

GERMANY

CERD 26th No. 18 (A/8418) (1971)

28. From its 56th to its 58th meetings, the Committee proceeded to determine formally its view as a Committee (as distinct from the views expressed at previous meetings, which were those of the individual members) as to which reports were “satisfactory”, in the sense that they furnished all or most of the required information, and which reports were “unsatisfactory” or “incomplete” and therefore needed to be supplemented by further information. The initial report (and supplementary report, if any) of each State Party was put before the Committee separately by the Chairman. Where there was no consensus, the question whether a State Party’s report (or reports) was “satisfactory” or whether, failing that, the Committee wished to request additional information from that State Party, was decided by vote.

29. The Committee expressed itself as satisfied with the completeness of the reports submitted by the following 15 States Parties, from which no additional information was requested: . . . Federal Republic of Germany . . .

CERD 28TH No. 18 (A/9018) (1973)

240. The initial report of the Federal Republic of Germany, submitted on 10 August 1970, and a supplementary report dated 12 March 1971, were considered by the Committee at its third session and deemed satisfactory. The second periodic report, submitted on 23 June 1972, was considered at the seventh session (141st to 143rd meetings).

241. Some members observed that the report under consideration contained comprehensive information on legislative, judicial and administrative measures and was organized in conformity with the guidelines laid down by the Committee; and that, in its preparation, some - though not all - of the questions raised by Committee members during the discussion of the earlier reports at the third session had been taken into account. Some members expressed the view that those features demonstrated the willingness of the reporting State to co-operate with the Committee and its determination to fulfil its obligations under the Convention. Special note was taken of the efforts to improve the living and working conditions of foreign workers and to ensure for them equality of treatment, and of the supplementary legislation, awaiting enactment, penalizing the glorification of violence or incitement to racial hatred.

242. Some members expressed concern over the preferential treatment (with respect to employment and labour permits) accorded to citizens of States belonging to the European Economic Community over that accorded to citizens from other countries, which did not appear to them to be in keeping with the provisions of article 1, paragraph 3, of the Convention; and some fear was expressed lest the integration of foreign workers should have negative effects on their cultural and ethnic traditions. Some members expressed the opinion that existing legislation, even when augmented by supplementary legislation still pending before the legislature, did not implement all the mandatory obligations under article 4, paragraphs (a) and (b), of the Convention - particularly the obligations to declare an offence punishable by law "all dissemination of ideas based on racial superiority", "the provision of any assistance to racist activities, including the financing thereof", and "participation" in organizations which promote racial discrimination, and to "declare illegal and prohibit" such organizations. Extensive and expanding trade relations with South Africa and sale of arms to Portugal were viewed by several members as incompatible with the relevant decisions of the United Nations and - with one member dissenting - with the obligations of a State party under the Convention.

243. With respect to the information that, of 2,827 complaints submitted to the European Commission on Human Rights, only one had been passed on to the European Court, the following questions were asked: What happened to the remaining complaints? Did the Government of the reporting State consider itself to be released from its obligations under the Convention, in respect of complaints of alleged violations of the terms of the Convention, if such complaints were dismissed by the European Commission? and What was the current status of the Federal Constitutional Court, which was mentioned in this connexion in the initial report but not in the second periodic report? With respect to 21 organizations which, according to the earlier reports, had been declared illegal, the following questions were raised: How many of those organizations had been outlawed on grounds of racial discrimination? What was the current status of those organizations had any of them been rehabilitated or had any reappeared in another form? Had their

leaders and members been prosecuted, in accordance with the provisions of article 4, paragraph (b), of the Convention? and Why had the National Democratic Party been permitted to pursue its activities?

244. In two statements made before the Committee at its 142nd and 143rd meetings, the representative of the Federal Republic of Germany gave the following replies. In accordance with the European Convention on Human Rights, complaints received by the European Commission on Human Rights were screened by independent experts, who passed on only the relevant ones to the European Court of Human Rights; the majority of complaints had been rejected by the Commission on procedural grounds, for having been submitted to the supranational body before legal remedies within the national system had been exhausted. None of the 21 organizations which were interdicted had been rehabilitated; however, members of an interdicted organization were punishable only if they continued to promote or perpetuate that organization. Regarding the National Democratic Party, he recalled that, under the Constitution, the federal courts could act only at the request of the Federal Government - which had not issued such a request, preferring to let the voters judge first; and he observed that the party in question showed clear signs of disintegration and was no longer a political factor in the reporting State. Regarding the information that certain films which might be considered racist or anti-African were shown freely in the Federal Republic of Germany, the representative of that country stated that he was convinced that the population had not been incited to racist feelings by those films; however, as a preventive measure, his Government was introducing the supplementary legislation mentioned in part III of the report under consideration which would, inter alia, prohibit the dissemination of films glorifying cruel or inhuman acts of violence or using them to incite racial hatred. Regarding foreign workers, the Committee was assured that they were given equal treatment with respect to wages, working conditions and medical care; however, the preferential treatment given to citizens of member States of the European Economic Community with respect to access to employment and labour permits was based on purely legal criteria and not on racial or ethnic considerations and did not, in the opinion of the Government of the reporting State, violate any obligation it had undertaken under the Convention. Regarding relations with the racist regimes in southern Africa, the Committee was informed that the Government of the reporting State had vehemently condemned the policy of apartheid; that it imposed a comprehensive embargo on the export of weapons to South Africa, although it maintained diplomatic and consular relations with that country and placed no restrictions on trade between it and the reporting State; that it had supported sanctions against Southern Rhodesia; and that, in the past two years, it had refused to deliver weapons to Portugal without an assurance from the Government of that country that the weapons would not be used in its colonial territories. The representative of the Federal Republic of Germany assured the Committee that he had learned from the discussion of his Government's report that there were a number of points to which the Committee had shown itself to be particularly sensitive, and that his Government would take into account all the remarks made.

245. The Committee decided to consider the report satisfactory "without prejudice to the measures which the Government of the Federal Republic of Germany assures the Committee it will adopt in compliance with the mandatory provisions of the Convention".

CERD 29TH No. 18 (A/9618) (1974)

216. The initial report of the German Democratic Republic was praised by the Committee for the comprehensiveness and detailed information it contained. It was noted with gratification that the report supplied extensive information on the implementation of articles 2, 3, 4, 5, 6, and 7 of the Convention, as well as information on the status of the Sorb minority; and that the texts of relevant legislative provisions as well as other information relating to measures giving effect to the provisions of article 7 were annexed to the report. On the other hand, it was noted with regret that no information on judicial measures or on the ethnic composition of the population had been supplied.

217. The Committee welcomed the information, contained in the statement made by the representative of the reporting State, that his Government had ratified the International Convention on the Suppression and Punishment of the Crime of Apartheid (General Assembly resolution 3068 (XXVIII), annex) and that a Committee for the Decade of the Struggle against Racism and Racial Discrimination had been established.

218. It was noted that, although article 91 (2) of the Penal Code satisfied the requirements of paragraph (a) of article 4 of the Convention, the provisions of paragraph (b) of that article had been applied less explicitly: article 92 (2) of the Penal Code concerned only physical persons who formed a racist organization or group, but it did not state that such an organization or group was illegal. It was observed also that the system giving effect to the provisions of article 6 of the Convention was not explained sufficiently and that it seemed to apply only to “citizens”, whereas that article required that “States Parties shall assure to everyone within their jurisdiction effective protection and remedies”. An inquiry was made about the condition of foreign workers in the reporting State.

219. The representative of the German Democratic Republic, in his statement before the Committee, stated, with regard to article 6 of the Convention, that the crimes of racial discrimination referred to in that article did not exist in his country, because the socialist system excluded them. With regard to foreign workers, he stated that they were not numerous in his country, that they worked on the basis of bilateral agreements between Governments, that they were treated in the same ways as nationals of the reporting State, and that their situation did not raise any problem.

CERD 29TH No. 18 (A/9618) (1974)

227. The information contained in the third periodic report of the Federal Republic of Germany, concerning measures adopted since the submission of the second periodic report, was noted, as were the replies and comments made with regard to some of the concerns expressed by the Committee at its seventh session. The Committee noted with gratification that the reporting State had ratified the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights and that, upon its admission to membership in the United Nations, it had reaffirmed its condemnation of racism and its devotion to the cause of the elimination of all forms of racial discrimination. The inclusion, in an annex, of the texts of the relevant legislative provisions mentioned in the body of the report was noted with appreciation. On the other hand, it was regretted that the report did not refer to the complaints against the reporting State pending before the courts of the Federal Republic of Germany, the European Commission, or the European Court of Human Rights, to which the previous reports had referred and about which some inquiries had been made by the Committee at the seventh session (A/9018, paras. 243-244), and did not provide any information about complaints filed since the end of 1970; that the information about the implementation of article 7 of the Convention was scanty; that no information about the ethnic composition of the population of the reporting State, apart from the foreign population, was supplied, as envisaged in the Committee's general recommendation IV; and that no information was furnished with regard to the relations of the reporting State with the racist regimes in southern Africa, as envisaged in general recommendation III. It was observed that information on those relations acquired particular significance after the admission of the reporting State into membership in the United Nations.

268. With regard to the question of compliance of the reporting State with the provisions of the articles contained in part I of the Convention, concern was expressed over certain measures which appeared to be not fully in conformity with the provisions of articles 1 and 4 of the Convention. Strong objection was expressed to the use of the noun "Germany", the adjective "German" and the words "German State" without qualification in the reports of the Federal Republic of Germany, in spite of the existence of two sovereign German States. The representative of the Federal Republic of Germany admitted that his Government's report had used the unqualified adjective "German" for the sake of brevity.

229. With regard to the application of article 1 of the Convention, several members of the Committee voiced their concern over the different treatment accorded to individuals of different nationalities and expressed the opinion that some aspects of the measures adopted by the reporting State in that regard were not in conformity with the provisions of article 1 of the Convention; one member, however, observed that all economic unions of States were ipso facto discriminatory towards non-members and that no legal objections could be derived from the Convention to policies adopted by economic unions in relation to non-member States or their nationals. Questions were raised, inter alia, with regard to the situation of the foreign labour force in the Federal Republic of Germany; some members were concerned that the integration of foreign workers might prove to be detrimental to their cultural and ethnic traditions, and that the guarantees that children of foreign workers received instruction in their mother tongue were not sufficiently firm. Some members said that it was unfair and discriminatory to reimburse foreign workers only 50 per cent of what they had

paid into the statutory pension fund and to grant less freedom of movement to foreign workers who did not come from European Economic Community (EEC) States. It was observed with regret that the statistical information on the foreign population in the Federal Republic of Germany, and on foreign workers in that country, was confined to European nationalities and that the report contained no information on the numbers of individuals of any non-European nationality. The representative of the reporting State, in his statement before the Committee, supplied some additional information about the number of Tunisians and Moroccans in his country, recalled that figures for nationals of some European countries had also not been given in the report, and assured the Committee that, in its next report, his Government would give a detailed breakdown of the entire foreign population. Referring to the doubts raised by members of the Committee concerning the possible incompatibility between certain provisions of the Treaty of Rome with the letter and spirit of the Convention, he reaffirmed his Government's position as described in the report and recalled that that problem concerned not only his country but all member countries of EEC.

230. With regard to the application of article 4 of the Convention, the discussion was focused on the failure of the Government of the reporting State to take steps with a view to the prohibition of the National Democratic Party, which was described by some members as a Fascist, neo-Nazi party. Several members expressed concern at the continued existence of a racist organization and its continued ability to operate freely on the territory of a State Party which was obligated - in accordance with article 4, paragraph (b), of the Convention - to declare illegal and prohibit such organizations and which additionally had the power, under its internal legislation recently amended in order to bring it into line with the requirements of the Convention, to take the necessary action. It was pointed out by several members that the explanation offered in the report for the decision of the Government of the reporting State to desist from applying to the Constitutional Court for a ban on the National Democratic Party did not absolve that Government from its mandatory obligation under the Convention; the argument that - because of the small and diminishing size of the membership of that party and its election defeats, because of the Government's trust in "the political understanding and judgements of the population", and because of the Government's belief that "the efforts of the National Democratic Party to influence the political thinking of the people ... have no prospect of success" - it was "neither necessary nor would it serve any purpose" to take measures with a view to prohibiting the National Democratic Party was viewed by several members as irrelevant to the issue at hand, being extraneous to the terms of the Convention and alien to the letter and spirit of its provisions. It was regretfully observed that the Committee was seized with the case of a State Party reporting that it had discharged its obligations under the Convention and taken the necessary steps to adopt the legislative measures necessary for implementing the provisions of article 4, paragraph (b), of the Convention but nevertheless refraining - for reasons neither envisaged in nor countenanced by the Convention - from applying the existing law in order to fulfil its obligations under those provisions. Some members thought that the Committee should bring its concern over this matter to the attention of the General Assembly. The representative of the reporting State, in his statement before the Committee, stated that the report before the Committee explained only the political reasons why his Government had desisted from applying to the Constitutional Court for a ban on the National Democratic Party, but that there were legal reasons as well for that decision; the party had been very reserved, not only in its programme but also in the activities of its members, with regard to racial questions, and the Government had not had enough evidence to prove that that party had promoted or incited racial discrimination; under those circumstances, it would have been too hazardous to apply to the Constitutional Court for a ban on

the National Democratic Party. He assured the Committee, however, that lack of proof was no pretext for his Government not to register carefully all actions and declarations made by that party and its responsible members and take appropriate action if necessary.

231. At its 213th meeting, held on 21 August 1974, the Committee decided to request the Government of the Federal Republic of Germany to take note of the comments made and the concern expressed during the discussion and to provide, in its next report, information about the programmes and activities of the National Democratic Party.

CERD A/31/18 + Corr.1 (1976)

198. The second periodic report of the German Democratic Republic was considered by the Committee together with the information supplied by the representative of the Government of the reporting State in the introductory statement he made before the Committee. The Committee noted with appreciation that the report provided information on the constitutional amendments adopted and the laws enacted during the biennium covered by the report, and did not merely repeat information previously supplied to the Committee; that it contained the texts of the constitutional and legislative provisions in question, in addition to an analysis of their relevance to the provisions of the Convention; that it supplied information on administrative and other measures, particularly in relation to the implementation of article 7 of the Convention; that it provided the information envisaged in general recommendation III; that it informed the Committee that no cases of alleged infringement of the legal provisions relating to the prohibition of racial discrimination had been reported in the judicial practice of the reporting State during the biennium covered by the report; and that it took account of the views expressed during the consideration of the initial report by the Committee.

199. Members of the Committee observed with appreciation that articles 19 to 40 of the Constitution of the German Democratic Republic and article 3 of the Law on the Constitution of the Courts showed how the reporting State was complying with the provisions of article 5 of the Convention; that the Government devoted particular attention to the education of the young generation in the spirit of friendship among peoples, in keeping with the provisions of article 7 of the Convention; and that the Government of the reporting State was actively participating in the world-wide struggle against racism and apartheid.

200. A member of the Committee noted that article 92, paragraph 1, of the German Penal Code prohibited propaganda or incitement which were "apt to bring people to ... commit a crime against humanity" and wondered what the situation was when those acts did not result in the commission of crimes against humanity. He was of the opinion that the qualification contained in that provision of the Penal Code placed restrictions not envisaged in article 4, paragraph (a), of the Convention. He observed also that the report failed to indicate whether the provisions of paragraph (b) of that article of the Convention - referring to the obligation to declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promoted and incited racial discrimination - were being complied with in the reporting State. Another member of the Committee, however, was of the view that articles 91, 92 95 and 258 of the Penal Code of the German Democratic Republic - which, among other things, were applicable to crimes against humanity and human rights, and which constituted an interrelated complex of provisions - ensured compliance with all aspects of article 4, paragraphs (a) and (b), of the Convention.

