

**REPORT
OF THE
COMMITTEE
ON THE ELIMINATION
OF RACIAL DISCRIMINATION**

GENERAL ASSEMBLY

OFFICIAL RECORDS: FORTY-THIRD SESSION

SUPPLEMENT No. 18 (A/43/18)



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NOTE

Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

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L. IER OF TRANSMITTAL

12 August 1988

Sir,

I have the honour to refer to article 9, paragraph 2, of the International Convention on the Elimination of All Forms of Racial Discrimination. In accordance with that article, the Committee on the Elimination of Racial Discrimination, established pursuant to the Convention, "shall report annually, through the Secretary-General, to the General Assembly of the United Nations on its activities".

You will recall that, owing to the non-payment of the assessed contributions by a number of States parties over several years and the grave financial crisis facing the United Nations, the normal functioning of the Committee on the Elimination of Racial Discrimination has been disrupted since 1986. Consequently, the Committee was unable to report to the General Assembly at its forty-first session.

As you are aware, the financial problem facing the Committee continues to be critical in 1988 and, therefore, the Committee was convened for only a curtailed two-week session at the United Nations Office at Geneva from 1 to 12 August 1988.

At its 830th meeting, held today, 12 August 1988, the Committee unanimously adopted its 1988 report in fulfilment of its obligations under the Convention; it is submitted to you herewith for transmission to the General Assembly at its forty-third session.

Accept, Sir, the assurances of my highest consideration.

(Signed) George O. LAMPTEY
Chairman of the
Committee on the Elimination
of Racial Discrimination

His Excellency
Mr. Javier Pérez de Cuéllar
Secretary-General of the United Nations
New York

I. ORGANIZATIONAL AND RELATED MATTERS

A. States parties to the Convention on the Elimination of All Forms of Racial Discrimination

1. On 12 August 1988, the closing date of the thirty-sixth session of the Committee on the Elimination of Racial Discrimination, there were 125 States parties to the International Convention on the Elimination of All Forms of Racial Discrimination, which was adopted by the General Assembly in resolution 2106 A (XX) of 21 December 1965 and opened for signature and ratification in New York on 7 March 1966. The Convention entered into force on 4 January 1969 in accordance with the provisions of article 19.

2. By the closing date of the thirty-sixth session, 12 of the 125 States parties to the Convention had made the declaration envisaged in article 14, paragraph 1, of the Convention. Article 14 of the Convention entered into force on 3 December 1982, following the deposit with the Secretary-General of the tenth declaration recognizing the competence of the Committee to receive and consider communications from individuals or groups of individuals. Lists of States parties to the Convention and of those which have made the declaration under article 14 are contained in annex I.

B. Session and agenda

3. The Committee on the Elimination of Racial Discrimination, due to non-payment of contributions by a number of States parties, held one reduced session of two weeks' duration in 1988. The thirty-sixth session (815th-830th meetings) was held at the United Nations Office at Geneva from 1 to 12 August 1988.

4. The agenda of the session as adopted by the Committee is reproduced in annex II.

C. Membership and attendance

5. In accordance with the provisions of article 8 of the Convention, the States parties held their 12th meeting at United Nations Headquarters on 15 January 1988 ^{1/} and elected nine members of the Committee from among the candidates nominated to replace those whose term of office was due to expire on 20 January 1988.

6. The list of members of the Committee for 1988-1989, including those elected or re-elected on 15 January 1988, is as follows:

<u>Name of Member</u>	<u>Country of nationality</u>	<u>Term expires on 19 January</u>
Mr. Mahmoud ABOUL-NASR	Egypt	1990
Mr. Hamzat AHMADU	Nigeria	1990
Mr. Michael Parker BANTON	United Kingdom of Great Britain and Northern Ireland	1990
Mr. Mohamed Omer BESHIR	Sudan	1990

<u>Name of Member</u>	<u>Country of nationality</u>	<u>Term expires on 19 January</u>
Mr. André BRAUNSCHWEIG	France	1990
Mr. Eduardo FERRERO COSTA*	Peru	1992
Mr. Isi FOIGHEL*	Denmark	1992
Mr. Ivan GARVALOV*	Bulgaria	1992
Mr. George O. LAMPTEY	Ghana	1990
Mr. Karl Josef PARTSCH	Germany, Federal Republic of	1990
Mr. Yuri A. RESHETOV*	Union of Soviet Socialist Republics	1992
Mr. Jorge RHENAN SEGURA*	Costa Rica	1992
Mrs. Shanti SADIQ ALI**	India	1992
Mr. Agha SHAHI	Pakistan	1990
Mr. Michael E. SHERIFIS	Cyprus	1990
Mr. SONG Shuhua**	China	1992
Mr. Kasimir VIDAS*	Yugoslavia	1992
Mr. Mario Jorge YUTZIS**	Argentina	1992

* Elected on 15 January 1988.

** Re-elected on 15 January 1988.

7. All members of the Committee attended the thirty-sixth session; Messrs. Ahmadu and Vidas attended only part of the session.

D. Solemn declaration

8. At the opening meeting of the thirty-sixth session, those members of the Committee who were elected or re-elected by the 12th meeting of States parties made a solemn declaration in accordance with rule 14 of the rules of procedure of the Committee.

E. Election of officers

9. At its 815th meeting, held on 1 August 1988, the Committee elected the following officers for a term of two years (1988-1989), in accordance with article 10, paragraph 2, of the Convention:

Chairman: Mr. George O. LAMPTEY

Vice-Chairmen: Mr. Ivan GARVALOV
Mr. Karl Josef PARTSCH
Mr. Mario Jorge YUTZIS

Rapporteur: Mrs. Shanti SADIQ ALI

F. Meetings of the Committee in 1989 and 1990

10. At its 826th meeting, on 9 August 1988, the Committee was informed of the dates and the venue of its sessions to be held in 1989 and 1990 as follows:

- Thirty-seventh session - United Nations Office at Geneva, from 27 February to 17 March 1989.
- Thirty-eighth session - United Nations Office at Geneva, from 7 to 25 August 1989.
- Thirty-ninth session - United Nations Office at Geneva, from 26 February to 16 March 1990.
- Fortieth session - United Nations Office at Geneva, from 6 to 24 August 1990.

11. The Committee was informed by the representative of the Secretary-General that, in accordance with a decision taken by the United Nations Controller, the actual convening and duration of each of the above-mentioned sessions would depend on the receipt and availability of sufficient contributions from States parties which were responsible for the expenses of the members of the Committee under article 8, paragraph 6, of the Convention. The Committee took note of this information.

G. Co-operation with the International Labour Organisation and the United Nations Educational, Scientific and Cultural Organization

12. In accordance with Committee decision 2 (VI) of 21 August 1972 concerning co-operation with the International Labour Organisation (ILO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO), 2/ representatives of both organizations attended the sessions of the Committee.

13. At the thirty-sixth session, the report of the ILO Committee of Experts on the Application of Conventions and Recommendations, submitted to the seventy-fourth session of the International Labour Conference, was made available to the members of the Committee on the Elimination of Racial Discrimination, in accordance with arrangements for co-operation between the two committees. The Committee took note with appreciation of the report of the Committee of Experts, in particular of those sections which dealt with the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and the Indigenous and Tribal Populations Convention, 1957 (No. 107), as well as other information in the report relevant to its activities.

II. ACTION BY THE GENERAL ASSEMBLY AT ITS FORTY-SECOND SESSION

A. Action by the General Assembly at its forty-second session on the annual report submitted by the Committee under article 9, paragraph 2, of the Convention

14. The Committee considered the sub-item at its 823rd, 825th and 827th meetings, held on 5, 8 and 9 August 1988. For its consideration of the item, the Committee had before it the following documents:

General Assembly resolutions 42/57 and 42/105;

Reporting obligations of States parties to United Nations conventions on human rights: reports of the Secretary-General (A/40/600 and Add.1 and A/41/510);

Reports of the Third Committee (A/42/720 and A/42/807);

Relevant summary records of the Third Committee (A/C.3/42/SR.3-SR.13, SR.23, SR.27, SR.39-SR.41, SR.43, SR.46, SR.52 and SR.54);

Reporting obligations of States parties to United Nations conventions on human rights: note by the Secretary-General (CERD/C/173);

Summary records of the 12th meeting of States parties to the Convention (CERD/SP/SR.19-SR.20).

15. The Rapporteur of the Committee introduced the sub-item jointly with sub-items (b) and (c) at the 822nd meeting of the Committee. She pointed out that the report of the Committee had been considered by the General Assembly at its forty-second session jointly with other related matters, such as the status of the International Convention on the Suppression and Punishment of the Crime of Apartheid, and pointed out that more than half of the Member States which had participated in the debate on the item in the Third Committee had emphasized the importance of the Committee on the Elimination of Racial Discrimination in the field of human rights.

16. She highlighted the observations and comments made in the Third Committee, notably the views that the Committee on the Elimination of Racial Discrimination had played a pioneering role in the implementation of United Nations human rights instruments, that the Convention provided an international framework to combat racism and racial discrimination on a world-wide basis and that the Committee's contribution to international efforts to promote effective enjoyment of human rights by all peoples was most valuable.

17. The Rapporteur pointed out that many delegations in the Third Committee of the General Assembly had urged all States parties to the Convention which had not yet done so to make the declaration provided for in article 14 of the Convention. She observed that the resolution adopted by the General Assembly at its forty-second session on the report of the Committee (resolution 42/57) had been adopted without a vote.

B. Reporting obligations of States Parties to United Nations conventions on human rights (General Assembly resolution 42/105)

18. The Committee considered the sub-item at its 823rd, 825th and 826th meetings, held on 5, 8 and 9 August 1988.

19. In her introductory statement, the Rapporteur of the Committee pointed out that, in the discussion of the sub-item in the Third Committee of the General Assembly, delegations had expressed regret that many States parties to the Convention had been late in meeting their reporting obligations and had urged the States parties to submit comprehensive and balanced reports to the Committee on the Elimination of Racial Discrimination. The debate in the Third Committee had revealed the importance that States Members of the United Nations attached to the question and the urgent need to seek ways and means of rationalizing the reporting procedure. In that regard, the invitation contained in General Assembly resolution 41/121 and addressed to the Chairmen of the supervisory bodies to encourage their members to consider rearranging, where possible, the periodicity of reporting had received support in the Third Committee, as had the practice of the Committee on the Elimination of Racial Discrimination of requesting the submission of multiple overdue reports in one consolidated document.

20. The Rapporteur referred to General Assembly resolution 42/105 on reporting obligations under United Nations instruments on human rights and stressed the fact that it had been adopted without a vote. She referred to the third preambular paragraph and, in particular, to paragraph 4 in which the objectives of the meeting of the persons chairing the treaty bodies were set out, and called on the Committee to express its views on the draft provisional agenda of that meeting which had been circulated to members of the Committee by the Secretary-General in document CERD/C/173.

21. In order to streamline the Committee's monitoring work, some members were of the view that the Committee should appoint rapporteurs from among its members to be responsible for a thorough study and evaluation of each report, and to lead the discussion in the Committee when that particular report was considered. It was noted that such a procedure would not preclude any member from commenting and/or seeking further information on a State party's report assigned to a rapporteur. It was felt that such a procedure could help to reduce the backlog.

22. On the question whether one consolidated guideline could be devised for all the human rights supervisory bodies, the prevailing view in the Committee was that consolidated guidelines would be feasible on general information of common interest to all supervisory bodies. However, on the specific areas of competence of each body, the Committee considered that consolidation would not be advisable. In that context, the Committee noted paragraph 4 (a) (ii) of General Assembly resolution 42/105, as well as the relevant documents submitted by the Secretary-General, in particular CERD/C/173, and agreed that the comments and observations made in connection with the consideration of the item, as reflected above, would be pertinent to the meeting of the persons chairing the treaty bodies which would be convened in October 1988.

23. At its 825th meeting, the Committee established an informal working group of five of its members, composed of Messrs. Aboul-Nasr, Ferrero Costa, Foigniel, Garvalov and Shahi, to consider the various proposals made and to make recommendations for action by the Committee.

24. At its 827th meeting, the Committee, having considered the recommendations made to it by the informal working group, took the following decisions:

(a) The Committee welcomed the measures being taken by the Secretary-General under the United Nations programme of advisory services in the field of human rights, with a view to providing training and technical assistance to States parties to United Nations instruments in the preparation and submission of their periodic reports to various treaty bodies. The Committee was of the opinion that efforts being undertaken in this field would assist the reporting States to overcome technical difficulties which they might encounter in the preparation and submission of their reports, in particular in respect of States where a large number of reports were overdue;

(b) With a view to improving the reporting procedure and streamlining its own method of examination of reports submitted by States parties, the Committee decided to appoint rapporteurs from amongst its members to be responsible for a thorough study and evaluation of each State report, to prepare a comprehensive list of questions to be put to the representatives of the reporting State and to lead the discussion in the Committee when particular reports were taken up for consideration, it being understood that other members of the Committee would not be precluded from raising specific questions of interest to them or from making comments on a report assigned to a particular rapporteur. The Committee agreed to apply that procedure at its forthcoming thirty-seventh session on an experimental basis;

(c) The Committee decided to endorse the proposal made at the eleventh (emergency) meeting of States parties to the Convention in respect of the periodicity of reporting under article 9, paragraph 2, of the Convention. It agreed as a general practice that, after the submission of initial comprehensive reports to the Committee, States parties would submit further comprehensive reports on every second occasion thereafter, when reports were due, i.e. every four years, and that they would submit brief updating reports on each intervening occasion when reports were due under the Convention. The Committee wished to stress the point that its acceptance of that proposal would not alter the periodicity of reporting as provided for under article 9 of the Convention.

C. Obligations of States parties to pay their assessed contributions under the International Convention on the Elimination of All Forms of Racial Discrimination

25. At its 823rd, 825th and 827th meetings, held on 5, 8 and 9 August 1988, the Committee considered the critical financial situation which affected its ability to discharge its monitoring functions under the Convention effectively. That situation had arisen from the non-payment by a number of States parties of their assessed contributions as required under article 8, paragraph 6 of the Convention, which stipulated that "States Parties shall be responsible for the expenses of the members of the Committee while they are in performance of Committee duties". Until the end of 1985, a sizeable portion of the expenses of the members of the Committee had had to be financed from the United Nations General Fund, pending receipt of contributions from the States parties in arrears. Since 1986, however, the financial crisis facing the Organization had prevented it from continuing to advance funds as it had done in the past.

26. In her introduction of the sub-item, the Rapporteur of the Committee pointed out that many delegations in the Third Committee had expressed regret that non-payment by a number of States parties to the Convention of their assessed contributions had impeded the effectiveness of the Committee on the Elimination of Racial Discrimination and had appealed to the States parties in arrears to pay their overdue contributions as soon as possible. It had been observed by many delegates that the amounts involved were very small, and that financial and budgetary constraints could not justifiably be advanced as the predominant reasons for non-payment. She also pointed out that decision 1 (XXXV) of 6 August 1987 of the Committee on the Elimination of Racial Discrimination had been favourably referred to by a number of delegations in the Third Committee. It had been evident, however, that some States Members of the United Nations were not in favour of the suggestion that the Secretary-General, as a temporary measure, should advance funds from the regular budget to cover the expenses of the members of the Committee, as had been the practice in the past. On the contrary, it had been emphasized by most delegations that intensified efforts must be made to ensure that outstanding assessments were paid on time.

27. Wide-ranging views were expressed in the Committee on the vexed question of the obligations of States parties to pay their assessed contributions in accordance with article 8, paragraph 6, of the International Convention on the Elimination of All Forms of Racial Discrimination.

28. The view was expressed that the central problem facing the Committee was not a purely financial one, but rather a lack of political will on the part of the States parties to the Convention. Some members pointed out that that view was reinforced by the correlation between non-payment of assessed contributions and non-submission of reports in accordance with article 9, paragraph 2, of the Convention by the same States parties.

29. It was emphasized by some other members that lack of sufficient funds and the consequential reduction of meeting-time available to the Committee would lead either to a lowering of the quality of the Committee's monitoring work or to an excessive backlog of reports pending consideration. It was pointed out that there were already 48 reports pending before the Committee, a phenomenon which did not arise as long as the Committee functioned normally.

30. Many members of the Committee felt that maximum efforts should be made to ensure that the States parties to the Convention which were in arrears discharged their financial obligations without delay. Other measures were suggested, such as requesting the Chairman of the Committee to send a letter to the Chairman of the Organization of African Unity to solicit his support in exerting pressure on those States which were in arrears in payment of their assessed contributions. It was stressed in that regard that the International Convention on the Elimination of All Forms of Racial Discrimination had a particular significance for the new emerging States of Africa.

31. At its 827th meeting, the Committee adopted a draft resolution prepared by its informal working group to be included in its report to the General Assembly for appropriate action at the forty-third session. The text of the resolution, as adopted by the Committee, appears in chapter VII below.

