanism for visiting states parties.

- Enact a strong and democratic Constitution

The Constitution as the highest legislative act of a country i.e. the principles reflected in it mirror the democratic level of a country's system. In order to incorporate high international standards in its domestic legal order, Croatia opted for transparency with regard to the relevant standards of international law and provided in its Constitution that treaties concluded and ratified in accordance with the Constitution, and published, shall be integral part of the domestic legal order and above laws in their legal effect. Croatian Constitution prohibits any form of discrimination; it proclaims equality as the highest value of the constitutional order; prohibits instigation to racial, religious and other discrimination; and in addition to numerous other provisions it specifically guarantees that: "citizens of the Republic of Croatia shall have all the rights and freedoms, irrespectively of their race, colour, gender, language, religion, political and other belief, ethnic or social origin, property, birth, education, social status or other characteristics".

- Issue laws and by-laws; create a body of anti-discrimination legislation

In the last few years, Croatia has increased its efforts in improving the quality of human rights protection. Many laws have been amended, or new laws have been passed to improve the exercise of particular human rights, especially in the light of fighting all forms of discrimination. For instance, the Constitutional Law on the Rights of Ethnic Minorities has been in force in Croatia since 2002, prohibiting discrimination and reinforcing the rights to preserving the identity of ethnic minorities such as the right to their own languages and education in them, the right to cultural autonomy and religion, the right to representation on representative bodies at all levels, the right to participate in public sphere etc. Last year, the Gender Equality Act was passed, for the first time in history, to prohibit all forms of discrimination on the basis of marital and family status and sexual orientation. Numerous amendments to laws have also been introduced to strengthen anti-discrimination policy, e.g. the Labour Act prohibits discrimination in employment and at workplace, and the Criminal Code has a new provision prohibiting promotion of racism and xenophobia.

- Set up i.e. identify national bodies for supervising the implementation of anti-discrimination legislation and the measures for its enforcement  
(see answer; next question)

- Implement the recommendations of bodies established in accordance with international treaties (universal and regional) concerning human rights or discrimination

Opinions of such bodies, both global and regional, are a great help to a state in developing its democratic system, because they often provide guidelines for improving the actual situation in practice and in legislation. The Republic of Croatia is fulfilling its obligations to submit regular reports required by international instruments and takes into account the comments on such reports and the recommendations issued to it by various Committees such as CERD, CAT, CEDAW etc.

- Co-operate with international monitoring mechanisms in matters of discrimination

The Republic of Croatia has sent an open invitation to all the mechanisms of the Human Rights Commission, proving its transparency with regard to the operation of its legal order. This year, Croatia has hosted the visits of the CoE High Commissioner for Human Rights, Gill Robles, and ECRI, who will publish their reports on the state of human rights, particularly concerning discrimination.

- Adopt a National Plan for fighting discrimination

Following the World Conference against Racism and Xenophobia and Other Forms of Intolerance held in Durban, and in accordance with the Action Plan adopted at the Conference, a Task Force for preparing the National Plan for Combating Discrimination has been set up in Croatia. The National Plan is being prepared.

- Strengthen partnership between the civil and governmental sectors in combating discrimination

The Government has recognised the importance of civil initiatives and is trying to co-operate with them on all levels - through partnership or by including their representatives in the work of governmental inter-department bodies. For instance, the Task Force for preparing discrimination includes numerous representatives of civil associations and ethnic minorities, whose proposals will be incorporated in the text of the National Plan.

- Increase awareness of the importance of combating discrimination, by organising workshops, seminars and campaigns

Such activities are mainly characteristic of the operation of civil associations, and inclusion of representatives of foreign NGOs enables exchange of experience and evaluation of examples of good practice. However, such activities are also a desirable form of education for the government sector as well - a Judicial Academy has been set up with the Ministry of Justice to educate judicial staff through various programmes, also concerning discrimination issues.

- Continuous education in schools

Discrimination is a widely spread phenomenon whose victims can also be children at a very young age, and forms of discrimination are already noticeable at schools and kindergartens. For this reason, Croatian Government has recognised schools as the institutions in which forms of discrimination can be combated. Consequently, the Ministry of Science, Education and Sport has envisaged a programme for children at primary schools to learn about tolerance and non-discrimination, and the Government has issued an Action Plan for preventing violence among children and youth. Last year, children at secondary schools in Croatia participated in the promotion of the publication of the European Union titled "Am I a racist?". At primary and secondary schools (100 schools have been recruited), UNICEF's national campaign is taking place to fight all forms of violence among children - bullying - in Croatia.

- Redefine the role of the media

Considering the power of the message disseminated through the media, the impression is that not all potentials in Croatia have been fully utilised, particularly that the media often approach discrimination in a sensationalist manner, and not preventively and educationally. Consequently, their role needs to be redefined. A good example was the campaign titled "Say NO to violence" related to the prevention of violence against women, as well as a TV clip on trafficking in human beings which caught the attention of the public.