201. While taking into account the provisions of paragraphs 2 and 3 of article 1 of the Convention, some members noted that numerous articles of the Constitution and of the Law on the Constitution of the Courts of the German Democratic Republic referred only to "citizens"; they wondered what the legal status of aliens was, and whether there was any legislation that protected them from discrimination. Other members, however, referred in that connection to section 181 of the new Code of Civil Procedure (which provides that "citizens of other States / and / stateless persons ... shall be

treated in the proceedings in the same manner as citizens ... of the German Democratic Republic”) and to article 1 of the Law Application Act (which establishes the principle that the application of law to international civil, family and labour law relations, as well as to international economic contracts, shall be based on the generally accepted norms of international law).

202. The following questions were raised by members of the Committee: (a) What percentage of the total population did the Sorb minority - described in the report as “the only national minority in the German Democratic Republic - constitute, and what was its status? (b) Were the rights enumerated in article 5 (para. (d), subparas. (i) and (ii)) of the Convention guaranteed in the Constitution, and what was the practice in regard to the exercise of those rights? (c) Was there any guarantee that no criterion of an ethnic nature would influence the consent of the competent State organs - required under article 18, paragraph 1, of the Law Application Act - to marriages between citizens of the reporting State and citizens of other States? (d) What was the significance of the word “copyright” in the context of article 7 of the Civil Code, which provides that “every person is entitled to respect for his person, especially his honour and his repute, his name, his image, his copyright and other similarly protected rights arising from creative activity”?

203. The hope was expressed that the next report of the German Democratic Republic would contain further information on the implementation of the provisions of article 5 of the Convention; the text of the country’s immigration laws; and clarification as to whether - in addition to the provisions of article 327 of the Civil Code, which went a long way towards implementing the provisions of article 6 of the Convention - there were any remedies open to an individual who felt that he had been the object of discrimination by public authorities.

204. The representative of the Government of the German Democratic Republic made some comments on the observations summarized in paragraphs 200 and 201 and answered all the questions enumerated in paragraph 202. With regard to article 4 of the Convention, he referred to article 6, paragraph 5, of the Constitution and articles 91, 92 and 140 of the Penal Code, the texts of which had been furnished to the Committee. With regard to the question of aliens, he said that, starting from the principle of territoriality - a fundamental principle of the Constitution of the German Democratic Republic - all persons regardless of their citizenship were bound to respect the laws of the Republic; the principle of equality before the law and equal legal protection imbued the entire legal system and was fully applicable to all areas involving human rights; it was also elaborated in the Labour Code, the Law on the Constitution of the Courts, the Penal Code and the Code of Criminal Procedure. With regard to the questions enumerated in paragraph 202 he gave the following replies: (a) The Sorb population numbered some 100,000 inhabitants and represented 0.6 per cent of the population; the Sorb language was, together with German, an official language in all governmental and judicial organs and in all public institutions; the Sorbs had their own parliament; Sorbs were also represented in the main elected body of the Republic, the Peoples’ Chamber; 1 per cent of the elected representatives of the people were Sorbs. (b) With respect to the implementation of article 5 of the Convention and, specifically, the right to leave one’s country and to return to it, there were no conditions in the German Democratic Republic permitting racial discrimination. (c) Nor were there cases of discrimination on ethnic or racial grounds with reference to the right of citizens of the German Democratic Republic to enter into matrimony with citizens of other countries. The legal provisions applicable in that regard would be included in the next report. (d) The inclusion of copyright in article 7 of the Civil Code had been considered significant in view of the

existing situation in the reporting State and in view of the considerable intellectual co-operation with other countries.

CERD A/32/18 (1977)

80. The fourth periodic report of the Federal Republic of Germany was found by the Committee to contain useful information; satisfaction was expressed that the report supplemented and brought up to date the information contained in earlier reports and responded to some of the inquiries and observations made by members of the Committee at previous sessions.

81. Much of the discussion revolved around the situation of the Danish ethnic minority and the Gypsies in the reporting State. Some members thought that the criteria for the definition of a national minority were not sufficiently precise, and that the information regarding the representation of the Danish minority in the legislative bodies was not very clear. Several members inquired about the difference in the official attitudes towards the two minorities. It was asked whether the Gypsies enjoyed political rights. It was observed that the Gypsies - because of their traditions and mode of life - needed greater understanding and more assistance than other minorities. It was asked whether the recommendation of the Council of Europe for a propaganda campaign to influence public opinion in favour of the Gypsies had been acted upon by the Government of the reporting State; what the views of the reporting State were regarding a draft agreement, under preparation by the Council of Europe, intended to prevent stateless Gypsies from being deported from one State to another; and what treatment was given to Gypsies who were not citizens of the Federal Republic of Germany. It was observed that the report made no reference to a "Jewish minority" or to the situation of Africans residing in the reporting State.

82. While welcoming the information on the situation of foreign workers, some members sought addition information on specific issues: what social security measures had been adopted for foreign workers who were not covered by the legal provisions of the European Economic Community system or of bilateral agreements between the reporting State and other European and non-European States? Had any efforts been made to teach the children of those workers their mother tongue? Were there any legal provisions prohibiting or authorizing the settlement of foreign workers in certain areas of the Federal Republic of Germany? Were foreign workers permitted to join trade unions, to hold official posts in unions, and to act as trade union representatives or shop stewards; and could they elect representatives to the labour tribunals and be elected to them? Some members observed that the information contained in annex 4 of the report, on the countries of origin of foreign workers in the reporting State, was not as precise with regard to certain Asian and African countries as it was with respect to European or American countries. 13/

83. Some members thought that the information on the judicial measures taken to give effect to the provisions of the Convention was cursory: the report referred to sentences passed by the courts, specifying the courts and the dates on which sentences had been pronounced and describing the

13/ At the 360th meeting of the Committee, held on 18 August 1977, a member of the Committee stated that information on some of the questions mentioned in the present paragraph had already been given in earlier reports of the Federal Republic of Germany.

charges but not the nature of the sentences. The statement, that “the European Commission on Human Rights had not found in any case to date that the Federal Republic of Germany has violated the ban on racial discrimination set forth in Article 14 of the Convention on Human Rights”, did not explain whether that was because no complaints had been lodged, because complaints had been lodged but had not yet been disposed of, or for other reasons.

84. Some members repeated views expressed at earlier sessions of the Committee, to the effect that the implementation of the provisions of article 4, paragraphs (a) and (b), of the Convention fell short of the undertakings contained in that article. Whereas paragraph (a) of that article provided that the dissemination of ideas based on racial superiority was an offence punishable by law, irrespective of its aim, it was forbidden in the Federal Republic of Germany only if its purpose was to foster racial hatred. Moreover, in accordance with a ruling by the Hanseatic High Regional Court of Hamburg on 18 February 1975, insulting or maliciously ridiculing persons belonging to certain groups was punishable only under certain conditions, whereas article 4, paragraph (a), of the Convention did not set any conditions for such incitement to be punishable. Doubts were expressed also about the implementation by the reporting State of article 4, paragraph (b), of the Convention. With particular reference to the National Democratic Party, it was recalled that, at its tenth session, the Committee had decided “to request the Government of the Federal Republic of Germany to take note of the comments made the concern expressed during the discussion and to provide, in its next report, information about the programmes and activities of the National Democratic Party” (A/9618, para. 23); and it was observed with regret that the report under consideration did not contain the requested information in the expected detail or specificity. Some members expressed their disappointment that that Party had not been declared illegal.

85. The absence of information on the relations of the reporting State with the racist regimes in southern Africa, as envisaged in the Committee’s general recommendation III and decision 2 (XI), was regretted by several members of the Committee.

86. Noting that the report under consideration referred, in its text as well as in its annexes, to West Berlin, some members of the Committee recalled that West Berlin was not part of the Federal Republic of Germany, and it was therefore not justified to refer to Land Berlin in the annex to the report. It was stated that, accordingly, “the approach revealed in the report was not based on international law and constituted a violation of it”. A member of the Committee inquired whether the Federal Republic of Germany had extended the application of the Convention to West Berlin.

87. The representative of the Government of the Federal Republic of Germany commented on some of the observations and inquiries summarized in the preceding paragraphs. In reply to the questions about the difference between the treatment of the Danish minority and the treatment of the Gypsies, he stated that the situations of the two groups were entirely different and that therefore each group required different positive treatment by the Government. He stated that only the Danish minority sought special political status. He stated also that no one was required to make a declaration regarding his membership of a minority group. Gypsies who were citizens of the reporting State enjoyed the same rights as other citizens, whereas foreign Gypsies were treated according to their nationality; differences of treatment existed primarily in the field of political rights. His Government had recently ratified the Convention relating to the Status of Stateless Persons, which provided for special measures for the protection of such persons in the light of their particular

situation. Annex 4 contained a reference to “Israeli nationals” but there were no statistics as to “Germans of Jewish origin” since “no one was required to indicate his race”. The initial report of his Government had contained relevant statistics on Africans in his country. Foreign workers having a work permit issued by the competent authority could circulate freely throughout the country; however, a work permit was limited to a specific area to ensure that all necessary facilities to which the workers were entitled could be provided to them. Foreign workers could join trade unions, participate in trade union elections and become trade union officials. Concerning certain categories of foreign nationals, about which the report under consideration was not sufficiently specific, his Government would be more specific in its next report. Information on the sentences passed by the courts for certain acts of racial discrimination had not been provided because “it had been thought that it might take too long to give every detail regarding those cases”. As for the implementation of the provisions of article 4, paragraph (a), of the Convention, his Government had, after careful consideration, reached the conclusion that dissemination of opinions of racial superiority should be punishable if it was intended to create racial discrimination or hatred. That interpretation was in line with the article in question, which allowed for “due regard to the principles embodied in the Universal Declaration of Human Rights”, which “called for freedom of opinion and association”. Regarding the National Democratic Party, “he could only repeat that the NPD programme of 1973, while stressing national ideas and the importance of characteristics of men and peoples according to their history and traditions, did not refer to racial differences and that NPD officials did not make statements advocating racial discrimination”. Accordingly, there was no basis for a ban on the Party by the Federal Constitutional Court. As for the absence of information concerning his country’s relations with southern Africa, the representative of the Government of the Federal Republic of Germany told the Committee that his Government “had, in fact, once again carefully considered whether to include such information in its reports” but that, “as neither general recommendation III or decision 2 (XI) entailed an obligation to include in reports submitted pursuant to article 9, paragraph 1, of the Convention any information on relations with the minority regimes in southern Africa or, in general, on relations with third parties, it had decided, on legal grounds, not to expound its attitude towards southern Africa in its fourth periodic report”. Recalling that, in the Fourth Committee of the General Assembly, his Government “had given a detailed account of all aspects of those problems in order to make its attitude known” and that “those statements were generally accessible in the relevant documents”, he added: “Nevertheless, without recognizing any obligation to report on that subject, his Government, in order that the Committee might have as much information as possible, was willing to explain its attitude towards southern Africa”; and he proceeded to do so. With reference to the observations made regarding information on West Berlin, he stated that, “in agreement with the three Powers, the Federal Republic of Germany had extended the scope of the Convention to cover West Berlin”; he added, however, that “a discussion of the status of Berlin would be inappropriate in the Committee on the Elimination of Racial Discrimination”.

CERD A/34/18 (1979)

124. The third periodic report of the German Democratic Republic (CERD/C/17/Add.1) was introduced by the representative of the reporting State, who gave information on the major legislative measures that had been introduced in the period under review in such fields as labour, penal law, education and the media.

125. A number of questions dealt with in the report, such as the new Labour Code, the reform of the prison system (Prison Code), the rehabilitation of former prisoners, the contribution of the mass media to the struggle against racism, the cultural and educational activities designed to develop friendship among peoples and the action taken to combat apartheid, drew favourable attention of members of the Committee.

126. Some short-comings of the report, however, were noted and the following inquiries were made and clarifications were requested.

127. It was noted that the report did not provide any new information concerning the legislative, administrative, judicial and other measures adopted for the purpose of combatting racism in the actual territory of the German Democratic Republic. It was stated, for instance, that the information previously asked for on the implementation of articles 91, 92 and 140 of the Penal Code quoted in the annex to the initial report of the German Democratic Republic had not been supplied. Lacking such information, it was difficult for the Committee to judge how effect was being given, at the judicial level, to the provisions of article 4 of the Convention. Some doubts were expressed regarding the application of article 4 of the Convention, since none of the three reports submitted by the German Democratic Republic had mentioned any provision banning organizations intended to foster national or racial hatred. Only persons engaging in Fascist propaganda or national or racial incitement, or forming an organization or group with a view to committing such acts, appeared to be punishable under article 92 of the Penal Code. A member recommended that information concerning measures taken in pursuance of article 4 of the Convention should be presented more clearly and that such measures mentioned in the national report should be placed in the context of the relevant article of the Convention in order to be more easily understood and helpful for the Committee.

128. As regards the new Labour Code which entered into force on 1 January 1978, a question was raised by some members concerning the restriction on the implementation of its article 16 which, according to the last sentence of that article, could be motivated by the existence of international treaties or other laws and regulations of the German Democratic Republic. It would be desirable in this connection to explain the circumstances in which exceptions could be made to the application of article 16. A member wondered whether the distinctions between citizens introduced by article 16 and the exceptions allowed to that article made it possible for the rights of all workers to be equally guaranteed.

129. Referring to the initial report of the German Democratic Republic (CERD/C/R.63/Add.3), a member noted that the participation of the public prosecutor in civil cases was provided for in the German Democratic Republic. The procedure, however, seemed unusual, and the member asked

for particulars of how it operated as well as information on the respective duties of the members of the judiciary responsible for the administration of justice and of the public prosecutors. Other members wished to know whether the Constitution of the German Democratic Republic afforded an individual who considered himself to be a victim of racial discrimination the possibility of instituting proceedings against the State for the purpose of obtaining redress in the event of prejudice caused by an organ or agent of the State.

130. As regards the Prison Code, which protected the rights of all detainees without distinction and ensured respect for human dignity, a member expressed concern that article 34 of the Code could be interpreted as favouring detainees who were nationals of States that had concluded an agreement of reciprocity with the German Democratic Republic.

131. With respect to the implementation of article 7 of the Convention, the activities designed to educate young people in the spirit of friendship among peoples, international solidarity and opposition to racism, racial discrimination and apartheid were particularly welcomed. The information concerning the implementation of that article was, however, found by a member to be too scattered and suggested that the implementation measures should perhaps be put in a special report, as recommended by the general recommendation V adopted by the Committee at its 338th meeting.

132. Finally, with respect to the minorities question, it was suggested that the information given about the Sorbian minority in the initial report of the German Democratic Republic should be updated in a future report as requested by the Committee during the consideration of the second periodic report.

133. The representative of the German Democratic Republic replied to some of the questions raised by the members of the Committee and assured the Committee that all the questions asked would be transmitted to his Government and full replies to them would be provided in the next report.

CERD A/34/18 (1979)

345. The fifth periodic report of the Federal Republic of Germany (CERD/C/20/Add.32) was considered by the Committee together with the introductory statement made by the representative of the reporting State.

346. The Committee noted that the report under consideration contained much useful information which substantially completed the information provided in previous reports. It was regrettable, however, that the report did not deal with all the comments and observations made by members during the Committee's consideration of the fourth periodic report.

347. It was recalled that comments had previously been made concerning the differential treatment accorded to gipsies who were German nationals and to those who were non-nationals or stateless. Although some members noted that gipsies possessing German nationality received the same social assistance benefits as other Germans, the hope was expressed that the Government would provide information in its future report on the results of its efforts to improve the lot of the gipsy population and of research projects described in the current report. Clarification was sought as to whether the aim of assistance schemes for gipsies was to integrate them fully into national life or to keep that group separate. It was further noted that the report did not provide a response to the request made during the consideration of the previous report for information on measures or methods to give minorities representation in parliamentary bodies.