32. The Committee also agreed that the list of outstanding assessments as at the closing date of its thirty-sixth session should be annexed to its report (see annex III below).

III. CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED
BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

A. Status of submission of reports by States parties

1. Reports received by the Committee

33. From the establishment of the Committee on the Elimination of Racial Discrimination until the closing date of its thirty-sixth session (12 August 1988), a total of 920 reports under article 9, paragraph 1, of the Convention have been due from States parties as follows: 124 initial reports, 124 second periodic reports, 121 third periodic reports, 108 fourth periodic reports, 104 fifth periodic reports, 95 sixth periodic reports, 84 seventh periodic reports, 74 eighth periodic reports, 50 ninth periodic reports and 36 tenth periodic reports.

34. By the end of the thirty-sixth session, a total of 757 reports had been received by the Committee as follows: 120 initial reports, 110 second periodic reports, 105 third periodic reports, 97 fourth periodic reports, 88 fifth periodic reports, 77 sixth periodic reports, 66 seventh periodic reports, 52 eighth periodic reports, 32 ninth periodic reports and 10 tenth periodic reports.

35. In addition, 71 supplementary reports containing additional information were received from the States parties, submitted either on the initiative of the States parties concerned or at the request of the Committee following its examination of their respective initial or periodic reports under the Convention.

36. During the period under review, i.e. between the closing dates of the Committee's thirty-fifth and thirty-sixth sessions (7 August 1987 and 12 August 1988), 41 reports were received by the Committee: 2 second periodic reports, 4 third periodic reports, 2 fourth periodic reports, 3 fifth periodic reports, 3 sixth periodic reports, 3 seventh periodic reports, 7 eighth periodic reports, 8 ninth periodic reports and 9 tenth periodic reports. Two supplementary reports were also received during the period under review.

37. The relevant information concerning all reports received during the period under review is contained in table 1 below.

38. As the information in table 1 shows, only 4 of the 41 reports received during the period under review were submitted on time or before the deadline provided for under article 9, paragraph 1, of the Convention. The rest were submitted after a delay, ranging from a few days to over seven years. In the case of 25 of the reports received during the period under review, 1 to 15 reminders had been sent to the States parties concerned before their reports were submitted.

Table 1

Reports received during the period under review
(7 August 1987 to 12 August 1988)

State party	Type of report	Date on which the report was due	Date on which the report was submitted
Bangladesh	Second periodic report	11 July 1982	4 January 1988
Namibia		11 December 1985	3 December 1987
Bangladesh	Third periodic report	11 July 1984	4 January 1988
Burundi		26 November 1982	18 August 1987
China		28 January 1987	28 December 1987
Namibia		11 December 1987	3 December 1987
Bangladesh	Fourth periodic report	11 July 1986	4 January 1988
Burundi		26 November 1984	18 August 1987
Burundi	Fifth periodic report	26 November 1986	18 August 1987
Qatar		22 August 1985	5 January 1988
Republic of Korea		4 January 1988	21 March 1988
Ethiopia		Sixth periodic report	25 July 1987
Libyan Arab Jamahiriya	5 January 1980		6 October 1987
Qatar	22 August 1987		5 January 1988
Barbados	Seventh periodic report	10 December 1985	6 November 1987
Haiti		18 January 1986	15 September 1987
Libyan Arab Jamahiriya		5 January 1982	6 October 1987
Algeria	Eighth periodic report	15 March 1987	24 February 1987
Denmark		8 January 1987	14 September 1987
German Democratic Republic		26 April 1988	13 October 1987
			6 July 1988

Table 1 (continued)

State party	Type of report	Date on which the report was due	Date on which the report was submitted	
Libyan Arab Jamahiriya		5 January 1984	6 October 1987	
Netherlands		9 January 1987	15 June 1988	
Niger		5 January 1984	13 October 1987	
Sweden		5 January 1987	25 September 1987	
Canada	Ninth periodic report	12 November 1987	12 August 1988	
Ecuador		5 January 1986	25 January 1988	
Finland		16 August 1987	26 November 1987	
Iraq		15 February 1987	7 December 1987	
Libyan Arab Jamahiriya		5 January 1986	6 October 1987	
Niger		5 January 1986	13 October 1987	
Nigeria		5 January 1986	6 August 1987	
Yugoslavia		5 January 1986	5 August 1988	
Cyprus		Tenth periodic report	5 January 1988	4 January 1988
Czechoslovakia			5 January 1988	5 May 1988
Ecuador	5 January 1988		25 January 1988	
Holy See	1 June 1988		14 July 1988	
Hungary	5 January 1988		23 June 1988	
Libyan Arab Jamahiriya	5 January 1988		6 October 1987	
Niger	5 January 1988		13 October 1987	

Table 1 (continued)

State party	Type of report	Date on which the report was due	Date on which the report was submitted
Union of Soviet Socialist Republics		5 March 1988	21 June 1988
Yugoslavia		5 January 1988	5 August 1988

2. Reports not yet received by the Committee

39. By the closing date of the thirty-sixth session of the Committee, 170 reports expected from 89 States parties before that date had not yet been received. They comprised 4 initial reports, 16 second periodic reports, 19 third periodic reports, 11 fourth periodic reports, 16 fifth periodic reports, 18 sixth periodic reports, 19 seventh periodic reports, 22 eighth reports, 18 ninth periodic reports and 27 tenth periodic reports. In addition, one supplementary report requested by the Committee was not received. Table 2 below provides the relevant information on these reports.

Table 2

Reports which were due before the closing date of the thirty-sixth session (12 August 1988) but have not yet been received

State party	Type of report	Date on which the report was due	Number of reminders sent
Sierra Leone	Fourth report	5 January 1976	21
	Fifth report	5 January 1978	17
	Sixth report	5 January 1980	15
	Seventh report	5 January 1982	11
	Eighth report	5 January 1984	7
	Ninth report	5 January 1986	3
	Tenth report	5 January 1988	-
	Supplementary	31 March 1975	-
Swaziland	Fourth report	6 May 1976	22
	Fifth report	6 May 1978	18
	Sixth report	6 May 1980	16
	Seventh report	6 May 1982	10
	Eighth report	6 May 1984	6
	Ninth report	6 May 1986	1
	Tenth report	6 May 1988	-

Table 2 (continued)

State party	Type of report	Date on which the report was due	Number of reminders sent
Liberia	Initial report	5 December 1977	18
	Second report	5 December 1979	14
	Third report	5 December 1981	10
	Fourth report	5 December 1983	7
	Fifth report	5 December 1985	3
	Sixth report	5 December 1987	-
Guyana	Initial report	17 March 1978	18
	Second report	17 March 1980	14
	Third report	17 March 1982	10
	Fourth report	17 March 1984	7
	Fifth report	17 March 1986	3
	Sixth report	17 March 1988	-
Guinea	Second report	13 April 1980	14
	Third report	13 April 1982	10
	Fourth report	13 April 1984	6
	Fifth report	13 April 1986	1
	Sixth report	13 April 1988	-
Zaire	Third report	21 May 1981	12
	Fourth report	21 May 1983	8
	Fifth report	21 May 1985	4
	Sixth report	21 May 1987	1
Gambia	Second report	28 January 1982	11
	Third report	28 January 1984	7
	Fourth report	28 January 1986	3
	Fifth report	28 January 1988	-
Côte d'Ivoire	Fifth report	4 February 1982	11
	Sixth report	4 February 1984	7
	Seventh report	4 February 1986	3
	Eighth report	4 February 1988	-
Lebanon	Sixth report	12 December 1982	9
	Seventh report	12 December 1984	5
	Eighth report	12 December 1986	2
Gabon	Second report	30 March 1983	8
	Third report	30 March 1985	4
	Fourth report	30 March 1987	1
Togo	Sixth report	1 October 1983	7
	Seventh report	1 October 1985	3
	Eighth report	1 October 1987	-
Uganda	Second report	21 December 1983	7
	Third report	21 December 1985	3
	Fourth report	21 December 1987	-

Table 2 (continued)

State party	Type of report	Date on which the report was due	Number of reminders sent
Uruguay	Eighth report	5 January 1984	5
	Ninth report	5 January 1986	2
	Tenth report	5 January 1988	-
Fiji	Sixth report	11 January 1984	5
	Seventh report	11 January 1986	
	Eighth report	11 January 1988	
Dominican Republic	Initial report	24 November 1984	6
	Second report	24 November 1986	2
	Third report	24 November 1988	-
Bahamas	Fifth report	5 August 1984	6
	Sixth report	5 August 1986	2
	Seventh report	5 August 1988	-
Belgium	Fifth report	6 September 1984	5
	Sixth report	6 September 1986	2
Somalia	Fifth report	27 September 1984	5
	Sixth report	27 September 1986	2
Cape Verde	Third report	2 November 1984	5
	Fourth report	2 November 1986	2
Lesotho	Seventh report	4 December 1984	5
	Eighth report	4 December 1986	2
Saint Vincent and the Grenadines	Second report	9 December 1984	5
	Third report	9 December 1986	2
El Salvador	Third report	30 December 1984	5
	Fourth report	30 December 1986	2
Papua New Guinea	Second report	26 February 1985	5
	Third report	26 February 1987	2
Zambia	Seventh report	5 March 1985	5
	Eighth report	5 March 1987	2
Suriname	Initial report	15 March 1985	5
	Second report	15 March 1987	2
Solomon Islands	Second report	17 March 1985	5
	Third report	17 March 1987	2

Table 2 (continued)

State party	Type of report	Date on which the report was due	Number of reminders sent
Botswana	Sixth report	22 March 1985	5
	Seventh report	22 March 1987	2
Lao People's Democratic Republic	Sixth report	24 March 1985	4
	Seventh report	24 March 1987	1
Viet Nam	Second report	9 January 1985	4
	Third report	9 January 1987	1
Greece	Eighth report	19 January 1985	3
	Ninth report	19 January 1987	1
Burkina Faso	Sixth report	18 August 1985	4
	Seventh report	18 August 1987	-
Bolivia	Eighth report	21 October 1985	3
	Ninth report	21 October 1987	-
Democratic Yemen	Seventh report	19 November 1985	3
	Eighth report	19 November 1987	-
Bulgaria	Ninth report	5 January 1986	3
	Tenth report	5 January 1988	-
Iran (Islamic Republic of)	Ninth report	5 January 1986	3
	Tenth report	5 January 1988	-
Philippines	Ninth report	5 January 1986	3
	Tenth report	5 January 1988	-
Tunisia	Ninth report	5 January 1986	3
	Tenth report	5 January 1988	-
Guatemala	Second report	17 February 1986	2
	Third report	17 February 1988	-
Central African Republic	Eighth report	14 April 1986	2
	Ninth report	14 April 1988	-
Sudan	Fifth report	20 April 1986	2
	Sixth report	20 April 1988	-
Mozambique	Second report	18 May 1986	2
	Third report	18 May 1988	-
Syrian Arab Republic	Ninth report	20 May 1986	1
	Tenth report	20 May 1988	-

Table 2 (continued)

State party	Type of report	Date on which the report was due	Number of reminders sent
Malta	Eighth report	26 June 1986	2
	Ninth report	26 June 1988	-
Jamaica	Eighth report	5 July 1986	2
	Ninth report	5 July 1988	-
Cameroon	Eighth report	24 July 1986	2
	Ninth report	24 July 1988	-
Afghanistan	Second report	5 August 1986	2
	Third report	5 August 1988	-
Chad	Fifth report	16 September 1986	1
Australia	Sixth report	30 October 1986	1
Peru	Eighth report	30 October 1986	2
Trinidad and Tobago	Seventh report	4 November 1986	1
Democratic Kampuchea	Second report	28 December 1986	2
Nicaragua	Fifth report	17 March 1987	1
Sri Lanka	Third report	20 March 1987	2
Mauritius	Eighth report	29 June 1987	1
Jordan	Seventh report	30 June 1987	-
United Arab Emirates	Seventh report	21 July 1987	-
Mali	Seventh report	15 August 1987	-
Norway	Ninth report	6 September 1987	-
Portugal	Third report	23 September 1987	-
Romania	Ninth report	14 October 1987	-
United Republic of Tanzania	Eighth report	26 November 1987	-
Barbados	Eighth report	10 December 1987	-

Table 2 (continued)

State party	Type of report	Date on which the report was due	Number of reminders sent
New Zealand	Eighth report	22 December 1987	-
Argentina	Tenth report	5 January 1988	-
Brazil	Tenth report	5 January 1988	-
Costa Rica	Tenth report	5 January 1988	-
Egypt	Tenth report	5 January 1988	-
Ghana	Tenth report	5 January 1988	-
Iceland	Tenth report	5 January 1988	-
India	Tenth report	5 January 1988	-
Kuwait	Tenth report	5 January 1988	-
Nigeria	Tenth report	5 January 1988	-
Pakistan	Tenth report	5 January 1988	-
Panama	Tenth report	5 January 1988	-
Poland	Tenth report	5 January 1988	-
Spain	Tenth report	5 January 1988	-
Venezuela	Tenth report	5 January 1988	-
Morocco	Ninth report	17 January 1988	-
Haiti	Eighth report	18 January 1988	-
Israel	Fifth report	1 February 1988	-
Nepal	Ninth report	1 March 1988	-
Madagascar	Tenth report	8 March 1988	-
Mexico	Seventh report	22 March 1988	-
Ukrainian Soviet Socialist Republic	Tenth report	5 April 1988	-

Table 2 (continued)

State party	Type of report	Date on which the report was due	Number of reminders sent
United Kingdom of Great Britain and Northern Ireland	Tenth report	5 April 1988	-
Byelorussian Soviet Socialist Republic	Tenth report	7 May 1988	-
Rwanda	Seventh report	16 May 1988	-
Germany, Federal Republic of	Tenth report	14 June 1988	-
Bangladesh	Fifth report	11 July 1988	-

3. Action taken by the Committee to ensure submission of reports by States parties

40. At its 827th meeting, the Committee reviewed the question of delays and non-submission of reports by States parties in accordance with their obligations under article 9 of the Convention.

41. The Committee decided to request the Secretary-General, in accordance with rule 66, paragraph 1, of its rules of procedure, to continue sending appropriate reminders to States parties whose reports were due before the closing date of its thirty-sixth session but had not been received, asking them to submit their reports by 31 December 1988. Regarding States parties from which two or more reports were due but had not been received, the Committee agreed that the reminders to be sent by the Secretary-General should indicate that all their overdue reports could be submitted in one consolidated document by the proposed date. States parties whose reports are overdue are listed in table 2 above.

42. In this connection, the Committee wishes to recall once again that rule 66 of its rules of procedure provides that:

"1. At each session, the Secretary-General shall notify the Committee of all cases of non-receipt of reports or additional information, as the case may be, provided for under article 9 of the Convention. The Committee, in such cases, may transmit to the State party concerned, through the Secretary-General, a reminder concerning the submission of the report or additional information.

2. If even after the reminder, referred to in paragraph 1 of this rule, the State party does not submit the report or additional information required under article 9 of the Convention, the Committee shall include a reference to this effect in its annual report to the General Assembly."

In accordance with paragraph 2 of rule 66, the Committee wishes to draw the attention of the General Assembly to the relevant information contained in table 2 above, as well as to the action taken by the Committee to ensure submission of reports by States parties.

43. The Committee wishes to repeat once again a statement which it made at its first session 3/ and which it has communicated to all States parties and to the General Assembly:

"The Committee attaches great importance to these reports. It is unanimously of the view that, being a principal source of information, these reports provide the Committee with an essential element for discharging one of its most important responsibilities, namely, reporting to the General Assembly of the United Nations under article 9, paragraph 2, of the Convention."

B. Consideration of reports

44. At its thirty-sixth session, the Committee examined 13 reports submitted by States parties under article 9 of the Convention. It devoted 8 of the 16 meetings it held in 1988 to the discharge of its obligations under article 9 of the Convention.

45. In accordance with rule 64 of its rules of procedure, the Committee continued the practice, inaugurated at its sixth session, of requesting the Secretary-General to inform the States parties concerned of the dates on which their respective reports would be considered by the Committee. All the States parties whose reports were considered by the Committee, except Seychelles, the United Arab Emirates and the United Republic of Tanzania, sent representatives to participate in the examination of their respective reports. The Committee noted with satisfaction the fruitful dialogue it had developed with representatives of reporting States, and urged that all States parties should endeavour to send representatives when their reports were being examined.

46. The following paragraphs, arranged on a country-by-country basis according to the sequence followed by the Committee in its consideration of the reports of States parties, contain a summary of the views expressed, observations made and questions asked by the members of the Committee on the reports of the States parties concerned, as well as the substantive elements of the replies given by the representatives of the States parties present at the meetings.

Australia

47. The fifth periodic report of Australia (CERD/C/115/Add.3) was considered by the Committee at its 816th and 817th meetings, held on 2 August 1988 (CERD/C/SR.816-817).