- Strengthen the positions of socially most vulnerable groups

To assert the rights of the socially most vulnerable groups, in particular cases it is sometimes necessary to even implement measures of positive discrimination. Such examples are found in some Croatian laws, e.g. the Constitutional Law on the Rights of Ethnic Minorities.

- In addition, it is necessary to include many other activities in the fight against discrimination, such as: inter-cultural dialogue, development of regional and cross-border co-operation, participation in international events etc.

\*Institutional mechanisms to foster dialogue and partnership, both between different components of a society and between them and their governments?

Introduction: Today's state and its institution are more than ever characterised by how much room they grant to the civil society and the development of its institutions. The level of democracy achieved depends to a great extent on the role and quality of such a partnership. What is more, the variety of the civil society is often a result of the need to achieve greater level of equality for the vulnerable - those on the margins. This way, not only are their problems being tackled, but the very members of vulnerable social groups are involved in solving their problems to form a sort of pressure groups. Croatia as a country which has suffered a war is still grappling with the problems of transition and consolidation of its civil community. The Government of the Republic of Croatia has from the very beginning understood the importance of the role assigned to the civil sector, and over the years it has increasingly focused on partner-like forms of co-operation with the civil sector. Simultaneously, it has also reinforced its own component in the legislative, executive and judicial branches, and with the ratification of the major international instruments and the harmonisation of laws with international standards, anti-discrimination legislation has come into effect in Croatia.

Answer - or choosing mechanisms in nation states to fight discrimination

/In answering this question I will draw on the experience of my country/

Considering the fact that it is often a bigger problem to enforce already existing laws and measures than to pass new ones, it is necessary to systematically implement the measures for combating discrimination and their evaluation. In addition, the greater the variety of institutions involved in the implementation and evaluation processes, the easier do the problems of discrimination reach the public and their judgement. In this respect, Croatia has a broadly based model in place which can be a good example for the region.

The top of the pyramid, the Constitutional Court (positioned outside the tripartite division of power), is the so-called "keeper of the Constitution and constitutional order". In the proceedings for controlling the conformity with the Constitution and the legality, the Constitutional Court repeals laws if they result in unjustified privileges of particular subjects, that is in discrimination. It is also the last instance on the way to the European Human Rights Court concerning the protection of the right to equal treatment, that is in combating individual specific cases of discrimination.

As regards discrimination issues, in the hierarchy of the Government the top official in charge is Deputy Prime Minister for Social Affairs and Human Rights who chairs a steering committee with the same name (a body counselling the Government). Many ministries also deal with individual discrimination issues (Department for Human Rights at the Ministry of Foreign Affairs etc.). As required, different Government Offices have been set up and put in charge of specific discrimination issues from their area of competence (Office for Human Rights, Office for Ethnic Minorities). In addition, the Government has set up numerous inter-department bodies: commissions (for human rights; for gender equality; for the disabled).

national committees (for education on human rights, for combating trafficking in human beings) and various commissions and councils to propose measures for combating discrimination.

In the legislative sphere, specific issues of discrimination are dealt with by individual committees of Croatian Parliament, such as the Committee for Gender Equality, and the Committee for Human Rights and the Rights of Ethnic Minorities.

In Croatia, there are also independent institutions of "Ombudsman", so there is the Ombudsman of the Republic of Croatia, the Ombudswoman for the Rights of the Child (who made herself particularly deserved in the case of HIV positive children) and the Ombudswoman for Gender Equality.

The third branch in the partition of power - courts - are regularly involved in trying cases related to discrimination.

It has been shown in practice that in addition to the institutions of the state and their mechanisms, civil society and its institutions do play important roles.

\*The status of the implementation and the follow up of the Maastricht Ministerial Decision on Tolerance and Non-discrimination

Introduction - Croatia makes effort to follow up on the development of international standards and the recommendations of international organisations and conferences concerning these matters. In this context we are familiar with the text of the Maastricht Ministerial Decision on Tolerance and Non-discrimination.

Answer - or Croatian follow up to the Maastricht Decision

/In answering this question I will briefly present the activities of the Republic of Croatia which follow from or coincide with the text of the Decision/

Protection of Human Rights in Croatia occupies a special position. Through regular activities of the Government, passing new laws and national plans, as well as through the activities of civil associations, fighting discrimination is being improved and harmonised with international standards.

In respect of the Maastricht Decision, we would like to note that the National Programme for the Romanies has been adopted and is now being implemented in Croatia. The Asylum Act has also entered into force, which means enforcement of modern standards in combating discrimination related to the regulation of the status of this particularly vulnerable group.

The principle of gender equality is widely accepted in all the spheres of life and work. The Gender Equality Act has been passed and the Office for Gender Equality established, and the Ombudswoman for Gender Equality has been appointed. Also, the National Plan for Promoting Gender Equality has been adopted.

Finally, the Decision recommends close co-operation with CERD, ECRI and the systems of the UN and the CoE, in which Croatia has a long tradition, co-operating as a partner and

trying to deepen this co-operation. In this connection I would like to inform you that a visit of ECRI, scheduled in ten days, is being intensively prepared in Croatia right now.