348. With regard to the situation of foreign workers in the Federal Republic of Germany, a number of members of the Committee commended the efforts of the Government to alleviate their problems. Further information on the results of the measures adopted to that end was requested. There seemed to be a disproportion in the percentage of foreigners and of West German nationals who were unemployed and clarification was requested on that point. It was also pointed out that the report provided no figures on the percentage of the children of immigrant workers attending schools, although the Committee had expressed concern about the matter during its consideration of previous reports. It was asked whether the percentage of school drop-outs was higher among children of immigrant workers than that of other children. Some members were interested to know whether young people had the opportunity to be taught their mother tongue and to be educated in the customs and traditions of their countries of origin. The Committee requested additional information on the current status and practical implementation of the foreign labour policy set forth in section III of the report.

349. It was noted that no information was provided in the report on the Federal Republic of Germany's current position regarding the racist regimes of southern Africa. Since it was a public knowledge that the Government still maintained trade links with South Africa, a clarification on the Government's position on that fundamental question was requested.

350. As to the application of the provisions of article 4 of the Convention, some members of the Committee took note with interest of the interpretation given to article 130 of the Penal Code in the two court decisions referred to in the report. It was, however, asked whether the position taken when the fourth report was discussed remained unchanged. If so, the interpretation of the

Government's obligation under article 4 could not be accepted.

351. Some members noted with interest the statement of the reporting Government that it could not initiate legal proceedings against the National Democratic Party (NDP) if it did not have specific proof that its aims were unconstitutional or unlawful. Others expressed concern about the racist nature of that party, whose activities were unmistakably in violation of article 4 of the Convention and should be prohibited. Finally, one member asked for written material dealing with the situation objectively. The hope was expressed that efforts would be made by the Government to implement the provisions of article 4 (b).

352. In connection with the application of article 7 of the Convention, a number of members of the Committee welcomed the fact that the Government had provided the previously requested information on measures taken to fulfil its obligations under that article. Special mention was made of the commendable efforts of the Federal Centre for Civic Education. It was hoped that relevant information would be expounded in future reports.

353. Replying to the questions raised by the members of the Committee the representative of the reporting State said that the gipsies of the Federal Republic of Germany enjoyed equal rights with all other citizens. They receive special treatment only because the Government wished to preserve their special way of life. Since gipsies enjoyed equal access to Parliament with all other citizens, they did not need special representation in that body. One member indicated that, in view of the existence of the German Democratic Republic and the Federal Republic of Germany, it was improper to use in the report expressions such as "German citizen" and "German labour market".

354. With regard to the situation of foreign workers he said it would not be possible to eliminate the differential treatment accorded to nationals of EEC countries since, in accordance with the relevant EEC treaties, such persons were accorded equal treatment with nationals of the Federal Republic of Germany. Consequently, they enjoyed certain rights which were not, in general, granted to other foreigners. The Government did its utmost to guarantee equal access to the labour market for all workers. The percentage of jobless persons among the foreign workers was not significantly higher than that of workers who were nationals of the country. Foreign workers received the same social benefits. As to the drop-out rate among children of aliens going to school, although he had no figures at hand, he was aware that the rate was higher than that for juvenile nationals.

355. As regards the implementation of article 3 of the Convention, while not recognizing any obligation to report on his Government's foreign policy, he stated that the Federal Republic of Germany rejected racism, colonialism and apartheid, to which it had voiced its strong opposition in international forums and in bilateral contacts with South Africa. The Federal Republic of Germany did not co-operate with South Africa in the military or nuclear field and concentrated on development assistance to independent African States in the region. As a market economy heavily dependent on exports, the Federal Republic of Germany maintained trade relations with all countries in the world, irrespective of the political orientation of their Governments, including South Africa.

356. With reference to article 4 of the Convention he said that while the National Democratic Party was openly right-wing and held views of which the Federal Government disapproved, it had so far proved impossible to assemble evidence to satisfy the constitutional court that it was indeed

engaging in neo-Nazi activities and inciting racial hatred, otherwise there would have been no difficulty in banning it.

CERD A/36/18 (1981)

134. The fourth periodic report of the German Democratic Republic (CERD/C/64/Add.1) was considered by the Committee together with the introductory statement of the representative of the reporting State who referred to the policy against racial discrimination of his Government, both internally and internationally, and highlighted the replies given in the report to questions previously raised by the Committee relating to the implementation of some articles of the Convention.

135. Members of the Committee expressed satisfaction at the replies given in the report to questions raised during the consideration of the previous report and at the ample information on internal and international measures aimed at combating racism and racial discrimination. It was pointed out, however, that the report placed too much emphasis on ideological considerations and too little on the strict obligations of States under the Convention, and paid more attention to foreign policy than to domestic matters. Noting the statement in the report that the absence of laws condemning racist principles and organizations was due to the impossibility of such a phenomenon arising in a socialist society, a member of the Committee expressed doubt that in a country which had suffered from nazism, there was never any resurgence of, or nostalgia for, the past.

136. Noting that a high proportion of the female population held jobs in the German Democratic Republic, a member of the Committee wondered at what level women participated in the political parties, the Government, the economy and the non-manual occupations and whether they held jobs other than as workers or welfare officers.

137. In connection with article 2 of the Convention, more information was requested regarding the Sorb minority. Commending the policy of the Government concerning that minority, a member requested more details on the educational arrangements made and the experience acquired in that area, such as the kinds of schools - perhaps bilingual - established for the minority, vocational training, secondary and higher education, the administrative system in the educational sector, the teacher-training system, and other details. Another member requested clarification as to whether the provisions of section 16 of the Labour Code had been given effect. Regarding foreigners, questions were asked as to the legal rules and practices applied to them; whether there were any foreign workers in the German Democratic Republic and, if so, what was their status; and what was the attitude of the administrative authorities and the population towards them.

138. With reference to article 3 of the Convention, satisfaction was expressed with the more detailed information in the report concerning the country's attitude to South Africa and apartheid and with the strengthening of the struggle against that regime.

139. With regard to the implementation of article 4 of the Convention, the Committee made comments and asked questions on the Penal Code and, in particular, its sections 91 and 92. While noting with satisfaction those sections of the Penal Code, members of the Committee pointed out the absence of provisions regarding organizations and propaganda, as required by article 4 (b) of the Convention, and requested additional information in this respect. Other members were of the opinion that sections 91 and 92 of the Penal Code did not fully correspond to the requirements of article 4 of the Convention. In the opinion of one member, both section 91 and 92 were far removed

from the spirit and letter of the first paragraph of article 4 of the Convention, because they referred only to race and not to groups of persons of another colour or ethnic origin, and took into account propaganda and manifestations of hatred directed only against an organization or a group and not against specific persons as required by article 4 of the Convention. It was pointed out that while section 92 punished crimes against humanity, most acts of racial discrimination against individuals could not be considered as crimes of that nature. With reference to article 4 (c) it was asked whether a victim of racist violence or defamation could act individually in order to obtain redress, particularly if the offending party was not the State, but an official who might have been acting not only on his own responsibility but also on behalf of the State. A member regretted the fact that, despite repeated requests by the Committee, the full text of section 106 of the Penal Code relating to fascism, militarism and racial hatred had not been reproduced in the report; it was therefore impossible in his view, to determine whether effect was actually being given to article 4 of the Convention.

140. In connection with article 5 of the Convention, the Committee requested more information concerning the rights of citizens prosecuted by law. It was asked whether citizens had the right to choose their own counsel or were bound to accept a State-appointed counsel; whether trials were public; whether there was any time-limit on detention pending trial and, if so, what was that time-limit, or whether there was a law authorizing the procurator to extend such detention indefinitely. More details were requested on section 220 of the Penal Code, which provided for the imprisonment for up to three years of anyone who publicly demeaned the order instituted by the State, the bodies or institutions of the State, or social organizations or the acts or measures taken by them; it was suggested that any specific examples of judgements rendered in pursuance of that provision of the Penal Code would be helpful for the Committee. With regard to political parties in the German Democratic Republic, it was asked whether there were any opposition parties; how did the parties participate in political life; and whether there was only one list of candidates for elections or whether each party presented its own list. Turning to the implementation of article 5 (d), the Committee asked what were the rules governing emigration and foreign travel; whether there were age restrictions or restrictions applicable to citizens who had not reached retirement age; and how many citizens of the German Democratic Republic had been authorized to emigrate. Information was requested as to the rules governing the working conditions of foreign journalists and the procedures under which foreign journalists could gather or obtain information within the German Democratic Republic. Noting that the Jehovah's witnesses appeared to have been banned, a member asked whether the Churches could play a part in education and provide employment for those of their members who maintained the synagogues and retirement homes, and whether there were Jewish schools and resident rabbis or priests. Regarding article 5 (e) of the Convention it was asked whether under certain conditions workers were authorized to strike and, if they were not, what methods they could use to express their grievances and, if need be, negotiate better wages. A member of the Committee regretted the fact that the information which had been requested concerning the Labour Code had not been provided.

141. With reference to article 6 of the Convention, more information was requested on the purport, extent and value of the legal assistance provided by district courts to citizens, as to how they could best assert their rights and protect their interests. Concerning appeals against penal judgements, it was asked whether the fact that the procurator could file a "protest" against the appeal meant that the proceedings were then closed and no appeal was possible. Since no mention was made in the

report of administrative cases, it was asked what remedies were available to citizens who considered that they had been discriminated against by officials and what remedies were available to them in order to defend themselves in the absence of action being taken by the Public Prosecutor.

142. Turning to the implementation of article 7 of the Convention, the Committee commended the efforts of the German Democratic Republic to educate its youth, in particular by familiarizing it with different races and cultures and thus giving practical effect to article 7 as regards education. Concerning the field of information, satisfaction was expressed at the contribution of the Human Rights Committee of the German Democratic Republic through its Bulletin, in the propagation of subjects relevant to the Convention such as the international human rights instruments and relevant German legislation, and information on the struggle of the Palestinians and on apartheid. Satisfaction was also expressed at the fact that tribute was paid to the victims of fascism and in particular to the Jews. Finally, the Committee requested that more systematic information be included in future reports regarding measures taken in pursuance of article 7.

143. The representative of the reporting State answered some of the questions raised and assured the Committee that his Government would be duly informed of all the questions asked, and that it would consider them carefully and provide replies in full in its next periodic report. As to questions concerning the Sorb minority, he informed the Committee that in cultural matters, an independent Sorb cinema group had been operating for more than one year and, every year, the Sorb community theatre put on four or five plays which often dealt with topics of current interest. Radio programmes in the Sorb language were regularly broadcast and the number of publications in Sorb was increasing. In fact, a four-volume history of the Sorbs had been published in Sorb and in German and one Sorb publishing house alone published 80 to 100 books every year. Finally, with regard to the implementation of article 5 (d) (ii) of the Convention, the representative said that his country adhered to the principle of equal rights and non-discrimination in dealing with cases of persons who wished to leave or enter the country.

CERD A/36/18 (1981)

325. The sixth periodic report of the Federal Republic of Germany (CERD/C/66/Add.27) was considered by the Committee together with the supplementary information given by the representative of the reporting State, who focused on new developments and questions raised during the consideration of the fifth report, in particular his Government's policy regarding foreign workers. He also pointed out that government agencies had continued to closely monitor the activities of small ultra-right organizations and groups which might be suspected of inciting racial discrimination, and stated that from September 1978 to December 1980, 125 persons had been sentenced for violating the provisions of section 130 of the Penal Code concerning incitement to hatred.

326. Members of the Committee noted with satisfaction that the report had been prepared in accordance with the guidelines laid down by the Committee and represented a serious effort to reply to questions raised in connection with previous periodic reports and to give effect to the provisions of the Convention.

327. The Committee focused attention in particular on the Government's policy relating to resident aliens, migrant workers, their children and young people. Some members noted with satisfaction the measures adopted to implement the guidelines laid down by the Council of Ministers of the European Community regarding the preservation of ties to the country of origin and its culture, which were important for the "second generation". It was also significant that the number of foreign students registered at German institutions of higher education and the influx of foreigners had increased steadily. Nevertheless, members of the Committee asked what measures had been adopted by the Government to promote contact between Germans and foreigners living and working in the country; whether there were any intercommunal associations for bringing members of different groups together; whether there were any organizations involved in promoting a better understanding of foreign cultures and whether the Government was initiating any specific policies designed to diminish the possibility of racial discrimination due to increased unemployment and the presence of large groups of non-Europeans. Members showed great interest in educational matters in favour of children of migrant workers and wanted to be informed about further developments. They were likewise interested in the role of migrant workers in labour unions.

328. With respect to the legal conditions to be created to facilitate naturalization, further information was requested on what opportunities the foreign workers would have to obtain full citizenship, whether it would be possible for naturalized citizens of various origins to be recognized as national minorities, how such laws would affect the nationality of children of workers from non-European Economic Community States and how the Government intended to deal with the problem of statelessness and with foreign workers and their families who had unlimited residence permits and did not voluntarily return to their countries of origin. Concerning the question of promoting the repatriation of foreign workers on a voluntary basis one member asked how voluntary their repatriation was, whether the State had any laws or programmes for assisting their return or whether it was up to the workers themselves. It was also asked whether the Government had developed collaboration with any other States besides Turkey in this regard.

329. With respect to the treatment of gipsies, in connection with the provisions of article 2 of the Convention, members of the Committee noted that there had been an evident change in government policy and that gipsies were now being provided with the choice of maintaining their particular customs or seeking stronger social integration. However, clarification was requested of measures being taken to eliminate the practice of refusing gipsies entry into campsites, whether there was a law against that practice or whether gipsies refused entry into campsites could claim damages in civil courts. Further information was also requested on the cases of discrimination against the Jewish community and people who did not conform to German cultural patterns or were from non-European Community States, and what action had the Government taken in such cases.

330. With respect to article 3 of the Convention, members of the Committee requested more specific details on the relations between the Federal Republic of Germany and South Africa. In the opinion of some members, relations with South Africa could not be considered separately from the Convention, as they were part of the Government policy, and the Government of the Federal Republic should reconsider the question of its relations with the racist regime and take measures similar to those adopted by other Governments.

331. In connection with article 4 of the Convention, some members noted that there had been no change in the attitude of the Federal Republic of Germany towards the obligations assumed under the provisions of this article. Attention was drawn to the Committee's report to the thirty-fourth session of the General Assembly (A/34/18) concerning the discussion of the fifth periodic report of the Federal Republic, which indicated that if that country's position remained unchanged, its interpretation of the obligations incumbent on it under article 4 could not be accepted. Some members believed that additional legislative and other measures should be taken in accordance with the requirements of article 4 of the Convention. Referring to the activities of the National Party, it was noted that since 1971, the representative of the Federal Republic of Germany had been indicating that that party was losing support. However, there continued to be "neo-Nazi" flare-ups and that, despite the fact that the Government followed such activities closely, the facts showed that both the membership and the number of groups engaged in terrorism and adherent to non-Nazi ideas had increased.

332. With respect to article 5 of the Convention, the need was stressed for a further reduction of legal obstacles preventing young foreigners from obtaining a work permit and for the review of the Government's policy of prohibiting the hiring of workers from non-European Community States which, according to one member, was not in accordance with the obligations incumbent upon the Government under the Convention.

333. As far as article 6 of the Convention was concerned, it was felt that the report should provide higher decisions or more detailed summaries of decisions taken by the courts concerned. Such decisions should also be provided in cases in which the charges were dismissed in order to give as full a picture as possible of the workings of the judicial system, which would aid greatly in examining the traditional measures taken by States Parties.

334. With regard to article 7 of the Convention, it was noted that the information provided in the report had not been strictly relevant to the provisions of that article, which was concerned with measures to combat prejudice among the native born population. Concerning the education of

foreign children, it was asked whether the policy of the Government was directed against allowing foreign children to go through ordinary schools and higher education and at limiting them to vocational training; and what was meant by the lack of school qualification which, according to the report, was preventing new-coming children from entering vocational schools. Some members of the Committee commended the measures enabling foreign students in the secondary schools to take courses in their native languages. It was equally important, they pointed out, that foreign students, most of whom were of primary school age, should be given a similar opportunity at the primary level.