48. The report was introduced by the representative of the State party who described briefly the major developments which had occurred in his country since the preparation of the report under consideration, in 1985. He referred, in particular, to the establishment in 1987 of the Office of Multicultural Affairs within the Prime Minister's own Department, which reflected the importance of multiculturalism in the political and social processes of the Australian community, and he provided information on his Government's immigration programme which was

non-discriminatory and global in nature. The representative also recalled that, in his country, political and legal responsibilities were shared between the federal Government and the Governments of the Australian States and Territories. He pointed out that Aboriginal and Torres Strait Islander Australians were entitled to all the rights and freedoms enjoyed by other Australians, even though many Aboriginals and Islanders remained, in practice, seriously disadvantaged, and he provided information on administrative, financial and social measures taken by the Australian authorities to improve their living conditions. He stated that his Government was guided in its approach to Aboriginal and Islander policy by the principle of self-management.

49. Furthermore, the representative of Australia referred to the establishment by his Government, on 10 December 1986, of the Human Rights and Equal Opportunity Commission which had a wide range of functions, including investigation and resolution of complaints of human rights violations, research and community education, reporting to the Government on human rights issues and intervening, with the permission of the court, in court proceedings involving human rights matters. The Commission, which was composed of a part-time President and three full-time Commissioners, also had broad responsibilities with regard to the implementation of legislation enacted in accordance with human rights instruments, such as the International Convention on the Elimination of All Forms of Racial Discrimination.

50. The representative also referred to the declaration made by his Government in relation to article 4 (a) of the Convention. He stated that the Australian Government was reconsidering its position on the basis that article 4 should not be read in isolation from the rest of the Convention, and should be interpreted as requiring States to adopt further legislative measures only in so far as that was consistent with fundamental rights of freedom of speech and expression embodied in the Universal Declaration of Human Rights and expressly set forth in article 5 of the Convention. He added that his Government had implemented a policy of non-discrimination and equal employment opportunity for all persons employed or seeking employment in the public service and that special provisions existed for the employment of Aboriginals and Torres Strait Islanders. Moreover, Australia rejected apartheid as an affront to human dignity and a flagrant violation of fundamental human rights. In that connection, he provided information on an extensive range of political, social and economic measures taken by his Government against the Government of South Africa. Australia, in particular, persisted in the view that only by implementing mandatory economic sanctions could the most effective pressure for change be brought to bear on the South African Government.

51. Members of the Committee expressed satisfaction at the considerable amount of information provided both in the report and in the statement made by the Australian representative. That information took account of points raised at previous sessions of the Committee and gave an overall picture of the legislation and practice regarding prevention of racial discrimination in Australia. In that connection, they expressed the hope that the additional information given orally by the representative of Australia would be included in the next report by the Australian Government.

52. A number of questions were asked concerning the general framework of application of the Convention by Australia. Information was sought regarding the status of legislation which had been passed, but whose provisions had then been declared by the Supreme Court not to conform with international obligations Australia had assumed, and it was asked whether all the legislation in force was in

conformity with those obligations. Information was also requested on demographic trends in Australia since the last census in 1981 and on the proportion of Australian land that was set aside for Aborigines.

53. With reference to special measures taken for the benefit of underprivileged ethnic groups in Australia, a member asked whether the Australian Government considered that the time limitation mentioned in article 1, paragraph 4, of the Convention applied to the special measures in question, or whether they were to be continued for an indefinite period. Members also wished to know how the Australian Government, under its policy of "multiculturalism", managed to give all the groups forming Australian society the rights established by Australian law, why there were value-system and culture conflicts in Australian society and how many new immigrants were entering the country under the plans for expansion of the population. Information was also requested on the composition of the Australian Institute of Multicultural Affairs and on that of the Ethnic Affairs Commissions, as well as on the development of the homeland centres.

54. With particular reference to article 2, paragraph 2, of the Convention, members of the Committee asked a number of questions concerning the measures taken by Australia to protect the Aborigines. They wished to know why the Land Rights Model prepared by the Government had been rejected by the Aboriginal community and what the principles underlying that model were, why no action had been taken on the bills on that question which had been submitted in the States of Victoria and Western Australia, whether the Aboriginal lands were threatened with expropriation and what the position of the Australian Government was on the question of self-determination for the Aboriginal people. Information was also requested on access by Aborigines and Torres Strait Islanders to higher education, the professions and Australian political life and on their actual participation therein. It was also asked what measures had been taken for the protection and dissemination of Aboriginal languages and dialects in Australia, what committee was examining the problem of the high death rate among Aborigines in detention and what that committee and the 1986 Seaman report on land rights had recommended.

55. With reference to article 3 of the Convention, members of the Committee welcomed the measures taken by the Australian Government to oppose apartheid. They noted Australia's reasons for maintaining diplomatic, economic and trade relations with South Africa and asked for some clarifications in that regard. It was also asked whether the Australian Government was considering acceding to the International Convention on the Suppression and Punishment of the Crime of Apartheid.

56. In connection with article 4 of the Convention, members of the Committee asked whether acts of racial discrimination gave rise in Australia only to civil proceedings, or whether penalties could really be applied and whether the criminal law provisions concerning the punishment of acts involving violence or incitement to violence also covered acts of violence based on difference of ethnic origin. Clarification was also sought of the measures taken by Australia to implement article 4 (b) of the Convention, as they did not appear to be quite consistent with the provisions of that article.

57. In reply to the questions raised by the members of the Committee, the representative of Australia explained the legal system existing in his country for the implementation of international human rights instruments, in particular, the International Covenants on Human Rights, to which Australia was a party. That

system consisted mainly of a comprehensive network of federal and State measures which included the Federal Human Rights and Equal Opportunity Act. The Human Rights and Equal Opportunity Commission had set up regional offices which worked in co-operation with States which had their own human rights machinery for the handling of complaints. If a provision of domestic law was found to be in conflict with an international obligation, an amendment to the law in question would be required.

58. The representative further stated that the percentage of Australian land set aside for the use and benefit of Aboriginal people was greater than the percentage of Aboriginal people as a proportion of the population. However, the Aboriginal people saw land less in economic than in cultural terms and for that reason the Government was taking various measures to assist Aboriginal people in determining their priorities for the future in order to acquire economic independence through the utilization of the resources of the land. Regarding Australia's policy of multiculturalism, he stated that, since 1986, an Access and Equity Programme had been implemented in his country to ensure participation by all immigrants in the services offered by the federal Government, and many state Governments had similar programmes. Concerning Australia's immigration policy, he informed the Committee that current projections based on the latest census put his country's population at more than 16 million and that the estimated intake of immigrants for 1988-1989 was about 140,000. The problems of Australia's multicultural society were not only of a cultural character, but also connected with the provisions of the necessary infrastructure. The Government had recently established a committee to advise on future immigration policy and was currently considering a review of the immigration programme and the composition of Australian society as a whole. The broadest possible representation of the various ethnic communities was ensured in the composition of the various multicultural commissions.

59. With reference to specific questions concerning the Aboriginal people, the representative of Australia stated that the reason why the Land Rights Model had been abandoned was that it had failed to obtain the overwhelming support of both the Aboriginal and non-Aboriginal communities. The federal Government had thus opted for the solution of working with the States, so that they could develop legislation or acquire law for the benefit of the Aboriginal community, intervening with specific legislation only if difficulties arose. The state and federal Governments had, in particular, made substantive contributions for land acquisition and land development in special recognition of the Aboriginal needs in Western Australia and the Australian Government was committed to the principle of involving the Aboriginal people in decisions about their own future. The representative also provided information on increasing participation of Aboriginal people in higher education and in the professions. He stated that, where Aboriginal people were living in identified groups, bilingual education was encouraged and supported by the Government. However, the fact that there were some 500 Aboriginal language groups, some of them very small, gave rise to difficulties, and it was necessary to decide in which languages instruction should be provided. Regarding the question of Aboriginal deaths in custody, he said that the state and federal Governments were working together through the Muirhead Royal Commission to ensure that the question was addressed and any weakness in the system overcome.

60. With reference to article 3 of the Convention, the representative of Australia provided detailed information on the decreasing amount of trade between his country and South Africa, and on measures to ban Australian investments in that country. He emphasized that the diplomatic presence of his Government in South Africa

provided, among other things, a channel for direct humanitarian and educational assistance to victims of the apartheid system. He also stated that Australia, like other Western States, did not intend to sign or ratify the International Convention on the Suppression and Punishment of the Crime of Apartheid because of the vagueness with which apartheid was defined in the Convention and because it had difficulties with the concept of extraterritorial jurisdiction which the Convention sought to create.

61. With reference to article 4 of the Convention, the representative stated that, in Australia, existing criminal legislation covered all acts of violence against any persons, irrespective of race, colour or ethnic origin. The Racial Discrimination Act provided civil sanctions for certain acts of discrimination and incitement to such acts, but there was no federal or State legislation specifically creating the offence of incitement to racial hatred, although certain behaviour constituting incitement might in fact be covered by some other type of criminal offence.

Syrian Arab Republic

62. The eighth periodic report of the Syrian Arab Republic (CERD/C/118/Add.32) was considered by the Committee at its 817th meeting, held on 2 August 1988 (CERD/C/SR.817).

63. The report was introduced by the representative of the reporting State, who said that in the eighth periodic report, which supplemented the information contained in previous reports, the Government of the Syrian Arab Republic had wished to draw attention to the constitutional provisions regarding the freedom, dignity and equality of citizens, respect for all religions and freedom of worship and expression. Having indicated that the policy of opposition to any form of racial discrimination or racial ideology had been fundamentally reoriented when the Arab Socialist Ba'ath Party had come to power in 1963, he pointed out that since then the Syrian Arab Republic had given its full support to international movements of all types that condemned racial discrimination and racism in general. Within that context, it was emphasized that the Syrian Arab Republic had been the first country to sign the International Convention on the Suppression and Punishment of the Crime of Apartheid and that Syrian laws prevented any co-operation with the apartheid régime and with other racist régimes which co-operated with it. The Syrian Arab Republic was also combating zionism which it considered a racist ideology. He drew the attention of the Committee to his Government's inability to apply the International Convention on the Elimination of All Forms of Racial Discrimination to the Syrian citizens living in the Syrian Arab Golan, who were subject to all kinds of racist practices by the occupation forces.

64. Members of the Committee welcomed the introductory statement made by the representative of the reporting State and noted that consistent legislative and practical efforts made by the Government to combat any form of racial discrimination were most commendable. Some members of the Committee expressed regret that the Syrian Arab Republic was unable to apply the provisions of the Convention throughout its territory because part of that territory was illegally occupied by another State. The hope was expressed that future periodic reports from the Syrian Arab Republic would follow the Committee's guidelines for the preparation of reports.

65. With reference to article 4 of the Convention and to paragraph 2 of the eighth periodic report, it was asked how many cases dealing with incitement to racial discrimination had been dealt with by the courts and how severe the penalties imposed had been.

66. With regard to article 5 of the Convention, members wished to know what machinery existed in the Syrian Arab Republic to secure the rights of national minorities, in particular of the Kurdish minority and, with reference to the state of emergency which had been in force in the Syrian Arab Republic for some time. It was asked what rights affecting the implementation of the Convention had been suspended.

67. Replying to the questions raised, the representative of the reporting State informed the Committee that no case of criminal proceedings on incitement to racial discrimination had been reported, because racial discrimination did not exist in the Syrian Arab Republic. He pointed out that his country had a homogeneous population in which there were no ethnic groups. In the 1970s some Kurds had sought refuge in the Syrian Arab Republic, but most of them had since returned home. The few that had remained had been voluntarily assimilated in the Arab population.

68. With reference to the question concerning the state of emergency, the representative stated that it was in force as a result of the constant threat posed by Israel. It had led to certain proceedings being transferred to special courts; that matter had been dealt with in previous reports, but a more detailed reply would be given in the next periodic report. He also emphasized that, in any case, the state of emergency had nothing to do with racial discrimination, and his Government felt that it was not a proper subject for discussion in the Committee.

69. Indicating that the eighth periodic report was in fact a supplementary report to the previous one, the representative of the reporting State said that in future his Government would do its best to follow the Committee's guidelines.

Seychelles

70. The fourth periodic report of Seychelles (CERD/C/128/Add.3) was considered by the Committee at its 816th meeting, held on 2 August 1988 without the participation of a representative of the State party (CERD/C/SR/816), a fact regretted by the Committee.

71. Noting the assertion in the report of the absence of racial problems in the multi-ethnic and multicultural society of Seychelles, members of the Committee expressed a desire for more information on the positive aspects of racial integration in that State. Regret was expressed at the very general character of the report and it was hoped that the next report would give a detailed picture of the Government's policy with regard to racial discrimination.

72. Members of the Committee generally expressed a desire for information on the measures taken by the Government to fulfil its obligations under the Convention.

73. In connection with article 4 of the Convention, members of the Committee noted the indication in the report that, in the absence of racial discrimination in Seychelles, there was no need to give high priority to legislation on the subject. In that connection, they pointed out that it was the duty of States parties to

comply with both the spirit and the letter of the Convention and that, even if there were no racial discrimination in a country at a given time, no one could predict that unfortunate events would not alter that situation in the future.

74. In connection with article 5 of the Convention, it was asked how the property of Seychelles nationals residing abroad was administered.

United Republic of Tanzania

75. The seventh periodic report of the United Republic of Tanzania (CERD/C/131/Add.11) was considered by the Committee at its 817th meeting, held on 2 August 1988 without the participation of a representative of the reporting State (CERD/C/SR.817), a fact regretted by the Committee.

76. Members of the Committee, having welcomed the submission of the seventh periodic report of the United Republic of Tanzania as evidence of a desire to maintain a dialogue with the Committee, expressed their regret that no representative of the Government was present to answer questions, especially in view of the important role which that country played in Africa.

77. Members wished to know whether the reforms announced by the President of the United Republic of Tanzania after disturbances in Zanzibar had in fact been carried out and whether the problems in Zanzibar were communal in origin. They also wished to receive more information on the Bill of Rights recently incorporated in the Constitution, on the situation of the Pembanas, and on social services such as education and health. With reference to paragraphs 5 and 6 of the report, which stated that the Government had consistently encouraged and created the entire population of the United Republic of Tanzania as a single community, without conferring special rights on various tribal communities, and that its policy had succeeded in welding the nation together, members of the Committee pointed out that it was difficult to consider the seventh periodic report of the United Republic of Tanzania because of lack of demographic data giving a clear sociological picture of the different tribal groups within the population. It was stated that paragraph 6 of the report should be read as reflecting an aspiration rather than an achievement. The Committee would commend the policies followed by the Tanzanian Government, but it was hard to accept its claim to success in the absence of any independent evidence.

78. With regard to the implementation of article 2, paragraph 2, of the Convention, members wished to have additional information on the matters referred to in paragraphs 12 and 13 of the report concerning the Asian communities living in the United Republic of Tanzania, and it was asked whether the Asian community believed that there was no discrimination against its members.

79. With respect to the implementation of article 4 of the Convention and referring to paragraph 21 of the report, members emphasized that the United Republic of Tanzania had an obligation to enact legislation imposing specific penalties for all acts of a discriminatory nature, as provided in article 4 (a) and (b) of the Convention. Until it had done so, it could not be said to have effectively implemented the Convention.

Nicaragua

80. The Committee considered the fourth periodic report of Nicaragua (CERD/C/128/Add.1) at its 818th meeting, held on 3 August 1988 (CERD/C/SR.818).

81. The report was introduced by the representative of the State party, who indicated that Nicaragua's new political Constitution had entered into force on 9 January 1987. She highlighted various provisions designed particularly to preserve peace and to institute a more equitable international order. In addition, for the first time in its history, the country's multi-ethnic character was recognized. Furthermore, the languages of the indigenous peoples and communities of the Atlantic coast were recognized as national languages, the equality of all citizens before the law was guaranteed, and slavery and all forms of discrimination were prohibited in accordance with the rules of international law which the Government had undertaken to respect.

82. The representative pointed out that the dialogue between the indigenous peoples and the Government, which had been initiated as soon as work on the Constitution had begun, had been continued and had made it possible to solve a large number of problems. Thus, more than 400 representatives of different ethnic groups had approved the latest version of an autonomy bill, which was subsequently to be adopted by the National Assembly on 2 September 1987 and which constituted the legal and political framework for the practical implementation of the provisions of the international instruments relevant to the struggle against racial discrimination. Furthermore, the National Assembly was in the process of considering an electoral bill which gave the indigenous peoples real equality in the exercise of their political rights and enabled them to elect their representatives to an autonomous regional government. In addition, 18 cease-fire agreements had been concluded with several armed indigenous groups, as the Secretary-General of the Organization of American States had been able to verify on 17 May 1988. In addition, since 1985 almost 26,000 indigenous persons had been voluntarily repatriated with the collaboration of the Office of the United Nations High Commissioner for Refugees and under the observation of a Commission of the European Parliament which had visited the country in April 1988.

83. Lastly, the representative of the State party stressed the difficulties caused by the war of aggression being waged against her country, which caused victims among the civilian population every day and which constituted an obstacle to respect for human rights. In such circumstances, it was extremely difficult to ensure respect for the economic rights of the population.