335. Replying to the questions of the members, the representative of the reporting State informed the Committee that 92 per cent of foreign workers in the Federal Republic of Germany were blue-collar workers, 6 per cent employees and 1.5 per cent students; a substantial proportion of the workers gained promotions while in the country. Nearly three quarters of the foreign workers were married, and most of them had their wives living with them in the country. The number of them wishing to become naturalized citizens, however, was generally low. Of the 130,000 who would have been eligible, only 312 had applied for citizenship in 1978. One reason for the small number of applications for citizenship might be that foreign workers who had resided in Germany for 5 to 10 years had the right to a permanent residence permit. There was, therefore, no incentive for them to apply for citizenship. Concerning the question of possible discrimination against foreign workers from countries not members of the European Community, the representative said that the Government had made it quite clear that the measures for the free movement of labour were compatible with the provisions of the International Convention, and the fact that the rules of the Community did not apply to workers of third countries could not be regarded as discriminatory within the meaning of the Convention. The foreign workers were able to freely participate in the trade unions and some had even become trade union officials. The trade unions had wide-ranging instruction and assistance programmes for foreign workers which facilitated their adjustment to new living conditions.

336. With regard to the question of gipsies, the representative stated that there had been no change in federal policy in that regard: it was up to the gipsies to determine for themselves whether they wished to maintain their customs or move towards stronger social integration. Whatever their choice, the Federal Government respected their attitude and provided them with assistance. Additionally, the gipsies had been recognized as victims of the Nazi regime and accordingly received reparations on an individual basis. They also benefited from special programmes for housing and the use of camp sites. The Federal Government recognized that there were other groups of travellers who moved around with large volumes of equipment which would be difficult to accommodate in a regular camp site. The question was still under discussion, but meanwhile, it was unconstitutional to refuse gipsies access to any campsite.

337. As regards the relations of the Federal Republic of Germany with South Africa, the representative stated that, without recognizing any obligation to report on the subject, the Government had condemned apartheid in international forums. While it maintained bilateral contact with South Africa, including trade relations, the Government was not supplying arms and had no military or nuclear co-operation with South Africa. It also adhered to the policy of not providing investments and reducing export credit guarantees for goods being shipped to that country. The ultimate aim of all reform efforts must be the total elimination of the apartheid system, and his

Government was confident that it could be achieved without force through active co-operation with all countries.

338. Replying to questions concerning the implementation of article 4 of the Convention, the representative stated that his Government believed it was fully in compliance with the requirements of article 4; under federal law, movements or parties could be prohibited only where they were unconstitutional and there was concrete evidence that they were propagating racist notions or posed a threat to life or public order. Neo-Nazi groupings were on the wane and deeply factionalized: their electoral support had diminished sharply over the past four years. Governmental agencies were keeping a close watch on developments in that area of society, and were prepared to take action when necessary.

339. Referring to questions under article 7 of the Convention, the representative pointed out that political education was provided in schools and the protection of human rights was a subject of study at the university level in law schools. The Government had distributed copies of the first national report prepared on the implementation of the Covenant on Civil and Political Rights and on related subjects to schools and organizations. Non-governmental and professional organizations were also engaged in promoting and enforcing human rights in general. Concerning the question regarding instruction programmes in schools, he said that vocational training in his country started after the eighth or ninth grade. On leaving school, young people could work as unskilled labourers, continue with their education or enrol in vocational training which combined schooling and on-the-job training lasting approximately three years. At the same time, schools provided instruction in the language which the child spoke at home. The policy was to offer the possibility for integration in the German community while enabling a foreigner to preserve his national identity and to follow his own culture.

CERD A/37/18 (1982)

370. The fifth periodic report of the German Democratic Republic (CERD/C/89/Add.1) was introduced by the representative of the reporting State, who stated that the report supplemented the information already given in his country's previous reports. It contained the legislative measures taken in the period under discussion and confirmed the fundamental attitude of the German Democratic Republic in the struggle against racism and racial discrimination. Answers were also given to questions raised during the consideration of the fourth report. In particular, the report provided information on measures taken for the protection of the Sorb minority, who enjoyed equal rights and full respect as it cultivated its rich cultural traditions. Detailed information had been included on such questions as the rights of foreign workers, the labour code, the remedies, the provisions of the Penal Code, and the work of lawyers. His country considered that measures against racism and racial discrimination were a binding commitment in its domestic and foreign policies, and had taken an active role in support of the struggle of liberation movements and in promoting the relevant activities of the United Nations. Convention was adequately reflected in article 106 and other relevant articles of the Penal Code. While he agreed that those articles could be strengthened and improved upon, such an exercise remained the sovereign right of the German Democratic Republic.

375. With reference to article 5 of the Convention, one member pointed out that a number of questions raised during the consideration of the fourth periodic report of the German Democratic Republic had not been answered. The report was silent on the role of political parties, the possibilities of deposition, freedom of movement, the working conditions of foreign journalists, Jewish schools and the position of rabbis, the right to strike and the Labour Code. There were thus gaps in the dialogue between the Committee and the reporting State.

376. With respect to article 6 of the Convention, more information was requested regarding implementation of that article. It was pointed out in this respect that article 6 required the provision of specific remedies safeguarding the implementation of the fundamental rights and freedoms set forth in the Convention. It was asked specifically what remedies were available to claimants whose rights had been breached; and it was pointed out that such remedies should take into account the role of the administrative authorities and the legislators.

377. It was also pointed out that certain questions relating to article 7 of the Convention asked during the consideration of the fourth periodic report had not been answered. Information was requested on what was being done to promote understanding among human beings in pursuance of that article.

378. In reply, the representative of the German Democratic Republic assured the Committee that his delegation would take due account of the views expressed by members of the Committee in preparing future reports. Under article 6, paragraph 5, of the Constitution, militarist and revanchist propaganda in all its forms, warmongering and the manifestation of hatred against creeds and nations were punishable as crimes. Persons who incited against the constitutional foundation of the socialist State and social order of the German Democratic Republic by discriminating against other citizens, by threatening or inciting to commit crimes against the State or by offering to assist in the

commission of such crimes, by glorifying fascism or militarism or by inciting to racial hatred were liable to imprisonment ranging from one to eight years. The Penal Code punished defamation of or libellous statements against persons of a different nationality or race. Any person with Fascist, racist, militarist or revanchist traits was also liable to punishment.

379. The representative stated that the Sorb minority enjoyed full representation in the People's Chamber, and had available a broad range of educational facilities. The rights of the Sorbs were protected in legal proceedings, and included the right to use their own language in their home districts. There were a number of Sorb lawyers practising in the German Democratic Republic. Foreign workers were admitted to the country only under bilateral agreements and for training. Their rights were fully guaranteed under such agreements, which excluded any possibility of discrimination. Different national customs were fully respected, and there was every opportunity for such workers to pursue their own cultural traditions.

380. He also pointed out that there were five political parties in the German Democratic Republic which had joined together in a democratic bloc in order to develop democratic initiatives. The parties were entirely independent and equal; each was represented by its own parliamentary group in the People's Chamber and elsewhere. With regard to the free movement of citizens of the German Democratic Republic, he stated that there were, as in any country, regulations governing exit and entry designed to protect the interests of the State and of the individual. Such regulations were based on the principle of equality, and there was no discrimination whatsoever in such matters.

381. There were several thousand accredited foreign correspondents in the country, whose rights and duties were defined by government decree, and they received the support of the Ministry of Foreign Affairs. The only limitations placed on foreign correspondents were that they should perform their duties in accordance with generally accepted norms of international law and the legal order of the Republic, and that they should not abuse their position for other purposes. There were several Jewish temples and communities in the German Democratic Republic. They had the right to impart religious instruction, and Jews could marry in church and have their children baptized. Those Jews who had survived the Nazi regime enjoyed special privileges, in common with all other survivors of the Nazi era.

CERD A/38/18 (1983)

299. The seventh periodic report of the Federal Republic of Germany (CERD/C/91/Add.30) was introduced by the representative of that country, who said that the report should be viewed as a supplement to the earlier ones. Focusing on the implementation of the Convention in terms of penal law, he stated that prosecution of acts involving racial discrimination was mostly covered by the general provisions of the Penal Code. Racial motivation was not taken into consideration in assessing the gravity of the act or the punishment applicable, since it was the crime, not the motive, which was the main criterion for prosecution. The representative, nevertheless, presented some statistics of crimes committed in 1981-1982 with motivation containing racial or national elements, all of which, according to him, had been prosecuted, and gave some details of a procedural nature in that context. He specifically referred to the articles of the Penal Code, which covered the establishment of organizations aimed at committing a punishable offence and participation in their activities and provided the Committee with detailed information on this subject.

300. The members of the Committee commended the Government of the Federal Republic on the professional way in which its report had been presented, and noted with appreciation that the State party was clearly prepared to continue its dialogue with the Committee. It was remarked that the report contained detailed information on judicial decisions in court cases involving racial discrimination and that the Federal Republic was one of the few countries that had complied with the Committee's guidelines in that respect. Additional general information was requested on the situation of foreigners in the country.

301. With regard to article 2 of the Convention, members noted with satisfaction the measures being taken to integrate gypsies in the socio-economic development of the country, but expressed concern at the relatively high rate of illiteracy among gypsy children and at the fact that a high percentage of them attended schools for the educationally sub-normal. It was asked whether that was because the children were mentally retarded or because no other school could deal with their special Educational problems. In so far as the Government's stated intention was to preserve the gypsy culture, it should be possible, it was suggested, to include programmes that met the special features and the needs of the Sinti/Rom gypsies within the regular system - as called for in article 2, paragraph 2, of the Convention - or to improve the special schools attended by the gypsies. The attention of the members was drawn to measures requiring policy registration of gypsies in the Federal Republic of Germany and it was observed that such measures had an ominous precedent in the history of that country. The representative of the Federal Republic was requested to enlighten the Committee on that issue. It was also asked whether the Government had provided financial support for the Central Council of German Sinti and Rom, in accordance with its intentions as stated in the report, and what other types of assistance were being rendered in that community. Some additional information was requested with respect to the Danish minority of Schleswig-Holstein, particularly in relation to education and cultural activities, co-operation between cultural and educational institutions in that area and those in Denmark and the political representation of the minority.

302. With respect to article 3 of the Convention, several members were of the opinion that the report did not contain enough information on the implementation of this article. It was recalled that

in its preceding report the Federal Republic of Germany had said that it maintained no nuclear or military co-operation with South Africa, had no investments in it and made no shipments to it, endeavouring to bring about the total elimination of the apartheid regime, especially through active efforts to assist small countries. It was therefore considered as desirable to know more about the development of relations between South African and the Federal Republic of Germany and the hope was expressed that the next report would contain information on these issues.

303. With reference to article 4 of the Convention, it was stated that the cases described in the annex to the report constituted a valuable compendium of the penal jurisprudence of the Federal Republic of Germany in situations involving racism. The information was of assistance to the Committee in appraising the functioning of that country's legal system, particularly with regard to compliance with the Convention, and was useful for other States, as it clearly demonstrated why countries were required to enact anti-discrimination legislation under article 4 even when they might not be able to foresee situations in which such legislation might be needed. Moreover, the fact that courts in the Federal Republic regularly dealt with a certain number of cases involving racial discrimination proved that the Convention constituted an integral part of the penal legislation of that country and that its provisions were genuinely being implemented. Several members pointed out that the judgements and sentences mentioned in the report were rather lenient, with those found guilty being freed on probation in all cases. In their opinion, the judiciary should apply stricter punishments in order to eradicate all vestiges of racism and nazism in view of the fact that racial discrimination is one of the most serious crimes against mankind. Other members considered these rulings as strict and balanced applications of the relevant penal laws. It was also regarded as problematic if in the Committee the appropriateness of sentences of national courts were criticized. In this connection, a question was put as to what precisely was the system of probation in the Federal Republic of Germany, and the hope was expressed that the next periodic report would provide further examples of judicial decisions and sentences for racist offences, as well as of organizations declared illegal and the grounds for their prohibition.

304. With reference to article 5 of the Convention, the discussion concentrated on the problem of foreign workers in the Federal Republic of Germany. Noting that the Federal Republic attracted many immigrant workers from other countries, members wished to know more about their living and working conditions as well as whether the Government's general policy was aimed at assimilation or at integration, and whether or not it wanted foreign workers to be able to retain their own culture and customs as citizens. It was recalled that unemployment figures were higher among foreign workers in the Federal Republic of Germany than among citizens of that country, a phenomenon that, although understandable, was not justifiable. The situation had already been evident when the sixth periodic report of the Federal Republic of Germany had been considered. The Committee members had asked at that time how the Government planned to eliminate such discrimination, but no response had been given then by the representative of the reporting State, and the question remained unanswered in the present report. Additional information was requested on the status of foreigners in the Federal Republic, their right to live there without being expelled and the measures which the Government was taking to reduce the unemployment rate among that group.

305. As regards article 7 of the Convention, it was pointed out that the main issue was how to combat racial discrimination through judicial measures while educating people to live in harmony with those of other ethnic origins. People were not born racists, but racial prejudice was imposed

through education and a way of living. It was stated that the next report of the Federal Republic should provide a study on how the educational system was being used to eliminate racial prejudice, including ways in which young people were being informed about racial discrimination in the Nazi period, on the dissemination of information on the consequences of a policy of racial discrimination, on the efforts being made through the mass media to remove the vestiges of the past, and on any special programmes to educate the public at large. It was perhaps necessary to place greater emphasis on education in order to change the mentality of people rather than on punishment. In connection with the education of the young people, it was recalled that the analysis of the five court cases discussed in the report led to the conclusion that the first two cases, involving 60-year-old men, represented a survival from a painful past, while the cases involving teen-age offenders were much more disturbing. It was asked who could have incited those young people to racial hatred and who had nurtured the attitudes that had led them to commit punishable acts. It was considered important to appreciate the shock experienced by young Germans after having seen the television series Holocaust. For the first time, they had been brought face to face with the atrocities committed by the Nazis. It was indeed the young who had been the most affected by the series and had issued various tracts denying the existence of the Holocaust. It was, therefore, important to find the best way of providing young people with information on what really happened. Concern was expressed at the growing tendency to promote racial hatred in the country, particularly in educational centres, and a need was stressed for the federal government to give careful thought to the matter as well as generally more thorough-going and comprehensive action to comply with article 7 of the Convention.

306. Replying to the questions put by the members of the Committee, the representative of the State party said that the foreign workers were protected, in the first place, by the Constitution of the Federal Republic of Germany, which guaranteed equality before the law to all persons without discrimination on grounds of origin, sex, race or nationality. Moreover, the social laws and labour legislation guaranteed the equal treatment of foreign workers and German workers. The Law on the Constitution of Enterprises, for example, specifically prohibited discrimination against employees on grounds of race, citizenship or origin. Under that law, foreign workers had the right to vote for and to be elected to posts in bodies representing workers under the same conditions as German workers. The social insurance laws were based on the principle of territoriality, which ensured too foreign workers the right to enjoy the benefits of social security irrespective of nationality, colour or race. The representative stated that the unemployment rate among foreign workers had risen mainly because the number of foreign workers entering the labour market for the first time far exceeded the number of vacancies in newly created jobs. This was due partly to the growing number of foreigners who had been granted asylum in the Federal Republic of Germany and the relaxation of the regulations concerning the granting of work permits to family members of foreign workers from non-European countries.

307. The Federal Republic of Germany's policy towards foreigners aimed primarily at integrating them in society and the labour force, especially second and third generation foreigners. In accordance with that policy, vocational training was provided to young foreigners who had not attended German schools and did not hold school certificates recognized by the Government. The maintenance of foreigners' ties with their countries of origin and culture was encouraged through language instruction in secondary schools.

308. With regard to article 2 of the Convention, he stated that the situation of the Danish minority in Schleswig-Holstein reflected the tolerance and equal treatment accorded to those population groups on the part of both Denmark and the Federal Republic of Germany. The interests of the Danish minority were protected by the South Schleswig Voters Association, which sent one representative to the Parliament of the Land and was represented in numerous local government bodies. The legislation of the Land Schleswig-Holstein ensured the right of the Danish minority to have their own schools and cultural activities, for which they were supported by the Land. The Government of the Federal Republic of Germany shared the concern expressed by some members of the Committee about the participation of children and young people of Sinti and Roma families in education and training. It had, therefore, taken appropriate steps in close co-operation with the representatives of those groups to remedy the situation. The level of school attendance of children from those groups was currently about 75 per cent. Special measures had been adopted to resolve the problem of the children of families who were travelling permanently or at least a large part of the year. With reference to a question raised concerning "schools for the educationally subnormal", the representative explained that they should really be called "special schools" for children who had difficulties in following regular instruction. The Government of the Federal Republic of Germany provided financial support for the Central Council of German Sinti and Roma since 1982, and the establishment of a cultural centre for those groups was also under consideration.

309. In reply to questions concerning article 3 of the Convention, the representative stated that his Government, without recognizing any obligation to report on the subject, was willing to explain its attitude towards South Africa and the apartheid regime as it had done in its earlier reports. His Government had time and again declared that it condemned South Africa's discriminatory treatment of its people on grounds of race and colour, and in particular its policy of bantustanization and forced resettlement. The Federal Republic of Germany continued to voice its strong opposition to apartheid in international forums and in its bilateral contacts with the South African Government. It was the firm policy of his Government since 1963 not to supply arms to South Africa and it had no co-operation with it in military or nuclear fields. However, as a market economy heavily dependent on exports, the Federal Republic of Germany maintained trade relations with other countries irrespective of their political orientation. Its relations with South Africa, therefore, were not automatically tantamount to "assistance" to that country or approval of its policy.

310. With reference to articles 4 and 6 of the Convention, the representative stated that, under various articles of the Penal Code, the punishable offences included: the publication, distribution, import and export of written material which incited racial hatred, attacks on the honour and dignity of other persons in a manner likely to disturb the peace and incite hatred against sections of the population, and organized discriminatory activities. Provisions of the Code of Criminal Procedure imposed the obligation to institute criminal investigations in relation to those offences to determine whether or not legal proceedings should be initiated. Moreover, the injured party could lodge a complaint if proceedings were not instituted and could take the matter to the competent court of appeal. He also pointed out that organizations formed for a common purpose and having their own rules of procedure could only be banned if their activities were contrary to the provisions of criminal law or the constitutional order. A political party could also be banned if it sought to impair or abolish the democratic order or to endanger the existence of the Federal Republic of Germany. In recent years, the membership of right-wing and neo-Nazi movements had continued to decline and there had been dissension among the various factions. The great majority of the German population

rejected right-wing and left-wing extremist movements, as had been demonstrated by the latest elections.

311. With respect to article 7 of the Convention, his Government was seeking to prevent the emergence of racial hatred through information activities and by furthering the idea of international understanding and tolerance. The Federal Centre for Political Education, which devoted special attention to the intellectual and political approach to combatting all forms of radicalism and prejudice, prepared publications, showed films, organized annual competitions and held conferences and seminars. It maintained close contacts with the press, radio and television and promoted the activities of many independent institutions and associations in the field of political education. In addition to the Centre, many institutions were devoting attention to political information and enlightenment on the principle of democratic tolerance. The German United Nations Association was playing an important part in disseminating information regarding the United Nations and its specialized agencies. The legislation of all the Länder defined their educational aims in conformity with the Universal Declaration of Human Rights and the European Convention for the Protection of Human Rights and Fundamental Freedoms. The television series Holocaust was not the only major film dealing with the fate of Jews under the Hitler regime. Since the Federal Republic of Germany had come into being, there had been an ever-increasing amount of material dealing with the history of the Third Reich and the extermination of Jews under national socialism.

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69. The sixth periodic report of the German Democratic Republic (CERD/C/116/Add.1) was considered by the Committee at its 700th and 701st meetings, on 5 March 1985 (CERD/C/SR.700 and SR.701).

70. The report was introduced by the representative of the German Democratic Republic who drew the attention of the Committee to the relevant paragraphs of the report clarifying the implementation of article 4 of the Convention and emphasized that the principle of equality of all citizens in his country was an inalienable right guaranteed by the Constitution. One example of the enjoyment of that right was the full and equal development of some 100,000 citizens of Sorb nationality, the only ethnic minority in the German Democratic Republic. He added that his Government viewed measures to eliminate all forms of racial discrimination as obligatory in its domestic and foreign policy. Finally, he pointed out that his Government was firmly committed to the objectives set forth in General Assembly resolution 39/114, and would commemorate the fortieth anniversary of victory in the Second World war as the triumph of humanity, freedom and human dignity.

71. The Committee expressed its appreciation of the seriousness with which the German Democratic Republic took its dialogue with the Committee and pointed out that the sixth periodic report supplemented the information already submitted in the five earlier reports and responded to observations made by members.

72. The Committee congratulated the Government on the measures taken regarding the participation of the Sorbs in political activities, which were fully consistent with the implementation of article 2 of the Convention. The Committee wished to be provided with additional information on efforts to improve the economic conditions of the Sorbs and any other special measures taken to assist them, in particular the activities of the Domowina. Further information was also requested concerning foreign workers as well as the status of Jews in the German Democratic Republic.

73. With reference to article 3 of the Convention, the Committee took note of the country's international activities which indicated that one of the basic objectives of the Government's international policy was the elimination of colonialism, racism and apartheid.

74. With regard to article 4 of the Convention, members of the Committee observed that article 6 of the Constitution and article 106 of the Penal Code did not cover all the provisions of article 4 of the Convention, because the domestic laws dealt only with malicious incitement against the State and did not mention the rights of the individual. Similarly, articles 140 and 220, paragraph 3, of the Penal Code, which provided penalties for insults uttered on national or racial grounds, did not reflect the full implementation of article 4 of the Convention. It was pointed out, however, that if those domestic laws were studied carefully and if account was taken of the fact that a basic component of the country's foreign policy was the struggle against racial discrimination, it became clear that there were legal provisions which prohibited the dissemination of information prejudicial to racial minorities and the incitement of hatred against such groups.

75. With respect to article 5 of the Convention, the Committee indicated that, in order to assess the

Government's implementation of the provisions of that article, it would have been desirable for it to receive the information mentioned in the report as submitted to other human rights bodies. One member asked whether limitation clauses invoked by the German Democratic Republic had any bearing on policies concerning the implementation of the Convention. He also asked how Jews living in the German Democratic Republic could get married in a religious ceremony since there were no rabbis in the country. Another member requested further information on the status of foreign press correspondents.

76. In relation to article 6 of the Convention, the Committee took note of the relevant information contained in the report, which showed that all citizens were entitled to go to court for legal protection against discriminatory acts and could claim reparation for any resultant material damage. It would be useful if that information could be supplemented by the texts of the relevant legal provisions.

77. Regarding article 7 of the Convention, the Committee was of the opinion that the report could have provided fuller information concerning the promotion of understanding, tolerance and friendship among the various groups living in the German Democratic Republic and between such groups and groups in other countries.

78. Replying to questions posed by members of the Committee, the representative of the German Democratic Republic said that his country's next report would contain answers to all the points raised during the discussion of the sixth periodic report; in the meantime he would try to provide such information as was available to him. With reference to article 2 of the Convention, he pointed out that Sorbs had their own national organization, the Domowina, which also played a major role in promoting their cultural heritage; that heritage was also preserved through the theatre and an institute of Sorb studies. There were no separate economic development activities for the Sorb region, which was closely integrated in the overall development of the whole country. The native language was preserved in Sorb schools. There were some 60 schools in the region, over 1,000 Sorb teachers and more than 200 teachers of the Sorb language. There was a training college for Sorb studies. The rights of the Sorbs in the courts, including their right to employ Sorb lawyers, were guaranteed. Jews enjoyed full and equal rights as citizens and participated fully in society. There were eight Jewish congregations in the German Democratic Republic and they constituted an association of Jewish congregations. Jews enjoyed full freedom of belief and worship, and the practice of their religion, including marriage rites, was unhindered. The State had provided comprehensive assistance to Jewish people and to the association of Jewish congregations, including substantial financial contributions for the construction and restoration of synagogues.

79. On the question of the rights of foreign workers, he said that the German Democratic Republic co-operated with a number of other States pursuant to special agreements on the exchange of labour. Thousands of foreign workers were employed in industry, particularly the chemical industry, in agriculture and in forestry. They usually stayed for four years. They did not form separate working squads, but were incorporated in the general work force. There was equal pay for equal work, and provision was made for education, leisure and protection of the health and working capacity of foreign workers.

80. In connection with the implementation of article 4 of the Convention, he said that article 6, paragraph 5, of the Constitution provided that militarism, revanchism and racial hatred were punishable crimes. Furthermore, article 140 of the Penal Code provided penalties for libel or defamation on grounds of race, while, under article 120, paragraph 3, utterances and the use of symbols of a Fascist, Nazi or militaristic character were punishable.

81. The detailed information requested on the implementation of article 5 of the Convention would be provided. All citizens were guaranteed economic security, and unemployment was an alien phenomenon. Citizens had the right to appropriate income; there was equal pay for women. Everyone had the right to receive medical care and participate in cultural life. The personal freedom of citizens, the inviolability of the human person and the right to inherit were fully protected by the Government. There was no demand for the right to strike by workers.

82. With regard to the status of foreign press correspondents, he said that, at the end of 1984, there had been 144 accredited foreign correspondents in the German Democratic Republic; another 4,600 had spent some time in the country during the year. All correspondents were provided with good working conditions. The rights and duties of correspondents were set forth in a decree on foreign media.

83. The education of the young against racial intolerance, in accordance with article 7 of the Convention, was pursued through an active policy, which included a major role for the media as well as specific education in schools and universities.

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426. The eighth periodic report of the Federal Republic of Germany (CERD/C/118/Add.19) was considered by the Committee at its 729th and 730th meetings, held on 7 August 1985 (CERD/C/SR.729 and SR. 730).

427. The report was introduced by the representative of the Federal Republic of Germany who outlined the contents of her Government's report and provided additional information with regard to the implementation in her country of article 7 of the Convention. She referred to educational programmes and to her Government's policy to protect young people against doctrines and practices inciting to racial strife. She provided detailed information on the wide range of activities of the Federal Office for Political Education which played a particularly vital role in the domain of education and information and which included among its special concerns the problem of extremist views and modes of conduct. The representative also referred to special measures taken by her Government to interest young foreigners in society in order to foster understanding, tolerance and friendship among all peoples living in the Federal Republic of Germany, such as radio and television programmes for citizens of foreign origin and financial support for language courses for foreigners. In those fields, private organizations, groups, clubs, members of political parties, trade unions and welfare associations also played an important role. In addition, the representative stated that her Government was fully aware of the special significance of the suppression of national socialist activities in connection with the implementation of the Convention. In that connection, she referred to a study by the Federal Ministry of Justice on completed criminal proceedings against right-wing extremists, which contained an analysis of 903 final and binding judgements in cases featuring extreme right-wing activity and which informed the public as to the behaviour, motives and sociological background of extreme right-wing offenders.

428. The Committee commended the Government of the Federal Republic of Germany for its frank and comprehensive report which showed its determination to cope with racial discrimination and prevent the establishment of racist-inspired currents of thought. It welcomed, in particular, the information on specific judicial cases involving racial hatred and the additional information provided by the representative of the reporting State with regard to the implementation of article 7 of the Convention.

429. Members of the Committee wished to receive more information on the demographic composition of the Federal Republic of Germany and, in particular, on ethnic groups living in the country. They also asked whether the Jewish population was increasing or decreasing and whether the figures for the number of foreign nationals residing in the country included persons who had sought asylum. An objection was raised with regard to the inclusion in the report of information concerning Berlin (West).

430. In connection with article 1 of the Convention, it was noted that article 3, paragraph 3, of the Basic Law of the Federal Republic of Germany prohibiting discrimination on grounds of race, or ethnic origin was not applicable directly to individuals, but only to governmental actions. However, since the Convention formed part of the legislative structure of the Federal Republic of Germany, it was asked whether it in fact created direct obligations where private individuals were concerned.

It was also asked whether migrant workers were merely considered a source of labour or whether they were regarded as permanent inhabitants who would in due course become German citizens and be integrated into German society.

431. Referring to article 2, paragraph 2, of the Convention, members of the Committee wished to know how adequate protection for Gypsies was ensured in practice, what changes and improvements had come about in their political and economic situation, what progress had been made with regard to their education, training or housing facilities, to what extent their own specific cultural traditions had affected their enjoyment of equal rights, especially in education, and what consideration had been given by the German authorities to reparation claims by Gypsies who had been victims of Nazi crimes.

432. With reference to article 3 of the Convention, members of the Committee wished to receive clarification on the position of the Government of the Federal Republic of Germany with regard to apartheid. They asked, in particular, what measures the Government intended to take in order to join the international struggle to eliminate the apartheid regime in South Africa, whether it maintained diplomatic, commercial or other relations with that regime and whether there had been any developments since the recent announcement that the Federal Republic of Germany was one of the 12 Western European States which had recently recalled their envoys from South Africa for consultation, as a joint measure against apartheid. The Committee disagreed with the interpretation of article 3 of the Convention given by the Government of the Federal Republic of Germany according to which it did not recognize any legal obligation to report on relations with States which practised racial segregation since, in its view, that obligation went beyond the wording of article 3 of the Convention.

433. Turning to article 4 of the Convention, members of the Committee wondered whether racist ideologies and, in particular, Nazi ideology had been totally eradicated from the Federal Republic of Germany. They noted from the report that, despite the efforts made by the federal and state governments in that regard, Nazi and racist ideologies and organizations continued to exist and much remained to be done. With particular reference to the judicial cases involving racist propaganda which had been annexed to the report, some members expressed the opinion that the sentences imposed in those specific cases seemed to be very lenient. In that connection, it was asked whether the study of completed criminal proceedings against right-wing extremists during the period 1978-1982 published by the Federal Ministry of Justice could be made available to the Committee. Members also asked whether the Convention had any influence when the circumstances of criminal cases involving racial discrimination were assessed, whether section 131 of the Penal Code of the Federal Republic of Germany, which made it an obligation to punish racist propaganda, covered South African racist propaganda in the mass media, what the findings of the security services were with regard to activities motivated by neo-Nazi or racist ideologies, what other measures, in addition to legal measures, had been taken to eliminate the very concept of racial superiority, what effect political instruction in secondary and higher education or other measures adopted to outlaw neo-Nazi organizations had, what the size and strength of those organizations was and how far they influenced the younger generation. The hope was expressed that the Federal Republic of Germany would continue to take action against neo-Nazi organizations and all those racist organizations preaching violence and the violent overthrow of Governments.

434. In connection with article 5 of the Convention, members of the Committee focused their attention on the situation of migrant workers in the Federal Republic of Germany and, in particular, on their enjoyment of the rights set forth in subparagraphs (e) and (f) of article 5. They noted that the report constantly referred to “foreign workers” and that the term “immigrant” was avoided and they asked whether the Federal Republic of Germany refused to be considered a country of immigration, whether any limit was imposed on long-standing foreign residents for the submission of applications for citizenship of the Federal Republic of Germany and what percentage of foreign workers had actually acquired that citizenship, how many foreigners were naturalized annually and whether those of third or fourth generation did not wish to be naturalized, and what the rate of unemployment among foreign workers compared with German workers was. Members of the Committee also asked what results had been achieved by the policy of offering incentives to the Turkish workers to return home, whether there were any discriminatory practices in regard to re-employment, and, in particular, whether there were any cases of priority given to workers from the European Economic Community and whether there were any official local or federal recommendations or regulations to that effect, whether the Works Constitution Act prohibiting discrimination at places of work also covered those seeking jobs, how it was upheld before the courts, whether foreign workers were provided with legal advice and why aliens convicted of criminal offences were required to pay interpreters’ fees. Furthermore, clarification was requested about the “restrictions and limitations” on the issue of residence and work permits as well as on the “extensive measures of promotion and assistance” for the benefit of foreign workers and their families. It was also asked what measures had been taken to give instruction in their mother tongue to “foreign” children. In addition, more information was requested on the policy adopted by the Government of the Federal Republic of Germany towards persons seeking asylum, on the ruling of the Constitutional Court with regard to appeal proceedings concerning asylum, on the number of recognized political refugees residing in the Federal Republic of Germany and their country of origin.