84. Members of the Committee congratulated the Government of Nicaragua on its excellent report, which had been drawn up in accordance with the Committee's guidelines (CERD/C/70/Rev.1), and thanked its representative for a very useful and comprehensive updating. In particular, they noted that the Government had not hesitated to mention in its report the factors and difficulties which affected the implementation of the Convention and had endeavoured to reply to the many questions that had been asked during the consideration of its previous report. Members also stressed the real progress that had been made in finding solutions to the problem of racial discrimination, despite the difficult situation which prevailed in the country. In that connection, it was asked whether the implementation of certain articles of the Constitution was still suspended and whether some of the ethnic groups mentioned in the report were taking part in the conflict. It was noted with

satisfaction that the Convention, as well as other rules of international law, had been directly incorporated in national legislation.

85. With regard to article 2 of the Convention, members of the Committee noted the adoption, in September 1987, of the Indigenous Peoples Autonomy Act and welcomed a number of its provisions relating, *inter alia*, to the administration of public affairs, respect for the property rights of indigenous peoples, and the study of languages. Nevertheless, further information was requested on the limits and scope of the autonomy granted, the effects of the current negotiations with various ethnic groups on the implementation of the Act, the reasons why the Atlantic coast region had been divided into two zones, the composition of the ministerial delegations in those two zones, and the principles of the Sandinista Revolution that were applicable to the indigenous peoples.

86. Members of the Committee stressed the exemplary nature of the measures taken by Nicaragua to implement article 3 of the Convention.

87. With regard to article 4 of the Convention, the view was expressed that the article was not being fully applied in Nicaragua and further information was requested in that connection. Nevertheless, it was noted with satisfaction that the crime of genocide was punishable under the Penal Code.

88. As far as article 5 of the Convention was concerned, further information was requested about the participation of the various indigenous groups in the elections scheduled for 1988 and with regard to freedom of movement inside Nicaragua and freedom to return to it. In that connection, further information was requested concerning the possibility of extending the Amnesty Act mentioned in the report and repatriation of Mesquito refugees in Honduras. With reference to the right of everyone to own property, it was asked what total area of the land was held or traditionally occupied by the indigenous peoples and communities of the Atlantic coast, what their position was with regard to the right to own land and to benefit from the industrial exploitation of the region and its forestry resources, and whether the Government was considering the institution of a mixed economy in the country. In addition, details were requested on the situation of the Moravian Church and on the restrictions on freedom of opinion and expression and freedom of association.

89. Additional information was requested on the implementation of article 6 of the Convention. In particular, details were asked about the kinds of violations that were punishable, the complaints recorded and the decisions handed down by the courts.

90. On the subject of article 7 of the Convention, it was noted that the Government had adopted measures to organize literacy campaigns and it was asked whether any training to promote human rights and combat racial discrimination had been introduced, especially in schools and universities and for members of the police, the civil service and the armed forces.

91. In response to various questions about the Indigenous Peoples Autonomy Act, the representative of the State party said that the purpose of the people's revolution had, in particular, been to take action for the benefit of the indigenous peoples. However, for various reasons, especially historical reasons, the relationship between the central authorities and the Atlantic coast indigenous communities was one of mistrust. The Autonomy Act had recognized the rights and

duties of those peoples and in that connection she drew attention to some of its provisions concerning, *inter alia*, the right to own property. She added that although it had previously constituted a single administrative entity the Atlantic coast had temporarily been divided into two zones, as a result of the very great difficulties of communication between the north and the south of the region.

92. Replying to questions raised in connection with article 5 of the Convention, the representative of Nicaragua said that there were 14 political parties in her country, 7 of which were represented in the National Assembly. Most of the indigenous groups which had taken up arms had signed the peace accords providing for the cease-fire and the amnesty law had been extended until July 1987, the date of entry into force of the Esquipulas II Agreement. On the right to own property, she explained that the State recognized the right of the Atlantic coast communities to use their lands and their natural resources, but that those populations did not recognize the concept of private property. The Constitution also guaranteed a mixed economy and recognized the existence of various forms of landownership, all of which served the higher interests of the nation.

93. Referring to other rights recognized in article 5 of the Convention, the representative drew attention to the constitutional provisions guaranteeing freedom of religion, opinion, expression and association. Moravian Church ministers were not prevented from using English in their preaching and the activity of religious groups on the Atlantic coast was flourishing, as was attested by the recent translation of the Bible into the Sumo language. Workers and members of religious groups alike had the right, without any discrimination, to form associations. Freedom of the press was guaranteed and, since the entry into force of the Esquipulas II Agreement, all censorship had been removed.

94. Replying to questions asked about article 7 of the Convention, the representative said that the cultural identity of indigenous peoples was fully recognized and that they had the right to use their own languages in all everyday activities. Primary education was provided in the pupils' mother tongue and a bilingual education body existed in each of the Atlantic coast zones. Considerable efforts had also been undertaken to produce educational radio programmes for the benefit of the indigenous groups, and a programme for the teaching of law had been launched for members of the police force, the armed forces and the civil service. Seminars on the rights of indigenous peoples were also organized on a regular basis. She drew attention, however, to the practical difficulties of stimulating an awareness among the majority population of human rights and the rights of indigenous groups.

Portugal

95. The Committee considered the second periodic report of Portugal (CERD/C/126/Add.3) at its 820th to 822nd meetings, held on 4 and 5 August 1988 (CERD/C/SR.820 and SR.822).

96. The report was introduced by the representative of the State party, who spoke of his country's democratic structure, the fundamental rights set forth in the Constitution and the human rights norms and regulations of international law to which Portugal was committed. In particular, he stated that any victim of discrimination could bring his case before a court to assert his rights. He also referred to the consciousness-raising and training activities in human rights which

had been developed in his country for the benefit of judges, members of the police force, prison staff, students and the public at large.

97. The representative went on to describe the main legislative measures concerning human rights that had been adopted in Portugal since the preparation of his Government's second periodic report, in August 1986. In that connection, he mentioned Act No. 44/86 which contained guarantees to maintain and respect the fundamental rights of the individual, even during a state of siege or emergency, and the possibility of recourse to the courts in the event of a violation, as well as the Code of Criminal Procedure adopted by Decree Law No. 78-87, which provided, inter alia, for the strengthening of the defendant's right to a defence. He also said that, in December 1987, the Portuguese Government had enacted legislation on access to the law and to the courts, and that a system for promoting the right to information and legal protection, provided for in the Constitution, had been established. Foreigners and stateless persons residing legally in Portugal enjoyed that right to legal protection, which was also recognized for non-resident foreigners who were nationals of countries which accorded the same treatment to Portuguese nationals. Lastly, he provided information on Act No. 87/88 of 30 July 1988, which regulated the exercise of broadcasting activities within the national territory.

98. The members of the Committee congratulated the Portuguese Government on its report, which had been prepared in accordance with the Committee's guidelines and clearly showed that the Portuguese authorities were successfully implementing the Convention.

99. In general terms, some members of the Committee asked for information on the situation of Portugal's overseas territories and for a breakdown of foreign residents in Portugal by ethnic origin. It was also asked whether the Portuguese Government intended to make the declaration, provided for in article 14 of the Convention, recognizing the competence of the Committee to receive and consider communications from individuals.

100. With reference to article 3 of the Convention, members of the Committee noted that the Portuguese Government maintained diplomatic relations with South Africa. In that connection, members of the Committee asked what measures the Portuguese Government thought should be taken to bring pressure to bear on the South African Government and induce it to give up its policy of apartheid. They also requested information on Portugal's trade balance with South Africa, the measures taken by the Portuguese authorities to halt all sales of arms to South Africa, South African investment in Portugal and Portuguese investment in South Africa, and the assistance provided by Portugal to the victims of apartheid. It was asked whether Portuguese citizens living in South Africa had opted for South African nationality and whether Portuguese firms were still doing business in South Africa, either directly or through multinational corporations.

101. In connection with article 4 of the Convention, it was asked what measures the Portuguese Government had adopted to avoid any manifestation of racial discrimination, and whether organizations upholding ideas that were an incitement to racial discrimination had been at the root of such manifestations and, if so, how the Government had reacted.

102. As to article 5 of the Convention, members of the Committee wanted to know whether minorities living in Portugal experienced difficulties in gaining access to

public service and to what extent they took part in public service, and what the criteria were for granting or refusing residence permits for foreigners or for persons from former Portuguese colonies. Further details were requested, more particularly, on the number of persons who had applied to keep or to obtain Portuguese nationality after the independence of the former colonies. The hope was also expressed that information would be received on the level of education and unemployment among ethnic minorities living in Portugal, the country's rate of illiteracy, especially among immigrants, the situation regarding health care, and respect for the right to work and the free choice of an occupation.

103. As to article 6 of the Convention, it was asked whether any case involving a problem of racial discrimination had been brought before the courts after the preparation of the report in 1986, whether Portuguese citizens had, in that connection, referred to international bodies and whether they had been able to obtain legal aid.

104. So far as article 7 of the Convention was concerned, it was asked what measures had been taken to familiarize the population with the cultural traditions of the many ethnic minorities living in Portugal, whether languages other than Portuguese were taught in schools, whether instruction in human rights formed a separate subject, and whether, in the human rights training of policemen, they were informed of the Code of Conduct for Law Enforcement Officials, adopted by the General Assembly in 1979.

105. In response to the questions of the members of the Committee, the representative of Portugal said that, since 1975, Portugal had dismantled its former colonial empire and only two overseas territories currently remained under Portuguese administration: Macao, in connection with which the transfer of sovereignty in 1998 had been the subject of talks and an agreement with China in April 1988, and East Timor, which had been the subject of a process of decolonization in 1975 but was now occupied by the Indonesian army. He also said that, out of respect for the principle of no racial discrimination enunciated in article 13 of the Portuguese Constitution, his country had no classification of foreign residents by ethnic origin. Studies were under way in Portugal in connection with the declaration referred to in article 14 of the Convention.

106. With reference to the implementation of article 3 of the Convention, the representative reiterated his Government's firm condemnation of apartheid. His Government could not disregard the fact that 700,000 Portuguese nationals were living in South Africa and therefore maintained contacts intended to protect the safety of that community. The representative went on to give an account of the economic relations between Portugal and South Africa and said that his Government took the view that cessation of such relations would have disastrous consequences for the most underprivileged sectors of the South African population. However, Portugal took part in the joint action of groups of States and of the international community as a whole in combating apartheid through dialogue.

107. As to the implementation of article 4 of the Convention, the representative of Portugal recalled the provisions of the Portuguese Constitution and criminal law which prohibited any idea or organization that was an incitement to racism, and said that, to his knowledge, no manifestation of racist association had occurred in Portugal.

108. So far as article 5 of the Convention was concerned, the representative of the State party mentioned, among other things, the provisions of the Constitution which recognized the equal rights of all citizens to access to public service and the criteria adopted by his Government for granting or keeping Portuguese nationality in the case of the many persons from the former overseas territories. He said that, among the criteria adopted, race had not been taken into consideration. He also supplied information on the granting of residence permits, including the case of political asylum, the rate of illiteracy in Portugal, which was lower than 16 per cent, the measures taken to combat it, and the provisions governing the right to work and conditions of employment. He emphasized that the unemployment rate had recently fallen in Portugal and was 8 per cent in 1987.

109. As to article 6 of the Convention, the representative of Portugal confirmed, among other things, that no case involving a problem of racial discrimination had been brought before the courts or international bodies.

110. In respect of article 7 of the Convention, the representative mentioned the measures adopted in Portugal in the field of education to combat racial discrimination, a matter which was discussed in his Government's report. He explained that languages other than Portuguese were taught in schools and that, in training courses for judges, policemen and prison staff, a number of texts of the Council of Europe and the United Nations, such as the Code of Conduct for Law Enforcement Officials, were distributed in Portuguese and were studied.

Ukrainian Soviet Socialist Republic

111. The ninth periodic report of the Ukrainian Soviet Socialist Republic (CERD/C/149/Add.10) was considered by the Committee at its 820th and 821st meetings, held on 4 August 1988 (CERD/C/SR.820 and SR.821).

112. The report was introduced by the representative of the State party who said that, since the submission of the ninth report of the Ukrainian SSR, social, political and economic life in that country, as in the USSR, had been marked by events of great importance for Ukrainian society. In the last three years the country had undertaken many changes which constituted what was known as "perestroika". The "perestroika" process was being carried out in two key directions: radical economic reform and democratization of all areas of political and social life. Much legislation, including texts dealing with the equality of all citizens, regardless of race or nationality, in all areas of economic, political, social and cultural life, was being reviewed with the aim of clarifying or supplementing it. In that connection, relevant decisions of the plenum of the Central Committee of the Communist Party of the USSR and those taken by the Central Committee of the Ukrainian Communist Party had been examined. The Committee was informed that the Ukrainian SSR was now planning to draw up a law on judicial reform, to re-examine certain chapters of the Criminal Code, to improve the legislation on religious worship and to prepare new rules concerning freedom of conscience and religion. Supplementing the information provided in the report concerning the implementation of article 5 (d), of the Convention, the representative said that, since 1 January 1987, the USSR had been applying new provisions concerning the conditions for admission to and departure from the country, based on the Final Act of the Helsinki Conference on Security and Co-operation in Europe (CSCE). With reference to the implementation of article 6 of the Convention, it was stated that under article 58 of the Constitution of the USSR and article 56 of the Constitution of the Ukrainian SSR, new legislation had

been enacted giving effect to the constitutional provisions concerning the right of petition, including in those cases where an authority had violated the right of a Soviet citizen. In connection with the implementation of article 3 of the Convention, the representative described the efforts being made by his country to oppose apartheid and racial segregation.

113. Members of the Committee noted that the report submitted by the Ukrainian SSR was fully in conformity with the guidelines established by the Committee, and was informative and entirely satisfactory from both the quantitative and qualitative standpoints. The report and its presentation by the representative of the State party constituted a further example of the constructive dialogue established by the Committee with the Ukrainian SSR. Having noted that the report had been prepared in early 1986, members of the Committee suggested that it would be helpful if the next report provided more information on the quality of the reforms carried out in the course of "perestroika" and asked whether there were any legislative texts which, as formulated in the course of "perestroika", did not conform with the fundamental principles established in the Convention. It was also indicated, with reference to the third paragraph of Part I of the report, that the formulation "the present political and social structure of the Ukrainian SSR completely precludes any kind of ... conditions for the emergence or existence of such phenomena as racism or racial discrimination" contained therein excluded human psychology as a source of discrimination. In that connection, it was suggested that the intention might be better expressed by saying that the State had done everything possible to prevent the emergence or existence of racism or racial discrimination. It was also asked under what conditions courts could apply international conventions directly in the USSR and Ukrainian SSR.

114. It was asked whether the provisions of article 2, paragraphs 1 (c) and 2, of the Convention would continue to be relevant in the Ukrainian SSR, since policy changes were taking place in the Soviet Union, and whether there would be constitutional, legislative or administrative changes. More information was also requested concerning the current resettlement of Tartars in Crimea and concerning any difficulties they might be encountering in returning to Crimea.

115. With reference to the implementation of article 3 of the Convention, members of the Committee congratulated the Ukrainian SSR on the efforts it was making to implement the provisions of article 3 of the Convention and stated that the populations of the third world, in particular those of African countries, attached great importance to the resolute action being taken by the Ukrainian SSR in the struggle against apartheid.

116. Concerning the implementation of article 4 of the Convention, it was noted that the measures taken by the Ukrainian SSR to give effect to the provisions of the article provided useful ideas on methods of applying the article.

117. Regarding the implementation of article 5 of the Convention, members of the Committee wished to know whether in the Ukrainian SSR there were any disparities in the development of the various ethnic groups which might hamper the application of the principle of the equality of rights of citizens in all areas of economic, political, social and cultural life. They asked whether information might be furnished on the basis of which it would be possible to evaluate trends in the make-up of the population by nationality and whether there were any links between those trends and the employment situation. In relation to article 5 (d) (vii) of the Convention, clarification was requested concerning the provisions in article 50

of the Constitution of the Ukrainian SSR guaranteeing citizens the right to profess or not to profess a religion, to hold religious services or to propagate atheism. It was pointed out, in that connection, that the existing disparity in the Government's policy of facilitating the practice of atheism as a civil activity restricted the right to freedom of religion to mere religious practice. Reference was also made to the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief, article 1 of which provided for "freedom to have a religion or whatever belief of his choice" and it was asked whether article 50 of the Constitution of the Ukrainian SSR was in conformity with article 1 of the Declaration. In the same connection it was asked whether in political representation circles, particularly those of the Communist Party, any believer could openly profess his faith. Note was taken with appreciation of the changes being brought about in Soviet society, particularly in the area of religious freedom, by the new direction taken in the Soviet Union under the leadership of Mikhail Gorbachev, and it was felt that those changes would promote the attainment of the objectives enunciated in the Convention.