435. In respect of article 6 of the Convention, members of the Committee wished to know more about cases of reparation for damage suffered as a result of racial discrimination and their frequency, whether ethnic groups were principally concerned, to what law a foreign worker should refer for the protection of his rights in the event of discrimination by local authorities and how foreign workers could protect their rights if they were expelled from the Federal Republic of Germany before completing court proceedings.

436. Regarding article 7 of the Convention, it was noted that education was a regional rather than a federal matter and it was asked whether the federal Government could take action to bring to the attention of the Länder the importance of the provisions of article 7, what concrete measures were being taken to educate administrative authorities at the lower level with regard to those provisions, whether the Federal Office for Political Education had planned publications to combat prejudice against foreign workers and what action had been taken to prevent the growth of neo-Nazi groups.

437. Replying to questions raised and observations made by members of the Committee, the representative of the Federal Republic of Germany provided figures concerning the number of foreign workers residing in her country and details concerning their nationality. She stated that there were no figures available for people of Jewish origin, since the distinction as to a person’s race which had been made under the national socialist regime was not made in the Federal Republic of

Germany. She also stated that it was a well-established procedure that the interests of Berlin (West) were reported by the Federal Republic of Germany and that procedure was in line with the quadripartite agreement on Berlin. The Minister for Foreign Affairs of the Federal Republic of Germany had so informed the Secretary-General of the United Nations in a letter dated 13 June 1973 (A/9071-S/10950).

438. Referring to article 2 of the Convention, the representative stated that the Sinti and the Romany Gypsies, like other communities that had suffered persecution, had always been entitled to compensation without distinction regarding their ethnic origin under the Federal Compensation Act of 1965, provided that they fulfilled the requirements of that Act.

439. Concerning article 3 of the Convention the representative stated that, while her Government did not recognize any obligation to report on its policies towards South Africa under the Convention, it advocated respect for and the effective implementation of human rights throughout the world, it rejected racism wherever it occurred, especially with respect to South Africa, and had voiced its condemnation of apartheid in international forums as well as in bilateral contacts with the South African Government. Her Government's policy vis-a-vis South Africa was based on principles such as the right to self-determination, the application of human rights, renunciation of force as well as non-interference and respect for the sovereignty and territorial integrity of States. The representative went on to make reference to measures taken by her Government to help victims of apartheid and to other measures, such as an arms embargo against South Africa or development assistance to the independent African States of southern Africa which contributed to stability and to the establishment of majority rule in that region. She also referred to recent action taken by member States of the European Community, including her country, with regard to the deterioration of the situation in South Africa.

440. In connection with article 4 of the Convention, the representative referred to the sentences reported by her Government and stated that the Federal Government held the view that the appropriateness of the sentence could not be assessed by comparing it with similar sentences given in other States, but must be judged on the basis of the system of penalties in the Federal Republic of Germany; what was important, therefore, was how other punishable acts in comparable cases of unlawfulness were dealt with under German penal law which took into account the principles of rehabilitation and education. She also informed the Committee that a recent amendment of criminal law, the Twenty-first Penal Law Amendment Act of 15 June 1985, provided for the possibility of public accusations in certain cases in which the atrocities perpetrated by the Nazi regime in concentration camps were publicly denied or minimized, even when the relatives of the victims did not institute proceedings. In the Federal Republic of Germany, 34 organizations, whose activities were closely watched, came under the category of neo-Nazi organizations with a total of 1,150 members which constituted only a tiny proportion of the country's population of some 60 million.

441. In connection with articles 1 and 5 of the Convention, the representative referred to foreign workers having residence and work permits in her country and stated that, in the view of her Government, article 1, paragraph 2, of the Convention did not prevent the States parties from treating aliens differently from their own nationals in respect of immigration or residence, the issue of work permits, or political activity. Such regulations did not constitute discrimination on racial or ethnic grounds but were based on general political grounds, particularly in view of the

employment situation. Her Government did not consider that there was discrimination between workers coming from the European Economic Community and other foreign workers since there was a specific basis for granting equality to the former as far as the labour market and residence were concerned which was reciprocal in all countries concerned. The representative also stated that foreign employees had the same status as German nationals under labour and social legislation, the same unemployment and social welfare benefits as unemployed Germans and a legal claim to social assistance for themselves and their families. The high unemployment rate resulting from the economic situation had affected both German and foreign workers. Social housing programmes, under which rents were limited, were available to foreigners in addition to the housing which companies provided for employees. Many foreign workers, however, came to the Federal Republic of Germany without the intention of staying permanently. Concerning refugees, the representative referred to article 16, paragraph 2, and article 19, paragraph 4, of the Basic Law of the Federal Republic of Germany which gave all foreigners who had been persecuted on political grounds the right to asylum which they could assert in the courts. She stated that the number of foreigners seeking protection in the Federal Republic from political persecution had increased in recent years; there were currently 553,000 asylum seekers. In 1985, some 31.1 per cent of applications received by the Federal Office for the recognition of foreign refugees had been confirmed. In case of a negative decision, the applicant had recourse to the courts. In general, the recognition quota differed according to the country of origin and the political conditions prevailing there.

442. In connection with article 7 of the Convention, the representative stated that Ministers from all the Länder met regularly to issue guidelines with a view to ensuring that education in their respective regions was comparable; that arrangement applied also to political education to foster respect for human rights and fundamental freedoms.

443. In conclusion, the representative assured the Committee that her Government would reply to questions which had remained unanswered, in its next periodic report.

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632. The seventh periodic report of the German Democratic Republic (CERD/C/147/Add.1) was considered by the Committee at its 791st meeting, on 11 March 1987 (CERD/C/SR.791).

633. The report was introduced by the representative of the German Democratic Republic, who highlighted pertinent parts thereof, referred to the active part played by his Government in combatting apartheid and assured the Committee of his Government's willingness to continue the constructive dialogue that it had always had with the Committee since its accession to the Convention.

634. Members of the Committee congratulated the representative of the German Democratic Republic for his Government's concise and substantial report. It was pointed out, however, that a number of the questions asked in connection with the previous report still remained unanswered and that the Committee's guidelines (CERD/C/70/Rev.1) should be followed more closely in the future.

635. With regard to articles 2 and 5 of the Convention, members of the Committee welcomed the valuable information provided on the Sorbian minority. They wished to know whether the Sorbian population was growing at the same rate as, or more slowly than, the population as a whole, what measures had been taken to promote their language and culture, whether Sorbian children were taught in their own language, to what extent the Sorbs participated in political and social activities, and what degree of representation they had in the People's Chamber and in other areas. It was noted that Jews enjoyed full rights and that their traditions and religion were safeguarded. It was observed that, though data had been provided on citizens of the Jewish faith, information was lacking with respect to the implementation of article 5. Members requested up-to-date figures on the size of the Jewish population and more details about their participation in the various fields of public, professional and cultural life. It was asked whether there had been any inquiries to ascertain whether workers from Poland and other people's democracies suffered any form of discrimination. Clarification was requested about the distinction between a "national minority" and an "ethnic minority".

636. Regarding article 3 of the Convention, members expressed their appreciation for the exemplary contribution of the German Democratic Republic to international efforts to eliminate apartheid.

637. In relation to the implementation of article 4 of the Convention, members welcomed the efforts of the Government to develop legislation to suppress racial discrimination and any revival or revanchism or militarism and to promote democratic ideals. It was noted that the principles of Nurnberg had been embodied in the country's legislation and it was asked whether those principles were as reflected in the Convention on the Prevention and Punishment of the Crime of Genocide, to which the German Democratic Republic was party, or whether they simply related to the Charter of the International Military Tribunal and its judgement. It was pointed out that not all provisions of article 4 appeared to have been incorporated into the legislation. It was also asked whether neo-Nazi feelings still persisted among the population and whether they were more prevalent among older or younger people, whether there had been any cases of racial discrimination and, if so, whether there had been any conflict between the need to apply the law and respect for freedom of

opinion.

638. Concerning article 7, more information was requested about how the educational system helped the young generation to learn from the lessons of the past and promote understanding, tolerance and friendship among nations and ethnic groups.

639. Replying to the questions raised by members of the Committee, the representative of the German Democratic Republic said that, under the Constitution, the Sorbs enjoyed the same right as all other citizens to cultivate their mother tongue and develop their culture. Friendly relations existed between the Sorbs, who numbered approximately 100,000, and the rest of the population and there were no cases of discrimination or prejudice against that minority. The Sorbs participated equally in all fields of political and social life. For example, the Sorbs living in 12 districts of the counties of Dresden and Cottbus were represented by 2,241 deputies, 7 Sorbs were currently members of the People's Chamber, 40 held seats in the county assemblies of Dresden and Cottbus, 87 were mayors, 169 were members of town and village councils, and several hundred acted as judges, procurators or members of people's courts. There were 59 secondary polytechnic schools teaching in both Sorbian and German. An institute for Sorbian national research was attached to the Academy of Sciences of the German Democratic Republic. There was a radio station in Cottbus that broadcasted for 330 minutes in Sorbian each week. In the courts, Sorbian was recognized as an official language in the counties of Dresden and Cottbus.

640. There were eight Jewish communities, which were provided with a variety of facilities to meet their religious and cultural needs. Many Jews held leading positions in professional and social life and enjoyed full equality of rights. There were no barriers to the employment of Jews in any professional or social sphere. At least 500 members of the Association of Jewish Communities professed the Jewish faith, but he could not immediately furnish exact figures on the size of the Jewish population or the number of believers.

641. No trends towards neo-nazism could be observed in the German Democratic Republic, a fact that could be attributed to the anti-Fascist orientation of the school system. No instances had ever been reported of young people forming groups to promote racist activities. As far as the older generation was concerned, the German Democratic Republic systematically brought Nazi war criminals to trial. In the recent past, former Nazi prosecutors and police officers had been tried and convicted of war crimes. Individual acts of hostility towards foreign citizens were not based on racial hatred or national enmity. Rather, they took the form of brawls or insults, usually resulting from the consumption of too much alcohol.

642. With regard to the crime of genocide, the Penal Code prescribed the most stringent penalties. Persons convicted of offences involving persecution on such grounds as race, ethnic origin or religion, and offences involving the dissemination of Fascist propaganda or incitement to racial discrimination faced heavy sentences ranging from 2 to 10 years' imprisonment, life imprisonment or, for serious crimes, including war crimes, the death penalty.

643. Lastly, the representative of the German Democratic Republic said that he would communicate the views of the Committee to the Government regarding the format of the report so that they could be taken into account in the preparation of the next report.

CERD A/44/18 (1989)

299. The Committee considered the ninth and tenth periodic reports of the Federal Republic of Germany (CERD/C/149/Add.21 and CERD/C/172/Add.13) at its 844th and 845th meetings, held on 16 and 17 August 1989 (CERD/C/SR.844 and 845).

300. The report was introduced by the representative of the State party who, after emphasizing that the Government of the Federal Republic of Germany did not consider that it had any obligation under the Convention to report on issues relating to the law on aliens, informed the Committee that his Government already supplied information on the situation of aliens to other international bodies under the International Covenant on Civil and Political Rights and the corresponding international instruments of the Council of Europe, in particular, the European Social Charter, and of the European Communities.

301. The representative of the State party, however, supplemented the information contained in the tenth periodic report and provided additional information on the legal situation and living conditions of foreign workers in his country. He said that, in 1988, some four and a half million foreigners were resident in the Federal Republic of Germany, representing 7.3 per cent of the total population, and that the greater part of the foreign population was concentrated in a few regions of the country, where it occasionally exceeded 20 percent of the population. He also told the Committee that a large number of Germans or persons of German origin were arriving each year from countries of eastern and south-eastern Europe. Their arrival in the country and their integration often gave rise to problems and conflicts similar to those presented by the integration of foreigners. During the period 1977-1987, some 800,000 German nationals and persons of German origin, including their non-German spouses, had been authorized to settle in the Federal Republic. The figures had been rising constantly for some time and had reached approximately 243,000 in 1988 and 96,000 in the first six months of 1989.

302. The presence of a high proportion of foreigners in his country was, unfortunately, leading to some reservations with regard to them. That was why his Government's policy in regard to foreigners tended to favour the integration of workers who had already been living in the country for some time and of their families and tended to limit the further flow of new foreign workers into the Federal Republic and to encourage voluntary return to the country of origin. In anticipation of the opening of a large free European market in 1992, the Federal Government, in collaboration with its partners, had already embarked on harmonization of important parts of the law relating to foreigners at the European level. After giving a detailed description of various aspects of the relevant legislation, he explained that the procedures for acquiring German citizenship were the same as for naturalization and that during the past 10 years the number of foreigners who had acquired German nationality had averaged 14,000 a year.

303. He informed the Committee that the average annual unemployment rate for foreign workers had been 14.7 per cent in 1988, as against the overall unemployment rate of 8.7 per cent. He gave details of arrangements to protect job-seekers from racial discrimination and of the availability of legal aid to foreigners, with particular reference to access to the services of a legal adviser and translation and interpretation costs in court proceedings.

304. The representative of the State party provided additional information on cases where compensation had been paid for damage resulting from acts of racial discrimination and on the remedies available to foreign workers to protect their rights in the event of racial discrimination by local authorities and in case of expulsion. He emphasized that, under the provisions of article 3, paragraph 3, of the Basic Law, every individual - and that also applied to foreigners - was entitled to equality of treatment before the law. Where the problem of integration of adults was concerned, he said that, since its foundation in 1974, the Language Association for Foreign Employees had dealt with 560,000 foreigners and in 1988 had spent approximately DM 28 million on financing language courses attended by 67,000 participants.

305. With regard to the measures taken to educate the lower-level administrative authorities with regard to the provisions of article 7 of the Convention, he said that such training was undertaken by the authorities of the Länder and the communes, which themselves trained a large proportion of their employees. Special commissioners known as “ombudsmen”, who dealt with matters affecting foreigners, also undertook that type of training and there were, in addition, special bodies responsible for combatting racial discrimination and eradicating hostility to foreigners. In conclusion, the representative of the State party said that he had transmitted the tenth periodic report of the Federal Republic to the Länder with a request that they should ensure respect at all levels of administration for the obligations set out in the International Convention on the Elimination of All Forms of Racial Discrimination.

306. Members of the Committee congratulated the Government of the Federal Republic of Germany on the quality of the reports it had submitted and thanked its representative for having made a very useful and complete statement bringing them up to date. It was noted that the ninth periodic report of the Federal Republic of Germany had laid emphasis on the limitations of the obligations of States parties provided for in article 1, paragraph 2, of the Convention and declared that it was not required by the Convention to report on a certain number of matters concerning foreign workers living in its territory. It was noted at the same time that the Federal Government’s interpretation of the relevant provisions of the Convention was correct in that the Convention did not apply to distinctions made by the Federal Republic’s authorities between citizens and non-citizens. It was contended, on the other hand, that, if a non-State agency, such as a private employer, discriminated on racial grounds, this was not excluded and that the Committee was entitled to know whether, in a matter such as the granting of a labour permit or a residence permit, distinctions were made between immigrant workers themselves on the basis of their national origin. It would be useful for it to know whether, for example, a worker of Polish origin was treated more favourably in the Federal Republic than a worker of Turkish or Algerian origin. Information was requested on the meaning of the phrase “non-German ... population”, on the reason why the population of West Berlin had been included in that of the Federal Republic (para. 4 of the ninth report), on the use of the word “Germany” to describe the Federal Republic of Germany in paragraph 23 of the report and on the use of the term “Jewish citizens” in paragraph 25 of the report.

307. Members of the Committee wished also to know how the tripartite intergovernmental commission on regional questions relating to the border between the Federal Republic of Germany, France and Switzerland functioned and what issues it dealt with; which language was used as the medium of instruction in border regions and whether there was daily migration in that area.

308. The hope was expressed that the Government of the Federal Republic of Germany might reconsider its position in connection with article 14 of the Convention.

309. With reference to the implementation of article 3 of the Convention, it was stated that reports did not contain a detailed description of steps taken to combat apartheid and additional information was sought on any measures, not necessarily of a legislative nature, that had been taken in the Federal Republic of Germany to discourage the South African apartheid regime or even to express dissatisfaction with it. One member maintained that article 3 created obligations in respect of all forms of segregation, including forms not caused by the State, and that the State should report on voluntary residential segregation, since this could give rise to racial discrimination.

310. With regard to article 4 of the Convention, it was asked whether legislation in the Federal Republic of Germany permitted the existence of organizations that expounded racial ideologies.

311. With regard to article 5 of the Convention, members wished to know whether the right to freedom of movement was adequately ensured to persons entering the Federal Republic of Germany from eastern European countries and also to the gypsy minorities.

312. With regard to article 6 of the Convention, members wished to know whether the legislation enacted in the Federal Republic of Germany had proved effective and to whom the sum DM 80,000 million mentioned in paragraph 22 of the report had been paid under the arrangements for the compensation of Jewish victims of racist persecutions under the Nazi regime.

313. The representative of the State party, replying to the questions raised by the Committee's members, stated that the Committee's comments and questions would be conveyed to his Government. He clarified his Government's position on the scope of the application of the Convention, especially with reference to its articles 1, 3 and 5. In that connection he pointed out that he was convinced that the Convention was not intended to guarantee all the rights provided for in article 5 to citizens and aliens alike, as seemed obvious in the case of the political rights referred to in subparagraph (c), especially the right to vote. Turning to the definition of nationals and aliens, he said that everyone who was not a national according to article 116 of the Basic Law and the Law on citizenship was regarded as an alien: non-citizens might be citizens of other States or stateless. He agreed that the phrase "Jewish citizens" should be amended to read "citizens of Jewish origin". He provided further information concerning the Danish minority, indicating in particular that there were no differences economically between the living conditions of the Danish minority and those of German nationals. With reference to the tripartite intergovernmental commission on which the Federal Republic of Germany, France and Switzerland were represented, he stated that that body dealt with a wide range of administrative and economic matters, especially environmental problems that transcended frontiers and required close co-operation between the competent authorities of the three countries. The commission ensured such co-operation on an informal basis between local administrations. There was much daily migration back and forth between the three States, especially between France and the Federal Republic of Germany, and there were no problems in crossing frontiers. Language education in the schools in the border regions normally included the language of the neighbouring countries. The authorities were interested in facilitating exchanges and creating a better understanding of the problems of the neighbouring populations.

314. With reference to article 3 of the Convention, the representative stated that the Federal Republic of Germany had always maintained, and continued to maintain, that its policy towards the racist regime of South Africa was not a matter on which it had to report to the Committee. However, he added, in view of his country's long-standing fruitful co-operation with the Committee, and leaving aside all legal questions, he was prepared to report orally on his Government's policy towards apartheid. He stated further that the Federal Government had always taken an unambiguous and determined stand against apartheid and racial discrimination in South Africa. It was his Government's aim to eliminate apartheid in all its forms and effects and to bring about a rapid and peaceful transition to an equitable socio-economic and political order, so that all South African citizens would have a fair chance of determining their own destiny. His Government's policy focused on the absolute necessity of peaceful dialogue between all sectors of the population, for which the prerequisite was the release of all political prisoners, and first and foremost Nelson Mandela. The Federal Republic of Germany urged the lifting of the ban on black majority associations in South Africa. However, he said, the Federal Government opposed the imposition of comprehensive mandatory sanctions, which, in its view, would not contribute to a peaceful settlement of the conflicts but would ruin the chances of a peaceful solution.

315. Referring to article 4 of the Convention, he stated that the national legislation did not permit the existence of organizations that spread racist ideologies: under article 9, paragraph 2, of the Constitution, organizations working against the Constitution or against the idea of peace among the people and State were forbidden.

316. As for the implementation of the provisions of article 5 of the Convention, the representative replied to the questions raised, indicating in particular that the foreign workers and their families enjoyed the right to freedom of movement throughout the national territory and that they understandably chose to live in places inhabited by their fellow countrymen. The concentration of aliens in certain quarters was the result of a choice made by the aliens themselves and not by the State and therefore the assertion that such a situation amounted to racial segregation under article 3 of the Convention was groundless.

317. As for the freedom of movement for people of German origin coming into the country from the east European countries, he said that temporary restrictions were necessary to ensure their integration: they were compelled for a time to live in certain areas where they had the best chances of finding jobs. Such action was taken in their own interest; otherwise their situation would be more difficult and they would obtain less help. Further information was provided on the freedom of movement for Sinti and Romany Gypsies, who could reside where they chose; they enjoyed the same rights as other nationals. He further stated that a great number of legal proceedings had been instituted. The penal provisions in the law on temporary employment were strict and provided for imprisonment for up to two years. That was, he explained, to protect migrant workers without work and residence permits, since they were in particular danger of exploitation by not being able to seek protection from the authorities without fear of measures against themselves. The competent authorities had grounds for believing that illegal employment of aliens was decreasing as a result of measures taken by those authorities.

318. With reference to article 6 of the Convention, the representative regretted that the report had not been sufficiently clear on the questions of compensation for discrimination and stated that, under

the Federal Republic of Germany's civil law, there was no special provision for compensation in cases of racial discrimination: the general rules applied. But there was a special law concerning the victims of Nazi discrimination and the holocaust: the Federal Compensation Act. Under that Act, the victims had received compensation payments for harm they had suffered, especially personal injury. He further stated that the Sinti and Romany Gypsies had been persecuted for racial reasons under the Nazi regime and, like all people who had suffered during that time, they had the right to claim compensation under that Act. They had done so and compensation had been paid to them in large amounts.

CERD A/48/18 (1993)

426. The Committee considered the eleventh and twelfth periodic reports of Germany, submitted in a single document (CERD/C/226/Add.7), at its 999th and 1000th meetings held on 11 August 1993 (see CERD/C/SR.999 and 1000).

427. The reports were introduced by the representative of the State party who pointed out that, following the reunification of Germany in 1990, the reports now applied to Germany as a whole. He also stated that the recent increase in xenophobic violence, which had made the question of combating racism particularly relevant in the past two years, was a source of concern for his Government. In that connection, he provided information on manifestations of violence that had occurred in Germany after the submission of the report in July 1992 and said that the total number of xenophobically motivated crimes had shown a roughly twofold increase over 1992 and the brutality of the attacks had also increased. Most of the crimes were spontaneous, often imitative and perpetrated by juveniles and young adults. The causes of the violence had been described in the report. Such violent acts were denounced by the German authorities, by broad movements of protest and by the mass media and they did not reflect the attitude of the population as a whole, as shown by recent surveys. State bodies were making every effort to prevent further violent acts and to bring the full force of the law to bear against those who took part in xenophobic violence. Rapid investigation of such attacks, prompt sentencing and measures taken by the Federal Ministry of the Interior at the end of 1992 had served as a deterrent to potential offenders. Three right-wing extremist associations had been banned, some right-wing extremists had been prosecuted and the Federal Länder (States) were empowered to prohibit extremist associations in their territory.

428. He stated that German criminal law focused on educating young principal offenders, the aim being to prevent commission of further offences. In general, there were indications that the measures already taken by the authorities against right-wing extremists were having effect. The police also had a special role to play in combating xenophobic activities. With regard to the accusation that police in the new Länder had not been present, or had arrived too late, to protect foreigners affected by violence, as had been the case in Rostock and Eberswalde, public prosecution offices had already begun preliminary investigations. Education was of special importance in the fight against xenophobia, since xenophobia was due not only to social problems, but also to lack of knowledge and inability to cope with democracy and to make compromises. Various educational measures had been taken by the German authorities in that respect and a Committee of State Secretaries had been established to coordinate an offensive against violence and xenophobia. The fight against racism was a special duty which the Government of Germany was endeavouring to fulfil.

429. The Committee commended the State party on the high quality of its report, drawn up in accordance with the Committee's guidelines for the presentation of State party reports (CERD/C/70/Rev.3) and particularly welcomed the frank and informative introductory statement made by the representative of Germany.

430. Members of the Committee noted from the report that Germany held the view that it had no legal obligation under the Convention to report on legislation concerning foreigners even though it

had provided such information, and they recalled that such an obligation was clearly stated in the Committee's general recommendation XI, adopted in March 1993. They also asked why the report provided information on protection of minorities and other groups under article 2 of the Convention and dealt with issues concerning foreigners under article 5 of the Convention, thus giving the impression that only that article, and not the Convention as a whole, was relevant. In addition, they were surprised that Germany had not yet made the declaration under article 14, paragraph 1, of the Convention, particularly in view of its repeated pleas in international forums that human rights mechanisms should be strengthened. Members of the Committee further asked how the Federal Government of Germany was fulfilling its responsibility of ensuring that the Convention was implemented in all Länder.

431. With reference to article 2 of the Convention, members of the Committee wished to receive clarification as to the implementation of the repatriation and reintegration scheme for Sinti and Romany asylum-seekers whose applications had been rejected, as well as information on the treaties concluded between Germany and Romania and between Germany and Bulgaria in 1992 to speed up the deportation of persons, many of them gypsies, whose asylum applications had been rejected. They also wished to know whether Sinti and Romany living in Germany who had been persecuted during the Second World War actually received adequate information about how to obtain compensation. In addition, members of the Committee noted from the report that the Sinti, the Romany gypsies and the Jews had been recognized as "racially persecuted groups" and asked why other groups living in Germany, such as Turks, Poles, Czechs or persons from the former Yugoslavia, were not featured as ethnic groups or minorities; whether political parties with an ethnic basis were allowed in Germany; and what the status was of the Foundation for the Sorbian People. Members of the Committee observed that the report appeared to imply that Germany provided different levels of protection for different minority groups and asked for clarification with regard to the political representation of Sorbs and gypsies in elective bodies, the cultural protection of the Sinti and the legal protection of gypsies without nationality. They also wished to know to what extent the 6 million foreigners, many of whom had been resident in Germany for a long time, had been integrated.

432. Turning to article 4 of the Convention, members of the Committee took note with satisfaction of legal and other measures taken in Germany to implement the provisions of that article. They observed, however, that, in view of the serious nature of manifestations of racism and racial discrimination which were not always effectively dealt with, Germany should consider enacting a comprehensive anti-discrimination law, including penal provisions for discriminatory acts directed against foreigners in the private sector, and adopting a more comprehensive policy to combat racism and racial discrimination. In addition, members of the Committee wished to receive more information on the substantive changes envisaged in German criminal law and procedure in order to combat extremist and xenophobic activities more effectively; on the reasons why racist groups were developing in the country and why police action was said to be less effective in the eastern than in the western part of Germany. More information was also requested on the powers granted to the Committee of State Secretaries.

433. With reference to article 5 of the Convention, members of the Committee wished to know what was being done by the German authorities to strengthen the preventive and protective role of the police, particularly in parts of the country with a high proportion of foreigners and asylum-seekers;

to facilitate complaints procedures; and to provide adequate training in the field of human rights for law enforcement officials. They also wondered whether a more generous policy regarding the granting to foreigners of dual nationality and the right to vote and to stand for election at local level would not assist the German authorities in their efforts to promote integration of foreigners in the country. In addition, more information was requested about the asylum law adopted in July 1993, which appeared to be more restrictive than the one previously in force, and on the treatment of young persons of foreign nationality with a criminal record under the new Aliens Act. It was further asked to what extent the cultural identity of foreign workers of Kurdish origin was taken into account in the integration process; what measures the Government intended to adopt to eliminate discrimination and provide equal opportunities for all employees regardless of race and national background; what was being done to protect the employment of Turkish workers resident in the country; what the conditions were for the naturalization of foreigners; and what the precise content was of the laws facilitating the process of naturalization. In addition, questions were raised with regard to measures taken by the German authorities to prohibit and punish extremist violence and racial discrimination in the armed forces, as well as to guarantee, without distinction, the right of everyone to freedom of religion, to housing, health and education.

434. With regard to article 6 of the Convention, information was requested on a new law that had been recently enacted to provide compensation for foreigners who had been victims of racist practices, and on whether plans existed in Germany to strengthen the position and functions of the ombudsmen for foreigners. It was also asked whether the ombudsmen were competent to receive individual communications or complaints, or, if not, whether such a measure was envisaged; how many offences committed against foreigners, which had been brought to the attention of the Committee, were racially motivated; what penalties other than prison sentences were envisaged for young offenders committing racist acts and what remedies were available, in particular, to victims of racial discrimination in housing and in employment in the private sector.

435. In connection with article 7 of the Convention, members of the Committee wished to know whether any effort was made to re-educate young adults or adolescents imprisoned for having committed racist acts and, in particular, acts of an anti-semitic nature, and whether their behaviour was monitored after they had been released. It was also asked what initiatives had been taken in the field of education to combat effectively xenophobia and what the Government of Germany was doing to create a greater awareness of the Convention and, in general, to adopt measures to implement article 7 of the Convention.

436. In his reply, the representative of Germany, referring to the general questions raised by members of the Committee, said that the German authorities were open to dialogue with regard to the obligation to report on legislation concerning foreigners and acceptance of the provisions of article 14 of the Convention. He further stated that all public bodies in Germany, whether at the federal or Länder level, were bound by the provisions of the Convention and cooperated in their implementation. With regard to the separate treatment of the questions concerning certain minorities in the report, that was a matter of presentation of information without any implications for substantive issues.

437. With regard to article 2 of the Convention, he gave details of the schemes for repatriating Romany gypsies to countries neighbouring on Germany and explained that educational and training

institutions had been established in the countries of repatriation in order to enable those concerned better to integrate in economic life. Gypsies were entitled to compensation for the racial persecution which they, like the Jews, had suffered under the Hitler regime but the gypsies had been slow in claiming compensation for lack of adequate organization. The groups concerned could obtain legal advice. Turks residing in Germany had either acquired German nationality and benefitted from the same rights as other German citizens or were still foreigners but did not constitute a national minority.

438. With regard to article 4 of the Convention, he stated that the German authorities were in the process of considering whether amendments were needed to domestic legislation or whether other measures should be taken in order to combat racial discrimination effectively. As for the offence of xenophobia, the authorities considered that the existing system was adequate to combat that problem and that it was a matter of implementing the legislation in force. The body composed of State secretaries of the various departments concerned ensured coordination of activities and considered the action that should be taken. A ban on far-right organizations could only be envisaged in each particular case and when all the conditions for such prohibition were met, freedom of association being protected by the German Constitution. A ban on extremist parties could be imposed only by the Constitutional Court.

439. With regard to article 5 of the Convention, the representative, referring to the role of the police in guaranteeing the right to security of person and to the protection of the State, observed that some difficulties concerning police training in the new Länder had been experienced following the reunification of Germany, but that a series of measures had been taken to improve the situation. In general, the German police gave additional protection to asylum-seekers and groups suspected of engaging in violence against them came under stricter surveillance. At the political level, the Parliament of each Land had established a special committee to investigate incidents linked to xenophobia. As for the integration of foreigners, the representative referred to a whole series of measures ranging from schooling to vocational training programmes and special language courses for young foreigners. He explained that the aim of integration was not total assimilation, but a cultural exchange and a process of enrichment for all, and that since the 1980s Germany had refrained from the enforced repatriation of foreigners. German law now facilitated the acquisition of German nationality by young people who had grown up in Germany and persons who had been resident in the country for more than 10 years, but it seemed that the possibility of naturalization had not been exercised to any great extent. The question of dual nationality was currently the subject of a lively debate in Germany. The representative outlined the new German legislation concerning asylum-seekers and the difficulties experienced in applying it; he stated that expulsion or enforced repatriation of persons born in Germany was extremely rare and that the proportion of asylum requests accepted was currently very low. He then informed the Committee about the provisions of labour law affording protection against discrimination in the recruitment of foreign workers; the Council of Workers and Employers had to act in unison on that matter. With regard to rented accommodation, on the other hand, a property owner could refuse to sign a lease with a particular person. As for acts of xenophobia perpetrated by members of the armed forces, a report published in October 1992 had assessed the scope of that problem. In addition, any act of xenophobia was punishable by disciplinary measures or under the Penal Code.