118. With regard to equality of rights and freedoms of foreign citizens and stateless persons in the Ukraine, it was asked exactly how many foreign citizens, stateless persons and asylum-seekers there were in the Ukraine and what their status was.

119. Members of the Committee wished to know what measures were being taken in the Ukrainian SSR to put into effect the ambitious programme announced by the Soviet authorities aimed at ensuring reasonable housing for the entire population of the USSR by the year 2000 and what effect the new co-operatives policy was having on full employment. It was also asked whether the ethnic minorities enjoyed freedom of association, whether there was a refugee problem, and, if so, how it was handled by the authorities.

120. Replying to questions raised and observations made by Committee members, the representative of the Ukrainian SSR stated, with reference to article 2 (c) of the Convention, that his country had undertaken to implement the Convention fully, especially from the standpoint of reviewing national legislation on the rights of all inhabitants of the country.

121. Article 50 of the Constitution of the Ukrainian SSR guaranteed to citizens the right to freedom of conscience, namely the right to engage in religious worship or to carry out atheistic propaganda. Incitement to hatred on the basis of religious belief was prohibited. The provisions relating to atheistic beliefs did not contradict article 18 of the International Covenant on Civil and Political Rights. Currently, important legislation was being prepared, including a law on freedom of conscience. Additional information was given as to new trends in the development of relations between State and Church in the Ukrainian SSR.

122. Referring to the question concerning the Crimean Tartars, he said that a serious analysis of the problem had been made in 1987 and a special State Commission had been set up in the same year to look into the situation. During the past few years, more than 10,000 people had been resettled in Crimea and the process was continuing. During the short period in which the State Commission had been operating, almost 2,500 Tartars had been given jobs in Crimea. However, he pointed out that a serious problem existed in finding employment and housing for Tartars in Crimea; to tackle that problem State farms were being established by decision of the local authorities in the Crimean region and Tartars were being

provided with agricultural machinery, housing and building materials, as well as facilities for maintaining their national culture and learning their native language. The basic principle being followed was that the rights of the Tartars must not be reduced when they resettled in the Crimea.

123. Turning to the question of how fundamental rights and freedoms and protection against infringement of personal dignity were reflected in the Constitution, the representative said that those rights were enshrined in articles 52, 55 and 56 of the Constitution, which had been referred to at length in the seventh and eighth periodic reports. With regard to legal safeguards in criminal procedure, he explained that detailed information on that subject had been provided in the second periodic report submitted by the Ukrainian SSR to the Human Rights Committee (CCPR/C/32/Add.4) considered by that Committee at its twenty-fifth session in July 1985. However, since then, important changes had taken place: the Act of 1987 had established procedures for redress in case of improper conduct by State officials and criminal procedure legislation was being reviewed with the aim of extending the rights of citizens to protect their honour and dignity.

124. With regard to family reunification, he said that that was a universally recognized principle of international humanitarian law which was observed by the Ukrainian SSR. There was no reference to nationality or race in the regulations governing the right to departure, nor could there be. With regard to the observation made by one expert concerning priority given to the right of Jewish people to leave, figures for recent years showed that Jews did not represent an overwhelming majority of those leaving the country. As for processing requests to leave the country, the approximate time required for that purpose was one month, and the proportion of requests refused was approximately 2 per cent.

125. With reference to the exercise of the right to housing, the representative said that in 1987, 363,000 apartments had been built, covering a total surface area of 21 million square metres. In 1987 alone, almost 2 million people had seen an improvement in their housing conditions. There were problems, but efforts were being made to resolve them and ensure speedy implementation of the programme. As for employment, the Government did in fact face a considerable problem in view of the current restructuring process. Fourteen ministries had been disbanded and in productive areas about 240,000 people would change their jobs. A wide range of measures was being taken to tackle that problem. New measures had also been introduced to promote co-operative enterprise and individual economic activity.

126. Finally, the representative of the reporting State said that some questions raised in the Committee might not have been fully answered, but that all the Committee's questions would be examined very carefully and answers to them would be properly reflected in future reports.

Romania

127. The seventh and eighth periodic reports of Romania, submitted in one document (CERD/C/132/Add.4), were considered by the Committee at its 21st meeting, held on 4 August 1988 (CERD/C/SR.821).

128. The report was introduced by the representative of Romania who stated that, since the Committee's consideration of Romania's previous report (CERD/C/76/Add.3) in 1982, his country had maintained and consolidated its existing legal framework relating to the provisions of the Convention. In that connection, there were not

merely legal but also practical guarantees to ensure access by all to every field of economic, social, political and cultural activity. He drew the Committee's attention to the fact that there had been a considerably greater volume of investment in some districts inhabited by Romanian citizens of other nationalities as compared with the rest of the country. The urbanisation process which had taken place concerned all parts of the country and had led to the establishment of five or six urban centres in each district. The membership of local political and administrative bodies in districts inhabited by a population of another nationality reflected the proportion of that population in the district and special teacher-training colleges had been set up to train teachers in languages other than Romanian. Lastly, he emphasized the provisions governing the Council of Culture and the right of petition for citizens of all nationalities.

129. Members of the Committee expressed appreciation for the Romanian report as well as for the introductory statement and commended the Government for its willingness to maintain a dialogue with the Committee. Some members noted with satisfaction that the report provided information not only on legislation to implement the provisions of the Convention but also on how that legislation was put into practice. However, it was observed that the census referred to in the report had been conducted in 1977; new statistics regarding the demographic composition of the population were therefore requested.

130. Considerable concern was expressed by members regarding the position of the Hungarian and German minorities in Romania. There was a feeling that some of the measures adopted by the Government pursuant to its central planning policy might have the effect of destroying those minorities' cultural heritage and entail the loss of their identities. Some members, however, considered that Romania endeavoured to ensure full equality of rights and the elimination of any discrimination.

131. In that connection, members of the Committee referred to article 2 in conjunction with article 5 of the Convention and requested further information on the central planning policy and the urban resettlement programme. In that regard, members wondered whether some attempt was being made to assimilate the minority population and whether the Government had any plans for aligning some of its present legislation more closely with the provisions of the Convention. Additional information was also sought on the representation of minorities in the Grand National Assembly, on the closure of a Hungarian consulate in Cluj, and on whether a decree under which foreign tourists were no longer allowed to stay overnight in private houses was enforced with greater stringency against Hungarian-speakers in Transylvania. Regarding discrimination in employment, members wished to know whether Hungarian-speakers were posted to places where Hungarian was not spoken and people who did not speak Hungarian were being posted to Hungarian-speaking districts and whether Hungarian-speakers were represented proportionately in the diplomatic service, the armed forces and the police. Information was requested on the Council of Workers of Hungarian Nationality and, lastly, members requested additional information on the status, rights and education of Gypsies and German-speaking minorities.

132. Concerning the implementation of article 3 of the Convention, members of the Committee expressed their satisfaction with the measures taken by the Government in the struggle against apartheid.

133. With regard to article 6 of the Convention, members of the Committee observed that the report referred to various articles of the Criminal Code providing for offences and punishment. However, they wished to receive further information on the kind of cases brought, the verdicts handed down and the forms of punishment imposed by the courts.

134. In connection with article 7 of the Convention, members of the Committee wished to receive additional information on the plan to create agro-industrial centres by destroying existing villages and rehousing the population in modern blocks. In that regard it was asked whether buildings housing Hungarian-speakers were the first to be demolished. In addition, members asked whether cultural documents relating to the past of the Hungarian minority had been removed or destroyed, whether non-Romanians were obliged to use the Romanian version of all place names and whether the history of Transylvania was being rewritten so as to exclude the contributions of Hungarians from history textbooks. It was also asked whether there were provisions for the use of minority languages in educational institutions, what proportion of the ethnic population received instruction in their mother tongue, whether students could take university courses on Hungarian literature in the Hungarian language, and what the illiteracy rate was among minorities.

135. Replying to questions raised and observations made by members of the Committee, the representative of the State party explained that the purpose of the central planning system was to ensure the economic, social and cultural development of the whole country, although areas inhabited by certain nationalities might be singled out for more accelerated development. The Government recognized the right of minorities to be different and there was no intention of assimilating ethnic Hungarians to Romanians or of destroying their cultural identity. The objective was to place them on an equal footing with the majority of the population. In response to other questions, he also stated that a new census was scheduled to be taken in two years' time, that consulates were still open, that tourists could stay in private houses if they were close relatives of the occupiers, that the number of Hungarian teachers in the country was proportionately higher than that of Romanian teachers, that there were Hungarians in the diplomatic service, that the percentage of Hungarian-speakers in the army was the same as that in the population at large and that there were many Hungarian-speakers in the police. He added that the Council of Workers of Hungarian Nationality was operating, held two sessions a year and was properly staffed. Regarding the question raised concerning the Gypsies, he stated that they all spoke Romanian, received their schooling in Romanian and had access to all public offices and that nomadic gypsies were allowed to continue their nomadic life and to preserve their traditions.

136. In connection with the implementation of article 6 of the Convention, the representative explained that no proceedings had yet been brought before the courts regarding racial discrimination and that, if any cases arose, they would be settled at the administrative level.

137. With regard to the questions concerning the urban resettlement programme, the representative of the reporting State drew attention to the fact that the process of introducing the new agro-industrial centres had begun in the Bucharest area and that the programme would take 20 years to be completed. The plan affected the whole country and was not directed against any particular ethnic group. Its purpose was to ensure that there were no more scattered houses without running

water, electricity or schools. The inhabitants of such scattered houses would be grouped together in a nearby commune with improved modern facilities in the same area.

138. The representative assured the Committee that all cultural property produced in the course of history by the Hungarian minority enjoyed the same protection as that created by Romanians and that the history of Transylvania as written in Bucharest took account of the various contributions made by the Hungarian population. Furthermore, the Romanian versions of place names were used only for official purposes and were not imposed upon the newspapers and books of ethnic minorities.

139. There was no problem with regard to the Hungarian minority in matters of education. Decisions in that area were taken by persons of the respective ethnic minority, at both ministerial and district level. The number of schools for Hungarians was proportionately higher than the number of schools for Romanians, since wherever there were seven children of Hungarian origin a school or class was established for them. Lastly, the representative explained that illiteracy did not exist in Romania and that Hungarian and German were used in higher education.

Morocco

140. The Committee considered the eighth periodic report of Morocco (CERD/C/148/Add.2) at its 822nd meeting, held on 5 August 1988 (CERD/C/SR.822).

141. The report was introduced by the representative of the State party, who referred, *inter alia*, to the principal texts constituting his country's legal system, which had its source in Muslim and contemporary law. He said that no change had occurred in Moroccan legislation regarding the question of racial discrimination since the submission of the last report to the Committee (CERD/C/117/Add.1) and that no instance of a violation of the Convention had been recorded in Morocco during that period. He went on to mention the various topics dealt with in his Government's report, indicating that the report had been prepared in accordance with the guidelines recommended by the Committee.

142. Members of the Committee congratulated the Government of Morocco on having submitted a report of high quality, and especially on having taken care to reply to the questions and comments made by the Committee during consideration of the previous report.

143. Members of the Committee noted that the Moroccan people was the product of a blending of Berbers, Arabs, Jews and Africans from south of the Sahara. In that regard, they wished to know, in particular, what approximate percentage each of those four elements represented in the population and whether that plurality of Moroccan society was reflected in the State structure. Information was also requested concerning the nomads of the Sahara, in particular, their number and situation and what measures had been taken to guarantee their exercise of the rights set forth in article 1 of the Convention and to provide for their education. In addition, clarification was requested with regard to the meaning of the sentence in article 9 of the Constitution (see para. 57 of the report), which stated that no restriction might be imposed on the exercise of the freedoms set forth in the Constitution "save by law".

144. With regard to article 4 of the Convention, the members of the Committee pointed out that Morocco, like any other State party to the Convention, was required to adopt specific and appropriate legislative measures to prohibit racial discrimination.

145. On the subject of article 5 of the Convention, clarification was requested concerning the provisions of the law, which applied to Moroccans who were neither Muslims nor Jews, concerning safeguards with respect to freedom of conscience and concerning the text of article 3 of the Moroccan Nationality Code. It was noted that child labour was prohibited in Morocco, but information was sought as to whether the phenomenon actually existed and, if so, how the Government was dealing with it.

146. In his reply to the questions raised by the members of the Committee, the representative of Morocco described the historical and cultural origins of the various ethnic groups which constituted the Moroccan population and stated that it was not possible to provide figures or details regarding the percentage of the various elements of the population, since censuses did not record ethnic characteristics and Moroccans, whatever their origin, had freedom of movement within the country. He also gave details regarding the situation of the nomads and indicated that the phenomenon of nomadism was gradually dying out.

147. On the subject of article 4 of the Convention, he said that he would draw the attention of the competent authorities of his country to the need to adopt the necessary measures to ensure that the provisions of the Convention were fully respected.

148. With regard to article 5 of the Convention, the representative stated that freedom of conscience was guaranteed by law in Morocco at least as far as Islam, Judaism and Christianity were concerned, but that any dissemination of atheist propaganda was punishable by law. All Moroccan citizens, whatever their religion, were equal before the law. In addition, certain rights of the Jewish minority relating to their particular religious needs were respected. Violations of the prohibition of child labour did exist in Morocco, particularly in the carpet industry.

Ghana

149. The Committee considered the ninth periodic report of Ghana (CERD/C/149/Add.13) at its 822nd and 823rd meetings, held on 5 August 1988 (CERD/C/SR.822 and SR.823).

150. The report was introduced by the representative of the State party who, having recalled that the political, economic and social evolution of Ghana had produced legislation and practices which discouraged racism and racial discrimination, informed the Committee that his Government was currently taking measures at the constitutional level to establish a democracy in the country based on participation by all members of the population. In particular, the Government intended to hold elections in 1988 to choose the members of the district assemblies who would participate in the development of the future national political structure. The establishment of those district assemblies should mark the emergence of a new political culture in Ghanaian society. The National Commission for Democracy was continuing to gather different views on the future national political structure and, in particular, had taken due note of the comments made by members of the

Committee concerning the provisions of the Convention which should be reflected in the country's national legislation. He said that the ninth periodic report of Ghana was intended to provide a useful update of the information communicated in previous reports, the last one (CERD/C/118/Add.28) having been submitted in 1986.

151. Members of the Committee thanked the Government of Ghana for its report and for the dialogue which it was continuing to maintain with the Committee. At the same time, they pointed out that the ninth periodic report was too general in nature and provided no specific information about the situation in the country. They expressed a desire for more specific details to be included in the next report to permit an overall view of the situation and enable comparisons to be made with previous years, and requested that the report follow the guidelines established by the Committee. Members emphasized the need to have the texts of the laws relevant to implementation of the Convention, because without those texts it was impossible to know whether the provisions of the Convention were effectively incorporated in the national legislation.

152. Concerning the implementation of article 2, paragraph 2, of the Convention, in view of the fact that various ethnic groups existed in Ghana, members of the Committee would welcome information about the prevailing situation in the north of the country.

153. With regard to the implementation of article 4 of the Convention, it was stated that the information thus far received from the Government did not appear to indicate proper implementation of article 4 and the text of the Criminal Code and other legislation giving effect to the mandatory provisions of that article had still not been provided.

154. With regard to the implementation of article 5 of the Convention, members sought clarification as to the current situation concerning the regulations prohibiting the formation of political parties and the conduct of political activities on a tribal, regional, professional, racial or religious basis. More specific information was requested about the kinds of candidates who would be standing at the next elections, given that the political parties had been proscribed.

155. Information was also requested about the literacy rate in Ghana. Further details were sought concerning the new programme described to improve the employment situation, the measures taken in the area of housing to eliminate slum dwellings and measures taken in the fields of education and health.

156. The representative of the reporting State, having thanked the members of the Committee for the interest they had shown in his country's ninth periodic report, stated that their very useful comments would be brought to the attention of his Government so that they would be taken into account in the preparation of the next periodic report.

157. With regard to the district assembly concept, he indicated that the relevant legislative proposals had not yet been made law. However, the basic outline of the new legislation was already known. In accordance with the general concept, the district assemblies were part of the Government's strategy of promoting grass-roots democracy and were designed to be the highest administrative and political authority in their respective areas, with all local government institutions subordinated to them. He gave a detailed description of the requirements to be met

by the candidates for election as members of the district assemblies and of the electoral procedure. The text of the new legislation on that subject would be made available to the Committee once the law had been enacted, probably in time for inclusion in Ghana's tenth periodic report.

158. Turning to the question of the country's demographic composition, the representative pointed out that his Government's aim had always been to ensure that no one was discriminated against on the basis of ethnic origin. As for the relevant statistics, he said that it was difficult to provide the exact breakdown of local population by ethnic group because the population census had been conducted on the basis of administrative regions.

159. With regard to the status of different ethnic groups, the Government of Ghana had consistently endeavoured to improve the situation of vulnerable social groups, in particular those living in the northern part of the country. Since independence, free education had been provided from primary school to the university level, which was one of the measures helping to achieve greater balance and better opportunities for all members of society.