440. With regard to article 6 of the Convention, he stated that, following recent xenophobic attacks

in Germany, provision for compensation to victims of violence had been extended to asylum-seekers and tourists. As for the ombudsmen for foreigners, it was important that they should be completely independent, far removed from any political ties that might restrict their freedom of manoeuvre. They participated in all discussions concerning legislation and regulations, expressing the view of the foreign population.

441. Concerning article 7 of the Convention, the representative stated that there were many measures in Germany to provide education and training for young detainees. Such measures could be imposed by the court when passing sentence.

Concluding observations

442. At its 1009th meeting, held on 18 August 1993, the Committee adopted the following concluding observations.

(a) Introduction

443. The Committee commended the State party on the high quality of its report, drawn up in accordance with the Committee's guidelines for the preparation of State party reports (CERD/C/70/Rev.3). The comprehensive information provided in the report, the frank and constructive approach taken by the representatives of the reporting State in their dialogue with the Committee and the additional information they provided with regard to recent developments relating to the implementation of the Convention in Germany showed the seriousness of the Government of Germany in cooperating with the Committee and its commitment to the international obligations it has assumed under the Convention.

(b) Positive aspects

444. The Committee welcomed the efforts of the German authorities to fight against xenophobia and racial discrimination, in compliance with its obligations under the Convention. In that connection, the Committee welcomed legal and other measures taken by the German authorities to give effect to the provisions of article 4 of the Convention. The Committee noted that the Government had the necessary will to cope with the problem of racial hatred. The Committee also noted with appreciation that in many German cities large popular demonstrations had been held against recent expressions of racist violence and xenophobia.

(c) Principal subjects of concern

445. The Committee expressed serious concern at the manifestations of xenophobia, anti-semitism, racial discrimination and racial violence that had recently occurred in Germany. In spite of the Government's efforts to counteract and to prevent them, it appeared that those manifestations were increasing and that the German police system had in many instances failed to provide effective protection to victims and potential victims of xenophobia and racial discrimination, as required by the Convention. The Committee particularly held that all those who carried out functions in public and political life should in no way encourage sentiments of racism and xenophobia.

(d) Suggestions and recommendations

446. In view of the serious nature of the manifestations of xenophobia, racism and racial discrimination in Germany, the Committee recommended that practical measures should be strengthened with a view to preventing such manifestations, particularly acts of violence on an ethnic basis, and to punishing those who committed them. Measures should be taken, in that regard, against the organizations and groups involved.

447. At the same time, taking into account that practices of racial discrimination in such areas as access to employment, housing and other rights referred to in article 5 (f) of the Convention were not always effectively dealt with, the German authorities should give serious consideration to the enactment of a comprehensive anti-discrimination law. Such a law would constitute a clear reaffirmation by the Germany authorities that racial discrimination was absolutely unacceptable, detrimental to human rights and human dignity. Other preventive measures, such as information campaigns, educational programmes and training programmes addressed particularly to law enforcement officials, in accordance with article 7 of the Convention and general recommendation XIII of the Committee, would strengthen the effectiveness of legal provisions.

448. The Committee was also of the view that the Government should guarantee equal protection to all minority groups living in Germany. In addition, the Government should consider reviewing certain restrictive provisions recently adopted with regard to asylum-seekers, to ensure that they did not result in any discrimination in effect on grounds of ethnic origin.

449. While commending the Government of Germany for taking measures to prohibit extremist organizations disseminating ideas based on racial superiority or hatred, the Committee was of the view that appropriate measures should also be strictly applied against such organizations and especially against persons and groups who were implicated in racially motivated crimes.

450. In accordance with its general recommendation XI, the Committee appealed to the Government of Germany to continue reporting fully upon legislation on foreigners and its implementation.

451. The Committee further invited Germany, taking into account statements to that effect by the World Conference on Human Rights, to make the declaration under article 14 of the Convention recognizing the competence of the Committee to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims of a violation of any of the rights set forth in the Convention.

452. The Committee was of the view that the situation in Germany should be kept under close scrutiny and expected Germany, in its thirteenth periodic report, to inform the Committee on further measures taken in compliance with the Convention and pursuant to recommendations and suggestions put forward in connection with the examination of the eleventh and twelfth reports.

CERD A/52/18 (1997)

152. The Committee considered the thirteenth and fourteenth periodic reports of Germany, submitted in a single document (CERD/C/299/Add.5), at its 1196th and 1197th meetings (CERD/C/SR.1196 and 1197), on 10 and 11 March 1997. At its 1211th meeting, held on 20 March 1997, it adopted the following concluding observations.

A. Introduction

153. The Committee commends the State party on the high quality of its report, drawn up in accordance with the Committee's guidelines, although it is noted that the report did not deal systematically with the Committee's concluding observations relating to the previous report of the State party. The comprehensive information provided in the report and its annexes, the frank and constructive approach taken by the high-level delegation in the dialogue with the Committee and the additional information provided in response to questions posed by Committee members manifest the serious commitment of the Government of Germany to the principles and purpose of the Convention.

154. The Committee notes that the State party has not made the declaration provided for in article 14 of the Convention, and some of its members requested that the possibility of such declaration be considered.

B. Factors and difficulties impeding the implementation of the Convention

155. The Committee notes that there is no national human rights institution or ombudsman in Germany authorized to monitor and coordinate the Government's efforts to eliminate racial discrimination, and that no comprehensive anti-discrimination law has been adopted, notwithstanding the fact that the German Constitution (Grundgesetz) and many federal and provincial (Länder) laws do prohibit and envisage criminal sanctions for various manifestations of racial discrimination and xenophobia.

C. Positive factors

156. The Committee expresses satisfaction at the significant decrease in criminal offences against foreigners and asylum seekers and of other expressions of racial discrimination and violence in the period since Germany's last report. This decrease appears to be attributable to the manifold legislative, administrative and judicial measures taken by German federal and provincial authorities, including amendments to the criminal law and enactment of additional legislation aimed at rendering the prohibition of racial discrimination and the protection of victims more effective.

157. The prohibition of the production and distribution of neo-Nazi literature and the severe punishment of persons found guilty of incitement to racial hatred have no doubt contributed to the improvement in the situation since Germany's last report. There has also been a noticeable decline in the number of persons belonging to extremist organizations, several of which have been banned. In this context, the Committee is pleased that Germany has adopted legislative measures to fulfil the

requirements of article 4 of the Convention.

158. The Committee is aware that attitudes of xenophobia and racial discrimination are rejected by a broad section of the German public, as shown in many spontaneous anti-discrimination demonstrations in German cities, expressions of compassion for the victims of violence, and frequent condemnation of xenophobia and racial discrimination in the daily press and other media.

159. The Committee reiterates that genocide has rightly been condemned as a crime against humanity, and trusts that all genocidal acts will be condemned without any distinction as to time, place or group of victims; it further hopes that schemes for compensation of the victims of genocide and for prevention of any future discrimination will cover all groups that have been or may become victims.

160. Information provided in the report and orally by the delegation indicates that some victims of discrimination have been successful in vindicating their rights in the German courts, including in the context of employment.

161. The Committee welcomes the information given by the delegation concerning the guidelines on education issued by the Conference of Ministers of Culture, which provide for the systematic teaching of human rights and the principles of tolerance and coexistence in a multicultural society. In particular, the Committee commends the German authorities for the improved curricula at various levels of schooling, encompassing instruction, starting in early years of schooling, about other cultures and religions, aiming to instil in the young a feeling of respect for all human beings regardless of ethnic origin or religious affiliation.

162. The frank acknowledgment by the German delegation that there are still serious problems to solve, and the commitment of the German authorities to take preventive measures and to continue monitoring developments, reflect a realistic approach likely to produce good results.

163. The Committee also welcomes ongoing regional cooperation in the eradication of xenophobia and racial discrimination, particularly in the context of the European Union, such as the activities launched in connection with the European Year against Racism.

D. Principal subjects of concern

164. Concern is expressed over manifestations of xenophobia and racial discrimination, including acts of anti-Semitism and hostility against certain ethnic groups, and racial violence that still occur on a substantial scale in Germany. In spite of the Government's efforts to prevent them and to punish the perpetrators, it appears that such manifestations reflect deep-seated prejudices and latent fears still prevailing in certain sections of the population, particularly among the less educated and the unemployed. This situation calls for continued efforts on the part of the federal and provincial governments to eradicate the causes of discrimination and to intensify information and educational programmes.

165. Concern is expressed at the fact that while the State party has accorded the status of ethnic minority and provided special protection to four small ethnic groups traditionally resident in

Germany, it has left numerically much larger ethnic groups without any specific protection, in particular, members of those ethnic groups who have long-term residence status or who have become German citizens.

166. Concern is expressed at instances of police brutality against foreigners, particularly Africans and Turks, which have been reported in the press. Better training and stricter disciplinary action against the perpetrators appear to be necessary.

167. It is noted with concern that private insurance carriers sometimes discriminate against ethnic groups and that the onus of complaining is placed on the victim. The Committee considers that federal legislation regulating the insurance industry should prohibit such abuses.

168. Concern is also expressed at the absence of comprehensive legislation to prohibit racial discrimination in the private sector in accordance with articles 2 (1) (d) and 5 (e) (i) of the Convention.

169. It is noted with concern in connection with article 6 of the Convention that certain categories of foreigners, including those without legal status and temporary residents, are not entitled to redress for acts of racial discrimination committed against them.

170. It is noted with concern that no information was made available by the State party concerning measures taken to eradicate de facto racial segregation in accordance with article 3 of the Convention and as further elaborated in the Committee's General Recommendation XIX (47).

E. Suggestions and recommendations

171. The Committee again recommends that the German authorities give serious consideration to the enactment of a comprehensive anti-discrimination law and suggests that consideration also be given to the establishment of a national institution to facilitate the implementation of the Convention, bearing in mind the Committee's General Recommendation XVII (42).

172. The Committee encourages the State party to continue exploring ways of providing specific protection to all ethnic groups living in Germany.

173. In its forthcoming report, the State party should address, inter alia, issues of racial discrimination in the private sector, access to employment by foreigners, post-employment contract equality, de facto racial segregation (bearing in mind the Committee's General Recommendation XIX (47) on article 3 of the Convention), prompt investigation and prosecution of xenophobic offences, in particular those committed by members of the police forces, legislation on foreigners and its implementation (in accordance with the Committee's General Recommendation XI), current asylum practices, in particular in relation to the list of so-called "safe countries", compensation to all victims of acts of racial discrimination in Germany, and the respective competences of the federal and provincial (Länder) authorities.

174. The Committee recommends that the State party's next periodic report be an updating report in accordance with the reporting guidelines, taking account of the Committee's concluding

observations.

175. The Committee invites the State party to make its report and the Committee's concluding observations widely available in Germany with a view to generating discussion on the problems still existing.

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103. The Committee considered the fifteenth periodic report of Germany (CERD/C/338/Add.14) at its 1426th and 1427th meetings, on 13 and 14 March 2001 (CERD/C/SR.1426 and 1427), and at its 1460th meeting (CERD/C/SR.1460), on 21 March 2001, adopted the following concluding observations.

A. Introduction

104. The Committee welcomes the very detailed report presented by the Government of Germany, which follows the Committee's guidelines and contains relevant information about the implementation of the provisions of the Convention in the State party. The Committee is also grateful for the relevant additional and updated information that was transmitted during presentation of the report.

105. The Committee particularly appreciated the delegation's frankness and sincerity during the presentation of the report, and its acknowledgement of the difficulties faced by the State party in the implementation of the Convention.

B. Positive aspects

106. The Committee welcomes recent developments that have taken place in the field of human rights. It noted in particular the creation of the independent German Institute of Human Rights, the setting up by the Federal Parliament of a Human Rights Committee as well as the publication of the Federal Government's biannual Human Rights Report, which in the future will give more attention to the internal human rights issues.

107. With regard to the implementation of article 4 of the Convention and the fight against racist organizations and propaganda, the Committee welcomes the information provided by the State party that since its previous report additional extreme right-wing associations have been banned. In this regard, the Committee also notes the efforts made by the Government, as well as by the Federal Council and the Federal Parliament, to bring the important and delicate issue of the constitutionality of the National Democratic Party of Germany (NPD) before the German Constitutional Court. Finally, the Committee is pleased to see that measures taken by the State party in order to combat racial propaganda are being implemented effectively, leading to the conviction by the judicial authorities of approximately 900 people during 1998.

108. The Committee also welcomes the establishment of three new special programmes aimed at combating racism and xenophobia among young people: "Xenos-living and working in diversity", "Measures against violence and right-wing extremism" and "Promotion of model projects against right-wing violence in the new Länder".

109. The Committee notes with satisfaction the improvements brought by the recent reform of the nationality law and, particularly, the partial incorporation of the principle of jus soli and the expanding of exceptions to the principle prohibiting multiple nationalities when, for instance, giving

up a previous nationality would bring considerable disadvantages to the person applying for German nationality.

110. The Committee notes the establishment of the Foundation for the compensation of persons subjected to forced labour and welcomes the fact that this foundation will also be of benefit to Sintis and Roma populations.

111. The Committee appreciates the readiness of the delegation to answer a great variety of questions concerning, inter alia, the State party's response to the concerns of developing countries with respect to the high prices of medicines for persons living with HIV/AIDS.

C. Concerns and recommendations

112. The Committee shares the State party's particular concern that despite appropriate actions undertaken and significant improvements to the various means to prevent and punish right-wing extremist, xenophobic and anti-Semitic crimes, the number of racist-related incidents, which had more or less stagnated during the 1990s, suddenly and dramatically increased during the year 2000. While welcoming the work that has already been accomplished to identify the specific causes of this phenomenon, the Committee encourages the State party to reinforce its efforts to prevent and combat such acts, including through further studies and research, in order to understand fully the reasons for the recent increase in racial violence and to devise appropriate measures.

113. The Committee is further concerned by repeated reports of racist incidents in police stations as well as ill-treatment inflicted by law enforcement officials on foreigners, including asylum-seekers, and German nationals of foreign origin. Although the number of these incidents has diminished recently, the Committee urges the State party to strengthen existing educational measures for civil servants who deal with issues involving foreigners, including asylum-seekers, and German nationals of foreign origin.

114. Concerned at the increase in racist propaganda on the Internet and that this trend is likely to become more significant in the future, the Committee encourages the State party to seek further solutions in order to tackle this problem.

115. While noting that the State party has recognized minorities that have been settled in Germany for a long time, the Committee draws the attention of the State party to general recommendation XXIV of the Committee.

116. The State party is invited in its next report to provide further information on the following issues: (a) updated information on the number of persons of foreign origin in the police forces; (b) information on the new draft anti-discrimination legislation in the field of both civil and labour law; (c) updated information on the numbers of persons who have been convicted following racist incidents.

117. It is noted that the State party has not made the optional declaration provided for in article 14 of the Convention, and the Committee recommends that the possibility of such a declaration be considered.

118. Noting that the State party's report has been made readily available to the public from the time it was submitted, the Committee recommends that its concluding observations be similarly publicized. It encourages the State party to place the concluding observations on the appropriate ministry's Web site.

119. The Committee recommends that the State party submit its sixteenth and seventeenth periodic reports jointly with its eighteenth periodic report, due on 15 June 2004, and that it address the points raised in the present observations.