Spain

160. The ninth periodic report of Spain (CERD/C/149/Add.14) was considered by the Committee at its 824th meeting, held on 8 August 1988 (CERD/C/SR.824).

161. The report was introduced by the representative of the State party, who highlighted its various aspects. He also referred to various laws and administrative measures concerning the health, education and protection of the Gypsy community and stressed the recent adoption of the Aliens Act, aimed at eliminating all discrimination based on nationality among workers of States members of the European Community.

162. Members of the Committee expressed appreciation of Spain's report and its representative's oral introduction. In particular, they congratulated the Government for including in its report the replies to numerous questions raised during consideration of the previous report and for indicating the difficulties it had encountered in matters relating to racial discrimination.

163. Members congratulated the Government on the various measures it had adopted with a view to eliminating discrimination against the Gypsy community. Although they noted that it was forbidden to ask for information on race during census-taking operations, they did wish to know, if only approximately, the current size of the Gypsy community. They also wished to receive clarification on the conditions for foreigners entering and staying in Spain, on any differences of treatment of foreigners depending on their country of origin and on the situation of Spaniards and Muslims in Ceuta and Melilla.

164. With reference to article 2 of the Convention, members asked whether the National Plan for the Advancement of Gypsies, mentioned in the report, had been implemented.

165. Members of the Committee expressed regret at the Government's attitude concerning the implementation of article 3 of the Convention and hoped that it would pay more attention to that question, in conformity with its obligations under

the Convention. They also wished to obtain further information on Spain's position with respect to the sale of arms to and the maintenance of diplomatic relations with, South Africa.

166. Members of the Committee noted with satisfaction that the Ministry of Justice had transmitted the text of article 4 of the Convention to the Codification Commission for inclusion in the preliminary draft of the new Penal Code, and they asked what action the Codification Commission had taken in that regard and whether the preliminary draft had already been tabled.

167. As to article 5 of the Convention, members asked whether there had been any new developments in that connection since the report had been drafted. In particular, they wished to obtain further information on any problems encountered by members of the Gipsy community in the field of education and on their participation in the political life of the country.

168. Members of the Committee noted with interest the part of the report that dealt with the elimination of semantic discrimination and the meaning attached to the Spanish term "gitanada", and they asked what the effect of that discussion had been on public opinion.

169. With regard to article 6 of the Convention, members wished to have more information on the appointment of the new People's Advocate. In addition, they asked whether he had often instituted proceedings in the Constitutional Court on the grounds that a law was unconstitutional and whether he was also empowered to monitor the compatibility of a rule of internal law with the Convention.

170. With reference to article 7 of the Convention, members wished to obtain further information concerning human rights teaching. They asked to what extent training in that area was provided for judges, police officers and civil servants in general.

171. The representative of the State party began his reply by saying that he would refer the questions and comments of the members of the Committee to his Government and that, in keeping with the Government's traditional policy, written replies to the questions would appear in the next report to the Committee.

172. Referring to the question raised on the subject of censuses, he explained that, although the services in charge of implementing the National Plan for the Advancement of Gypsies had an idea of the approximate size of the Gipsy community, it was prohibited under Spanish law to differentiate persons according to race during census-taking operations.

173. Regarding questions raised in relation to article 4 of the Convention, the representative indicated that the codification process had been delayed and that, as a result, article 4 had not yet been incorporated in the draft Penal Code. However, it was always possible to invoke the Convention before the People's Advocate or the courts, for it was part of the Spanish internal legal order. Whoever acted in a way that was not compatible with those rules was liable to punishment.

174. The public in Spain had become aware of the importance of the discussion about the use of terms like "gitanada" and the fact that such terms could have a discriminatory connotation.

175. Referring to the other questions concerning article 6 of the Convention, the representative of the State party explained that the People's Advocate could recommend that a law be declared unconstitutional; he had not yet made use of that possibility, but could do so in the case of proceedings in progress.

176. Lastly, with regard to the promotion of norms for the protection of human rights and the elimination of racial discrimination, the representative drew attention to the establishment of a body within the Ministry of Foreign Affairs that dealt exclusively with human rights, and, in addition to its international duties, had an important role to play in disseminating those norms. Moreover, information had been distributed on the occasion of Human Rights Day, especially to children of school age.

Kuwait

177. The Committee considered the ninth periodic report of Kuwait (CERD/C/119/Add.16) at its 824th meeting, held on 8 August 1988 (CERD/C/SR.824).

178. Introducing the report, the representative of Kuwait said that the Kuwaiti commission responsible for preparing it had endeavoured to follow the guidelines established by the Committee and to reply as fully as possible to the questions raised during the Committee's discussion of the previous report (CERD/C/118/Add.3). He gave a brief description of the structure and content of the report and drew the Committee's attention, in particular, to the relevant articles of the Constitution of Kuwait and to the fact that a working group had been established to monitor the application of measures to eliminate racial discrimination.

179. Members of the Committee noted that the report had been submitted in accordance with the guidelines established by the Committee and contained references to most of the Committee's questions and observations concerning Kuwait's eighth periodic report. It was pointed out that, among the countries of the region, Kuwait had good reason to be proud of its conduct in regard to human rights.

180. With regard to paragraph 7 of the report, some members of the Committee wished to know whether the State of Kuwait had acceded to any human rights instruments since the submission of its previous report, and further information was requested about Kuwait's activities in international organizations such as ILO and the League of Arab States. In connection with paragraph 8 of the report, additional information was requested concerning the reasons for the establishment of the working group to monitor the application of measures adopted with a view to the elimination of racial discrimination, and concerning the group's competence, powers, mode of operation and composition. It was suggested that, in its next periodic report, Kuwait provide more details on the functions of the working group, the type of reports it submitted and the effectiveness of its endeavours to prevent racial discrimination.

181. With regard to the application of article 1 of the Convention, the members of the Committee paid tribute to the Kuwaiti Government for the equitable manner in which foreign workers were treated and, with reference to paragraph 33 of the report, wished to know whether it was the intention of the Kuwaiti Government that the benefits mentioned therein should be granted to foreign workers.

182. Concerning the implementation of article 3 of the Convention members of the Committee, noting the positive role Kuwait had played in the struggle against apartheid both within the United Nations system and in the Gulf region, inquired whether products of South African origin had been imported illegally into Kuwait and whether Kuwaiti companies had concluded transactions with South African entities.

183. As to the implementation of article 4 of the Convention, it was noted that the report did not meet all the requirements of the Convention. In particular, with regard to paragraph 18 of the report, it was pointed out that the promulgation of special legislation to prevent racial discrimination was a requirement of the Convention that should be respected, even if the country had the good fortune to be free of racial discrimination, as seemed to be the case in Kuwait. In that context, attention was drawn to a contradiction between what was said in paragraph 18 and the content of paragraph 13 of the report. A further contradiction was noted between the statements that the Kuwaiti delegation had made to the Committee during the consideration of the eighth periodic report and the content of paragraphs 13 and 18 of the ninth periodic report. It was suggested that provisions in conformity with the Convention should be incorporated in Kuwait's domestic law, since no one ever knew what the future might hold in store and, in any event, it was more prudent to have penal provisions for deterrent purposes.

184. Regarding the implementation of article 5 of the Convention, members of the Committee wished to know how Kuwait interpreted the provisions of the Convention relating to freedom of conscience and also whether that concept of freedom of conscience could be promoted in Kuwait and whether persons who were not followers of any religion could enjoy such freedom. It was also asked whether the principle of equal access to establishments of higher education by the children of foreign workers was applied in Kuwait, whether foreign workers had the right of association in trade unions and whether, on expiry of their contract, they could seek other employment, possibly with assistance from the Kuwaiti authorities.

185. In reply to the questions and observations of the members of the committee, the representative of the State party said that, as far as he was aware, Kuwait had not ratified any other international instruments since the presentation of its ninth periodic report and his country's Government would confirm that point in its next report. Kuwait was playing an active role in the efforts of ILO and the League of Arab States to combat racial discrimination and had participated as an observer in the ILO Tripartite Conference on Action against Apartheid, held at Harare (Zimbabwe) from 3 to 6 May 1988, at which it had contributed to the adoption of a large number of resolutions. He informed the Committee of the composition and functions of the working group referred to in paragraph 8 of the report. With regard to familiarizing individuals with the rights they could exercise under the terms of the Convention, he referred to article 70 of the Constitution of Kuwait and indicated that the Convention had been incorporated in his country's internal legislation and published in the official gazette. Consequently, any citizen could familiarize himself with the Convention and invoke before the courts the provisions of international law that had been incorporated in Kuwait's internal law.

186. The representative said that no goods of South African origin entered Kuwait and that no Kuwaiti financial or commercial company maintained relations with South African companies, since Kuwait's policy, which was fully respected, strictly prohibited any dealings with South Africa.

187. With reference to the questions about the implementation of article 4 of the Convention, the representative of the State party said that no cases of racial discrimination had ever been brought before the Kuwaiti courts and the legislature had not deemed it necessary to propose the adoption of a law in that connection for the simple reason that the need for one had not been felt. The additional information on that subject would be incorporated in the tenth periodic report.

188. In reply to the questions concerning the implementation of article 5 of the Convention, the representative of Kuwait affirmed that freedom of conscience and religion in Kuwait was guaranteed to all communities, subject to respect for public order and for the law. After describing Kuwait's system of higher education, he said that public education was accessible to all nationals and foreigners living in Kuwait and, with regard to equality of opportunity between Kuwaitis and foreigners, who constituted about 60 per cent of the population, the criterion for access to higher education was the student's level of academic achievement and not his nationality. Foreign workers, who constituted a very high percentage of the labour force in Kuwait, had a trade union which defended their rights. The Ministry of Social Affairs and Labour kept a check on employers and employees in order to avoid any disguised unemployment or underemployment in Kuwait. On the question of social assistance, the State was, in fact, planning to grant foreigners the same benefits as Kuwaiti citizens, particularly in regard to retirement benefits.

United Arab Emirates

189. The sixth periodic report of the United Arab Emirates (CERD/C/130/Add.1) was considered by the Committee at its 824th meeting, held on 8 August 1988 (CERD/SR.824), without the participation of a representative of the State concerned, a fact that was regretted by the Committee.

190. Members of the Committee expressed the hope that the United Arab Emirates would be in a position to send a representative during the consideration of its next report. They also hoped to obtain data on the demographic composition of the United Arab Emirates.

191. With regard to article 3 of the Convention, they wished to know whether goods of South African origin had entered the market of the United Arab Emirates illegally.

192. Concerning article 4 of the Convention, members of the Committee noted that the Criminal Code in force in the United Arab Emirates did not contain any specific rule for the implementation of the provisions of paragraphs (a) and (b) of that article and they wished to know whether the draft federal code of criminal procedure, which had been submitted for approval by the Federal National Council of the United Arab Emirates, contained such rules.

193. As to the implementation of article 5 of the Convention, further information was requested on the limits that the law of the United Arab Emirates imposed on the exercise of the rights set forth in that article, particularly the right to free expression of the opinions of the individual. More information was also requested about the way in which the United Arab Emirates guaranteed freedom to form and join trade unions. It was also asked how the economic recession due to the oil crisis had affected the employment of foreign labour, whether cut-backs in staff had been undertaken on a large scale and whether the children of foreign workers, whether from Arab or other countries, enjoyed the same opportunities for access to higher and university education as did nationals of the United Arab Emirates.

194. Concerning article 7 of the Convention, some contradiction had been observed between the report, which affirmed that nationals of the United Arab Emirates and foreigners enjoyed equal rights, and the provisions of article 14 of the Constitution of the United Arab Emirates, which guaranteed equality only among citizens.

195. Concerning paragraph 11 of the report, which referred to "Israel's deplorable record of violations of human rights", one expert said that countries should not use reports to make observations about other States, while another expert upheld the right of States to make any observation.

IV. CONSIDERATION OF COMMUNICATIONS UNDER ARTICLE 14 OF THE CONVENTION

196. Under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination, individuals or groups of individuals who claim that any of their rights enumerated in the Convention have been violated by a State party and who have exhausted all available domestic remedies may submit written communications to the Committee on the Elimination of Racial Discrimination for consideration. Twelve of the 125 States that have ratified or acceded to the Convention have declared that they recognize the competence of the Committee to receive and consider communications under article 14 of the Convention.* These States are Costa Rica, Denmark, Ecuador, France, Iceland, Italy, the Netherlands, Norway, Peru, Senegal, Sweden and Uruguay. No communication can be received by the Committee if it concerns a State party to the Convention which has not recognized the competence of the Committee to receive and consider communications.

197. Consideration of communications under article 14 of the Convention takes place in closed meetings (rule 88 of the Committee's rules of procedure). All documents pertaining to the work of the Committee under article 14 (submissions from the parties and other working documents of the Committee) are confidential.

198. In carrying out its work under article 14 of the Convention, the Committee may be assisted by a working group of not more than five of its members, which submits recommendations to the Committee regarding the fulfilment of the conditions of admissibility of communications (rule 87) or on the action to be taken in respect of communications which have been declared admissible (rule 95, para. 1).

199. The Committee commenced its work under article 14 of the Convention at its thirtieth session in 1984. It continued its work under article 14 at its thirty-first and thirty-second sessions in 1985, its thirty-fourth session in 1987 and its thirty-sixth session in 1988.

200. Under article 14, paragraph 8, of the Convention, the Committee shall include in its annual report a summary of the communications considered by it and of the explanations and statements of the States parties concerned, together with the Committee's own suggestions and recommendations thereon.

201. At its thirty-sixth session, on 10 August 1988, the Committee adopted its opinion on communication No. 1/1984 (Yilmaz-Dogan v. the Netherlands) which had been declared admissible at the thirty-fourth session. The communication concerned a Turkish citizen residing in the Netherlands who claimed to be the victim of a violation of articles 4 (a), 5 (1) (1) and 6 of the Convention by the State party. The petitioner had complained about discriminatory statements made by her employer in an application to a Sub-District Court to terminate her employment contract. The Court's decision, which could not be appealed, granted the employer's request. Subsequently the petitioner requested the competent authorities and the Court of Appeal to initiate criminal proceedings against the employer in respect of the aforementioned statements; such proceedings, however, were not deemed to be in the public interest and were not initiated.

* The competence of the Committee to exercise the functions provided for in article 14, paragraph 9 of the Convention became effective on 3 December 1982.

202. In its comments on the petitioner's allegations, the State party had argued that it had met its obligations under article 5 (e) (i) to guarantee equality before the law in the enjoyment of the right to employment by providing non-discriminatory remedies. It further claimed that article 6 of the Convention did not oblige it to institute appeal or other mechanisms against judgements of the competent judicial authorities. With respect to article 4, it argued that the obligation arising from that article had been met by incorporating in the relevant domestic legislation provisions which penalized activities contrary to the Convention.

203. Regarding the alleged violation of article 5 (e) (i), the Committee was of the opinion that the petitioner's dismissal had been the result of a failure to take into account all the circumstances of the case and that she had not been afforded protection in respect of her right to work. It therefore recommended to the State party that it ascertain whether the petitioner was currently gainfully employed and, if not, that it use its good offices to secure alternative employment for her and/or to provide her with such other relief as might be considered equitable. The Committee did not find that there had been any breach of articles 4 and 6 of the Convention by the State party.

204. The text of the Committee's opinion is reproduced in annex IV to the present report.

V. CONSIDERATION OF COPIES OF PETITIONS, COPIES OF REPORTS AND OTHER INFORMATION RELATING TO TRUST AND NON-SELF-GOVERNING TERRITORIES AND TO ALL OTHER TERRITORIES TO WHICH GENERAL ASSEMBLY RESOLUTION 1514 (XV) APPLIES, IN CONFORMITY WITH ARTICLE 15 OF THE CONVENTION

205. The Committee considered this item at its 826th meeting on 9 August 1988.

206. The action taken by the Trusteeship Council at its fifty-fourth session in 1987, and by the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples at its 1986 session, in conformity with article 15 of the Convention and General Assembly resolution 2106 B (XX) of 21 December 1965, was discussed in the annual report of the Committee on the Elimination of Racial Discrimination submitted to the Assembly at its forty-second session. 4/ The opinions and recommendations of the Committee, based on its consideration of copies of reports and other information submitted to it by the Trusteeship Council and the Special Committee in 1986 and 1987, were contained in paragraph 860 of its report to the General Assembly.

207. By resolution 42/57, the General Assembly, *inter alia*, took note of the report of the Committee on the work of its thirty-third, thirty-fourth, and thirty-fifth sessions, which included the Committee's recommendations relating to Trust and Non-Self-Governing Territories to which General Assembly resolution 1514 (XV) applied.

208. At its thirty-sixth session, the Committee was informed by the Secretary-General of the action taken by the Trusteeship Council at its fifty-fifth (1988) session in connection with article 15 of the Convention. The Trusteeship Council, at its 1656th meeting, held on 26 May 1988, considered the item on the agenda of its fifty-fifth session entitled "Co-operation with the Committee on the Elimination of Racial Discrimination" together with the item concerning the second Decade to Combat Racism and Racial Discrimination. The Council decided to take note of the statements made on the subject by several of its members (T/PV.1656). No further action concerning the opinions and recommendations of the Committee referred to above was taken by the Trusteeship Council.

209. However, as a result of earlier decisions of the Trusteeship Council and the Special Committee, the Secretary-General transmitted to the Committee at its thirty-sixth session the documents listed in annex V below.

210. At its thirty-sixth session, the Committee appointed the members of its three working groups to examine the documentation submitted to it under article 15 of the Convention and to report to the Committee on their findings, as well as on their opinions and recommendations. The working groups appointed at the thirty-sixth session of the Committee consisted of the following members:

(a) Atlantic Ocean and Caribbean Territories, including Gibraltar

Mr. Banton, Mr. Vidas, Mr. Reshetov and Mr. Yutzis, with Mr. Shahi as Convener;

(b) Pacific and Indian Ocean Territories

Mr. Beshir, Mr. Garvalov, Mr. Rhenar Segura and Mr. Song, with Mr. Sherifis as Convener;

(c) African Territories

Mr. Ahmadu, Mr. Foighel, Mr. Braunschweig and Mr. Ferrero Costa, with Mr. Aboul-Nasr as Convener.

The Committee also agreed that Mr. Partsch would serve as Chairman of the Conveners of the three working groups.

211. Due to lack of time as a result of the curtailment of the thirty-sixth session to two weeks, the Committee decided, at its 826th meeting, to take note of the relevant documentation and information submitted to it under article 15 of the Convention and to postpone their consideration to its next session.

VI. SECOND DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION

212. The Committee considered the item at its 826th and 827th meetings, held on 9 August 1988.

213. For the consideration of the item, the Committee had before it the following documents:

General Assembly resolution 42/47 on the Second Decade to Combat Racism and Racial Discrimination;

Study on the effects of racial discrimination in the field of education, training and employment as it affects the children of minorities, in particular those of migrant workers: report of the Secretary-General (A/42/492);

Implementation of the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination: report of the Secretary-General (A/42/493);

Implementation of the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination: report of the Third Committee (A/42/703).

214. Some members of the Committee expressed the view that the Committee should undertake a number of concrete activities during the Second Decade to Combat Racism and Racial Discrimination with a view to furthering its contribution to the Decade's objectives. It was suggested in that context that, in accordance with the proposals contained in the annex to General Assembly resolution 42/47, the Committee should be actively involved during the second half of the Second Decade to Combat Racism and Racial Discrimination in organizing the proposed seminar to assess experience gained in the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, and in conducting a global study on the extent of dissemination of the Convention.

215. The Committee decided, at its 827th meeting, that on the occasion of its own twentieth anniversary in 1990 and as its contribution to the activities of the Second Decade to Combat Racism and Racial Discrimination, it would undertake a revision and updating of its study on "the progress made towards the achievement of the objectives of the International Convention on the Elimination of All Forms of Racial Discrimination", ⁵/ which it had initially prepared on the occasion of the World Conference for Action to Combat Racism and Racial Discrimination in 1978. At the same meeting, the Committee decided to appoint Messrs. Banton and Yutsis as Special Rapporteurs to carry out the study and requested the Secretary-General to provide the Special Rapporteurs with necessary technical and logistic support to enable them to undertake the revision and updating of the document.

VII. DECISION ADOPTED BY THE COMMITTEE AT ITS THIRTY-SIXTH SESSION

1 (XXXVI). Financial situation of the Committee on the Elimination of Racial Discrimination

The Committee on the Elimination of Racial Discrimination,

Having considered the question of the obligations of States parties to pay their assessed contributions under the Convention,

Having taken into account the views expressed in the Third Committee of the General Assembly at its forty-second session and at the twelfth meeting of the States parties concerning the responsibility of States parties for the expenses of the members of the Committee,

Finding it extremely difficult to continue to discharge its mandate effectively under the Convention as long as the present situation continues to impede its work,

Recommends the following draft resolution to the General Assembly for adoption:

"The General Assembly,

"Reiterating the importance of the International Convention on the Elimination of All Forms of Racial Discrimination, which is the most widely accepted human rights instrument adopted under the auspices of the United Nations, as well as of the contribution of the Committee on the Elimination of Racial Discrimination to United Nations efforts to combat racism and racial discrimination on a global scale,

"Considering the relatively low cost of enabling the Committee to continue its important work of monitoring the implementation of the Convention,

"Authorizes the Secretary-General, on a temporary basis, to ensure the financing of the expenses of the members of the Committee on the Elimination of Racial Discrimination from the United Nations regular budget, until such time as a more permanent solution of the financial difficulties impeding the functioning of that Committee is found."

827th meeting
9 August 1988

Notes

1/ See Official Records of the International Convention on the Elimination of All Forms of Racial Discrimination, Twelfth Meeting of States Parties, decisions (CERD/SP/35).

2/ Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 18 (A/8/18), chap. IX, sect. B.

Notes (continued)

- 3/ Ibid., Twenty-fifth Session, Supplement No. 27 (A/8027), annex III,
sect. A.
- 4/ Ibid., Forty-second Session, Supplement No. 18 (A/42/18).
- 5/ United Nations publication, Sales No. E.79.XIV.4.

Annex I

A. STATES PARTIES TO THE INTERNATIONAL CONVENTION ON THE
ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION AS
AT 12 AUGUST 1988

<u>State</u>	<u>Date of receipt of the instrument of ratification or accession</u>	<u>Entry into force</u>
Afghanistan	6 July 1983 a/	5 August 1983
Algeria	14 February 1972	15 March 1972
Argentina	2 October 1968	4 January 1969
Australia	30 September 1975	30 October 1975
Austria	9 May 1972	8 June 1972
Bahamas	5 August 1975 b/	5 August 1975 b/
Bangladesh	11 June 1979 a/	11 July 1979
Barbados	8 November 1972 a/	8 December 1972
Belgium	7 August 1975	6 September 1975
Bolivia	22 September 1970	22 October 1970
Botswana	20 February 1974 a/	22 March 1974
Brazil	27 March 1968	4 January 1969
Bulgaria	8 August 1966	4 January 1969
Burkina Faso	18 July 1974 a/	17 August 1974
Burundi	27 October 1977	26 November 1977
Byelorussian Soviet Socialist Republic	8 April 1969	8 May 1969
Cameroon	24 June 1971	24 July 1971
Canada	14 October 1970	15 November 1970
Cape Verde	3 October 1979 a/	2 November 1979
Central African Republic	16 March 1971	15 April 1971
Chad	17 August 1977 a/	16 September 1977
Chile	20 October 1971	19 November 1971
China	29 December 1981 a/	28 January 1982
Colombia	2 September 1981	2 October 1981
Congo	11 July 1988 a/	10 August 1988
Costa Rica	11 January 1967	4 January 1969
Côte d'Ivoire	4 January 1973 a/	3 February 1973
Cuba	15 February 1972	16 March 1972
Cyprus	21 April 1967	4 January 1969
Czechoslovakia	29 December 1966	4 January 1969
Democratic Kampuchea	28 November 1983	28 December 1983
Democratic Yemen	18 October 1972 a/	17 November 1972
Denmark	9 December 1971	8 January 1972
Dominican Republic	25 May 1983 a/	24 June 1983
Ecuador	22 September 1966 a/	4 January 1969

<u>State</u>	<u>Date of receipt of the instrument of ratification or accession</u>	<u>Entry into force</u>
Egypt	1 May 1967	4 January 1969
El Salvador	30 November 1979 a/	30 December 1979
Ethiopia	23 June 1976 a/	23 July 1976
Fiji	11 January 1973 b/	11 January 1973 b/
Finland	14 July 1970	13 August 1970
France	28 July 1971 a/	27 August 1971
Gabon	29 February 1980	30 March 1980
Gambia	29 December 1978 a/	28 January 1979
German Democratic Republic	27 March 1973 a/	26 April 1973
Germany, Federal Republic of	16 May 1969	15 June 1969
Ghana	8 September 1966	4 January 1969
Greece	18 June 1970	18 July 1970
Guatemala	18 January 1983	17 February 1983
Guinea	14 March 1977	13 April 1977
Guyana	15 February 1977	17 March 1977
Haiti	19 December 1972	18 January 1973
Holy See	1 May 1969	31 May 1969
Hungary	1 May 1967	4 January 1969
Iceland	13 March 1967	4 January 1969
India	3 December 1968	4 January 1969
Iran (Islamic Republic of)	29 August 1968	4 January 1969
Iraq	14 January 1970	13 February 1970
Israel	3 January 1979	2 February 1979
Italy	5 January 1976	4 February 1976
Jamaica	4 June 1971	4 July 1971
Jordan	30 May 1974 a/	29 June 1974
Kuwait	15 October 1968 a/	4 January 1969
Lao People's Democratic Republic	22 February 1974 a/	24 March 1974
Lebanon	12 November 1971 a/	12 December 1971
Lesotho	4 November 1971 a/	4 December 1971
Liberia	5 November 1976 a/	5 December 1976
Libyan Arab Jamahiriya	3 July 1968 a/	4 January 1969
Luxembourg	1 May 1978	31 May 1978
Madagascar	7 February 1969	9 March 1969
Maldives	24 April 1984 a/	24 May 1984
Mali	16 July 1974 a/	15 August 1974
Malta	27 May 1971	26 June 1971
Mauritius	30 May 1972 a/	29 June 1972
Mexico	20 February 1975	22 March 1975
Mongolia	6 August 1969	5 September 1969

<u>State</u>	<u>Date of receipt of the instrument of ratification or accession</u>	<u>Entry into force</u>
Morocco	18 December 1970	17 January 1971
Mozambique	18 April 1983 a/	18 May 1983
Namibia	11 November 1982 a/	11 December 1982
Nepal	30 January 1971 a/	1 March 1971
Netherlands	10 December 1971	9 January 1972
New Zealand	22 November 1972	22 December 1972
Nicaragua	15 February 1978 a/	17 March 1978
Niger	27 April 1967	4 January 1969
Nigeria	16 October 1967 a/	4 January 1969
Norway	6 August 1970	5 September 1970
Pakistan	21 September 1966	4 January 1969
Panama	16 August 1967	4 January 1969
Papua New Guinea	27 January 1982 a/	26 February 1982
Peru	29 September 1971	29 October 1971
Philippines	15 September 1967	4 January 1969
Poland	5 December 1968	4 January 1969
Portugal	24 August 1982 a/	23 September 1982
Qatar	22 July 1976 a/	21 August 1976
Republic of Korea	5 December 1978 a/	4 January 1979
Romania	15 September 1970 a/	15 October 1970
Rwanda	16 April 1975 a/	16 May 1975
Saint Vincent and the Grenadines	9 November 1981 a/	9 December 1981
Senegal	19 April 1972	19 May 1972
Seychelles	7 March 1978 a/	6 April 1978
Sierra Leone	2 August 1967	4 January 1969
Solomon Islands	17 March 1982 b/	17 March 1982 b/
Somalia	26 August 1975	25 September 1975
Spain	13 September 1968 a/	4 January 1969
Sri Lanka	18 February 1982 a/	20 March 1982
Sudan	21 March 1977 a/	20 April 1977
Suriname	15 March 1984 b/	15 March 1984 b/
Swaziland	7 April 1969 a/	7 May 1969
Sweden	6 December 1971	5 January 1972
Syrian Arab Republic	21 April 1969 a/	21 May 1969
Togo	1 September 1972 a/	1 October 1972
Tonga	16 February 1972 a/	17 March 1972
Trinidad and Tobago	4 October 1973	3 November 1973
Tunisia	13 January 1967	4 January 1969
Uganda	21 November 1980 a/	21 December 1980
Ukrainian Soviet Socialist Republic	7 March 1969	6 April 1969

<u>State</u>	<u>Date of receipt of the instrument of ratification or accession</u>	<u>Entry into force</u>
Union of Soviet Socialist Republics	4 February 1969	6 March 1969
United Arab Emirates	20 June 1974 a/	20 July 1974
United Kingdom of Great Britain and Northern Ireland	7 March 1969	6 April 1969
United Republic of Tanzania	27 October 1972 a/	26 November 1972
Uruguay	30 August 1968	4 January 1969
Venezuela	10 October 1967	4 January 1969
Viet Nam	9 June 1982 a/	9 July 1982
Yugoslavia	2 October 1967	4 January 1969
Zaire	21 April 1976 a/	21 May 1976
Zambia	4 February 1972	5 March 1972

a/ Accession.

b/ Date of receipt of notification of succession.

B. STATES PARTIES WHICH HAVE MADE THE DECLARATION UNDER ARTICLE 14, PARAGRAPH 1, OF THE CONVENTION

<u>State party</u>	<u>Date of deposit of the declaration</u>	<u>Effective date</u>
Costa Rica	8 January 1974	8 January 1974
Denmark	11 October 1985	11 October 1985
Ecuador	18 March 1977	18 March 1977
France	16 August 1982	16 August 1982
Iceland	10 August 1981	10 August 1981
Italy	5 May 1978	5 May 1978
Netherlands	10 December 1971 a/	9 January 1972
Norway	23 January 1976	23 January 1976
Peru	27 November 1984	27 November 1984
Senegal	3 December 1982	3 December 1982
Sweden	6 December 1971 a/	5 January 1972
Uruguay	11 September 1972	11 September 1972

a/ Upon ratification of the Convention.

Annex II

AGENDA OF THE THIRTY-SIXTH SESSION

1. Opening of the session by the representative of the Secretary-General.
2. Solemn declaration by the newly elected members of the Committee under rule 14 of the rules of procedure.
3. Election of officers.
4. Adoption of the agenda.
5. Action by the General Assembly at its forty-second session:
 - (a) On the annual report submitted by the Committee on the Elimination of Racial Discrimination under article 9, paragraph 2, of the Convention;
 - (b) On the reporting obligations of States parties to United Nations conventions on human rights (General Assembly resolution 42/105);
 - (c) Obligations of States parties to pay their assessed contributions under the International Convention on the Elimination of All Forms of Racial Discrimination.
6. Consideration of reports, comments and information submitted by States parties under article 9 of the Convention.
7. Consideration of communications under article 14 of the Convention.
8. Consideration of copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other territories to which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention.
9. Second Decade to Combat Racism and Racial Discrimination.
10. Meetings of the Committee in 1989 and 1990.
11. Reports of the Committee to the General Assembly at its forty-third session under article 9, paragraph 2 of the Convention.

Annex III

ASSESSMENTS OUTSTANDING AS AT 12 AUGUST 1988

State party	\$
Afghanistan	656
Algeria	434
Argentina	757
Bangladesh	2
Barbados	346
Bolivia	10 169
Botswana	346
Burkina Faso	5 653
Burundi	7 001
Cameroon	853
Canada	2 408
Cape Verde	5 264
Central African Republic	7 672
Chad	7 001
Chile	386
Costa Rica	2 795
Democratic Kampuchea	346
Democratic Yemen	97
Dominican Republic	1 537
Ecuador	487
El Salvador	5 264
Fiji	346
Gambia	5 933
Guatemala	2 423
Guinea	5 674
Haiti	852
Iran (Islamic Republic of)	2 662
Iraq	420
Israel	488
Jordan	346
Lao People's Democratic Republic	346
Lebanon	2 924
Lesotho	346
Liberia	5 241
Libyan Arab Jamahiriya	5 515
Luxembourg	373
Madagascar	601
Maldives	852
Mali	7 952
Morocco	373
Mozambique	3 190
Nicaragua	346

State party	\$
Niger	852
Nigeria	468
Panama	1 038
Papua New Guinea	352
Peru	386
Romania	6 900
Rwanda	346
Saint Vincent and the Grenadines	4 739
Sierra Leone	6 761
Solomon Islands	346
Somalia	5 130
Sudan	1 612
Suriname	1 700
Togo	4 894
Tonga	346
Trinidad and Tobago	902
Uganda	852
Viet Nam	346
Zaire	5 148
TOTAL	149 834

Annex IV

OPINION OF THE COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Communication No. 1/1984, Yilmaz-Dogan v. the Netherlands
(Opinion adopted on 10 August 1988 at the thirty-sixth session)

Submitted by: H. F. Doeleman (counsel)

On behalf of: A. Yilmaz-Dogan (petitioner)

State party concerned: The Netherlands

Date of communication: 28 May 1984 (date of initial letter)

Date of decision on admissibility: 19 March 1987

The Committee on the Elimination of Racial Discrimination, established under article 8 of the International Convention on the Elimination of All Forms of Racial Discrimination,

Meeting on 10 August 1988,

Having concluded its consideration of communication No. 1/1984, submitted to the Committee by H. F. Doeleman on behalf of A. Yilmaz-Dogan under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination,

Having taken into consideration all written information made available to it on behalf of Mrs. A. Yilmaz-Dogan and by the State party,

Bearing in mind rule 95 of its rules of procedure, which requires it to formulate an opinion on the communication before it,

Including in its opinion suggestions and recommendations for transmittal to the State party and to the petitioner under article 14, paragraph 7 (b), of the Convention,

Adopts the following:

Opinion

1. The communication (initial letter dated 28 May 1984, further letters dated 23 October 1984, 5 February 1986 and 14 September 1987) placed before the Committee on the Elimination of Racial Discrimination by H. F. Doeleman, a Netherlands lawyer practising in Amsterdam. He submits the communication on behalf of Mrs. A. Yilmaz-Dogan, a Turkish national residing in the Netherlands, who claims to be the victim of a violation of articles 4 (a), 5 (e) (i) and 6 of the International Convention on the Elimination of All Forms of Racial Discrimination by the Netherlands.

2.1 The petitioner states that she had been employed, since 1979, by a firm operating in the textile sector. On 3 April 1981, she was injured in a traffic accident and placed on sick leave. Allegedly as a result of the accident, she was unable to carry out her work for a long time; it was not until 1982 that she resumed part-time duty of her own accord. Meanwhile, in August 1981, she married Mr. Yilmaz.

2.2 By a letter dated 22 June 1982, her employer requested permission from the District Labour Exchange in Apeldoorn to terminate her contract. Mrs. Yilmaz was pregnant at that time. On 14 July 1982, the Director of the Labour Exchange refused to terminate the contract on the basis of article 1639h (4) of the Civil Code, which stipulates that employment contracts may not be terminated during the pregnancy of the employee. He pointed, however, to the possibility of submitting a request to the competent Cantonal Court. On 19 July 1982, the employer addressed the request for termination of the contract to the Cantonal Court in Apeldoorn. The request included the following passage: [...]

"When a Netherlands girl marries and has a baby, she stops working. Our foreign women workers, on the other hand, take the child to neighbours or family and at the slightest set-back disappear on sick-leave under the terms of the Sickness Act. They repeat that endlessly. Since we all must do our utmost to avoid going under, we cannot afford such goings-on."

After hearing the request on 10 August and 15 September 1982, the Cantonal Court agreed, by a decision on 29 September 1982, to terminate the employment contract with effect from 1 December 1982. Article 1639w (former numbering) of the Civil Code excludes the possibility of an appeal against a decision of the Cantonal Court.

2.3 On 21 October 1982, Mrs. Yilmaz requested the Prosecutor at the Supreme Court to seek annulment of the decision of the Cantonal Court in the interest of the law. By a letter of 26 October, she was informed that the Prosecutor saw no justification for proceeding in that way. Convinced that the employer's observations of 19 July 1982 constituted offences under the Netherlands Penal Code, Mrs. Yilmaz, on 21 October 1982, requested the Prosecutor at the District Court at Zutphen to prosecute her employer. On 16 February 1983, the Prosecutor replied that he did not consider the initiation of penal proceedings to be opportune. The petitioner further applied to the Minister of Justice, asking him to order the Prosecutor at Zutphen to initiate such proceedings. The Minister, however, replied on 9 June 1983 that he saw no reason to intervene, since recourse had not yet been had to the complaint procedure pursuant to article 12 of the Code of Criminal Procedure, which provided for the possibility of submitting a request to the Court of Appeal to order prosecution of a criminal offence. In conformity with the Minister's advice, Mrs. Yilmaz, on 13 July 1983, requested the Court of Appeal at Arnhem, under article 12 of the Code of Criminal Procedure, to order the prosecution of her employer. On 30 November 1983, the Court of Appeal rejected the petition, stating, *inter alia*, that it could not be determined that the defendant, by raising the issue of differences between foreign and Netherlands women workers with regard to absenteeism owing to childbirth and illness intended to discriminate by race, or that his actions resulted in racial discrimination. While dismissing the employer's remarks in the letter of 19 July 1982 as "unfortunate and objectionable", the Court considered "that the institution of criminal proceedings [was] not in the public interest or in the interest of the petitioner". The Court's decision taken pursuant to article 12 of the Code of Criminal Procedure cannot be appealed before the Supreme Court.

2.4 Petitioner's counsel concludes that the Netherlands violated article 5 (e) (i) of the Convention, because the alleged victim was not guaranteed the right to gainful work and protection against unemployment, which is said to be reflected in the fact that both the Director of the Labour Exchange and the Cantonal Court endorsed the termination of her employment contract on the basis of reasons which must be considered as racially discriminatory. Secondly, he claims that the Netherlands violated article 6 of the Convention since it failed to provide adequate protection as well as legal remedies because Mrs. Yilmaz was unable to have the discriminatory termination of her contract reviewed by a higher court. Thirdly, it is alleged that the Netherlands violated article 4 of the Convention because it did not order the Prosecutor to proceed against the employer on the basis of either article 429 quater or article 137c to e of the Netherlands Penal Code, provisions incorporated in that Code in the light of the undertaking, under article 4 of the Convention, to take action to eliminate manifestations of racial discrimination. Finally, it is argued that article 6 of the Convention was violated because the State party denied the petitioner due process by virtue of article 12 of the Code of Criminal Procedure, when she unsuccessfully petitioned for penal prosecution of the discrimination of which she claims to have been the victim.

3. At its thirty-first session in March 1985, the Committee on the Elimination of Racial Discrimination decided to transmit the communication, under rule 92, paragraphs 1 and 3, of its rules of procedure, to the State party, requesting information and observations relevant to the question of the admissibility of the communication.

4.1 By submissions dated 17 June and 19 November 1985, the State party objects to the admissibility of the communication. It affirms that the Committee is entitled, under its rules of procedure, to examine whether a prima facie consideration of the facts and the relevant legislation reveals that the communication is incompatible with the Convention. For the reasons set out below, it considers the communication to be incompatible ratione materiae with the Convention and therefore inadmissible.

4.2 The State party denies that either the Director of the Labour Exchange or the Cantonal Court in Apeldoorn violated any of the rights guaranteed by article 5 (e) (i) of the Convention and argues that it met its obligation under that provision to guarantee equality before the law in the enjoyment of the right to employment by providing non-discriminatory remedies. With respect to the content of the letter of Mrs. Yilmaz's employer dated 19 July 1982, the State party points out that the decision of the Cantonal Court does not, in any way, justify the conclusion that the court accepted the reasons put forth by the employer. In reaching its decision to dissolve the contract between the petitioner and her employer, the Court merely considered the case in the light of the relevant rules of civil law and civil procedure; it refrained from referring to the petitioner's national or ethnic origin.

4.3 With respect to the petitioner's argument that the State party should have provided for a more adequate mechanism of judicial review and appeal against Cantonal Court judgements related to the termination of employment contracts, the state party points out that the relevant domestic procedures, which were followed in the present case, provide adequate protection and legal remedies within the meaning of article 6 of the Convention. Article 6 does not include an obligation for States parties to institute appeal or other review mechanisms against judgements of the competent judicial authority.

4.4 With respect to the allegation that the State party violated articles 4 and 6 of the Convention by failing to order the Prosecutor to prosecute the employer, the State party argues that the obligation arising from article 4 of the Convention was met by incorporating in the Penal Code articles 137c to e and articles 429 ter and quater and penalising any of the actions referred to in these provisions. Article 4 cannot be read as obligating States parties to institute criminal proceedings under all circumstances with respect to actions which appear to be covered by the terms of the article. Concerning the alleged violation of article 6, it is indicated that there is a remedy against a decision not to prosecute: the procedure pursuant to article 12 of the Code of Criminal Procedure. The State party recalls that the petitioner indeed availed herself of this remedy, although the Court of Appeal did not find in her favour. It further observes that the assessment made by the Court of Appeal before deciding to dismiss her petition was a thorough one. Thus, the discretion of the court was not confined to determining whether the Prosecutor's decision not to institute criminal proceedings against the employer was a justifiable one; it was also able to weigh the fact that it is the Minister of Justice's policy to ensure that criminal proceedings are brought in as many cases as possible where racial discrimination appears to be at issue.

5.1 Commenting on the State party's submission, petitioner's counsel, in a submission dated 5 February 1986, denies that the communication should be declared inadmissible as incompatible ratione materiae with the provisions of the Convention and maintains that his allegations are well-founded.

5.2 In substantiation of his initial claim, it is argued, in particular, that the Netherlands did not meet its obligations under the Convention by merely incorporating in its Penal Code provisions such as articles 137c to e and 429 ter and quater. He affirms that, by ratifying the Convention, the State party curtailed its freedom of action. In his opinion, this means that a State cannot simply invoke the expediency principle which, under domestic law, leaves it free to prosecute or not; rather, it requires the Netherlands actively to prosecute offenders against sections 137c to e and 429 ter and quater unless there are grave objections to doing so.

5.3 Furthermore, petitioner's counsel maintains that, in the decision of the Court of Appeal of 30 November 1983, the causal relationship between the alleged victim's dismissal and the different rate of absenteeism among foreign and Netherlands women workers, as alleged by the employer, is clear. On the basis of the Convention, it is argued, the Court should have dissociated itself from the discriminatory reasons for termination of the employment contract put forth by the employer.

6. On 19 March 1987, the Committee, noting that the State party's observations concerning the admissibility of the communication essentially concerned the interpretation of the meaning and scope of the provisions of the Convention and having further ascertained that the communication met the admissibility criteria set out in article 14 of the Convention, declared the communication admissible. It further requested the State party to inform the Committee as early as possible, should it not intend to make a further submission on the merits, so as to allow it to deal expeditiously with the matter.

7. In a further submission dated 7 July 1987, the State party maintains that no violation of the Convention can be deemed to have taken place in the case of Mrs. Yilmaz. It argues that the alleged victim's claim that, in cases involving

alleged racial discrimination, the weighing by the judge of the parties' submissions has to meet especially severe criteria, rests on personal convictions rather than legal requirements. The requirement in civil law disputes is simply that the judge has to pronounce himself on the parties' submissions inasmuch as they are relevant to the dispute. The State party further refutes the allegation that the terms of the Convention require the establishment of appeal procedures. In this respect, it emphasizes that criminal law, by its nature, is mainly concerned with the protection of the public interest. Article 12 of the Code of Criminal Procedure gives individuals who have a legitimate interest in prosecution of an offence the right to lodge a complaint with the Court of Appeal against the failure of the authorities to prosecute. This procedure guarantees the proper administration of criminal law, but it does not offer the victims an enforceable right to see alleged offenders prosecuted. This, however, cannot be said to constitute a violation of the Convention.

8.1 Commenting on the State party's submission, petitioner's counsel, in a submission dated 14 September 1987, reiterates that the State party violated article 5 (e) (i) in that the cantonal judge failed to protect the petitioner against unemployment, although the request for her dismissal was, allegedly, based on racially discriminatory grounds. He asserts that, even if the correspondence between the Director of the Labour Exchange and the employer did not refer to the national or ethnic origin of the alleged victim, her own family name and that of her husband must have made it clear to all the authorities involved that she was of Turkish origin.

8.2 With respect to the State party's argument that its legislation provides for adequate protection - procedural and substantive - in cases of alleged racial discrimination, it is claimed that domestic law cannot serve as a guideline in this matter. The expediency principle, i.e. the freedom to prosecute, as laid down in Netherlands law, has to be applied in the light of the provisions of the Convention with regard to legal protection in cases of alleged racial discrimination.

9.1 The Committee on the Elimination of Racial Discrimination has considered the present communication in the light of all the information made available to it by the parties, as required under article 14, paragraph 7 (a), of the Convention and rule 95 of its rules of procedure, and bases its opinion on the following considerations.

9.2 The main issues before the Committee are (a) whether the State party failed to meet its obligation, under article 5 (e) (i), to guarantee equality before the law in respect of the right to work and protection against unemployment, and (b) whether articles 4 and 6 impose on States parties an obligation to initiate criminal proceedings in cases of alleged racial discrimination and to provide for an appeal mechanism in cases of such discrimination.

9.3 With respect to the alleged violation of article 5 (e) (i), the Committee notes that the final decision as to the dismissal of the petitioner was the decision of the Sub-District Court of 29 September 1982, which was based on article 1639w (2) of the Netherlands Civil Code. The Committee notes that this decision does not address the alleged discrimination in the employer's letter of 19 July 1982, which requested the termination of the petitioner's employment contract. After careful examination, the Committee considers that the petitioner's dismissal was the result of a failure to take into account all the circumstances of the case. Consequently, her right to work under article 5 (e) (i) was not protected.

9.4 Concerning the alleged violation of articles 4 and 6, the Committee has noted the petitioner's claim that these provisions require the State party actively to prosecute cases of alleged racial discrimination and to provide victims of such discrimination with the opportunity of judicial review of a judgement in their case. The Committee observes that the freedom to prosecute criminal offences - commonly known as the expediency principle - is governed by considerations of public policy and notes that the Convention cannot be interpreted as challenging the *raison d'être* of that principle. Notwithstanding, it should be applied in each case of alleged racial discrimination, in the light of the guarantees laid down in the Convention. In the case of Mrs. Yilmaz-Dogan, the Committee concludes that the prosecutor acted in accordance with these criteria. Furthermore, the State party has shown that the application of the expediency principle is subject to, and has indeed in the present case been subjected to, judicial review, since a decision not to prosecute may be, and was reviewed in this case, by the Court of Appeal, pursuant to article 12 of the Netherlands Code of Criminal Procedure. In the Committee's opinion, this mechanism of judicial review is compatible with article 4 of the Convention; contrary to the petitioner's affirmation, it does not render meaningless the protection afforded by sections 137c to e and 429 ter and quater of the Netherlands Penal Code. Concerning the petitioner's inability to have the Sub-District Court's decision pronouncing the termination of her employment contract reviewed by a higher tribunal, the Committee observes that the terms of article 6 do not impose upon States parties the duty to institute a mechanism of sequential remedies, up to and including the Supreme Court level, in cases of alleged racial discrimination.

10. The Committee on the Elimination of Racial Discrimination, acting under article 14, paragraph 7, of the Convention, is of the opinion that the information as submitted by the parties sustains the claim that the petitioner was not afforded protection in respect of her right to work. The Committee suggests that the State party take this into account and recommends that it ascertain whether Mrs. Yilmaz-Dogan is now gainfully employed and, if not, that it use its good offices to secure alternative employment for her and/or to provide her with such other relief as may be considered equitable.

Annex V

DOCUMENTS RECEIVED BY THE COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION AT ITS THIRTY-SIXTH SESSION PURSUANT TO DECISIONS OF THE TRUSTEESHIP COUNCIL AND THE SPECIAL COMMITTEE ON THE SITUATION WITH REGARD TO THE IMPLEMENTATION OF THE DECLARATION ON THE GRANTING OF INDEPENDENCE TO COLONIAL COUNTRIES AND PEOPLES, IN CONFORMITY WITH ARTICLE 15 OF THE CONVENTION ^{a/}

The following is a list of the working papers submitted by the Special Committee:

African Territories

Namibia	A/AC.131/283 to A/AC.131/285
Western Sahara	A/AC.109/918

Atlantic Ocean and Caribbean Territories,
including Gibraltar

Anguilla	A/AC.109/934 and A/AC.109/935
Bermuda	A/AC.109/942 and Corr.1 A/AC.109/947 and A/AC.109/948
British Virgin Islands	A/AC.109/940
Cayman Islands	A/AC.109/941 and A/AC.109/943
Falkland Islands (Malvinas)	A/AC.109/920 and Corr.1
Gibraltar	A/AC.109/915
Montserrat	A/AC.109/944 and Corr.1, and A/AC.109/946
St. Helena	A/AC.109/938
Turks and Caicos Islands	A/AC.109/950 and A/AC.109/952 and Corr.1
United States Virgin Islands	A/AC.109/954 to A/AC.109/956

^{a/} See chap. V of the report.

Pacific and Indian Ocean Territories

American Samoa	A/AC.109/953
East Timor	A/AC.109/919
Guam	A/AC.109/945 and Add.1 and Add.2, and A/AC.109/949
Pitcairn	A/AC.109/936
Tokelau	A/AC.109/937 and Corr.1
Trust Territory of the Pacific Islands	A/AC.109/957

Annex VI

LIST OF DOCUMENTS ISSUED FOR THE THIRTY-SIXTH SESSION
OF THE COMMITTEE

CERD/C/66/Add.39	Sixth periodic report of the Libyan Arab Jamahiriya
CERD/C/86/Add.5	Second periodic report of Bangladesh
CERD/C/87/Add.3	Third periodic report of Burundi
CERD/C/91/Add.38	Seventh periodic report of the Libyan Arab Jamahiriya
CERD/C/113/Add.3	Third periodic report of Bangladesh
CERD/C/114/Add.3	Fourth periodic report of Burundi
CERD/C/118/Add.36	Eighth periodic report of Niger
CERD/C/118/Add.37	Eighth periodic report of the Libyan Arab Jamahiriya
CERD/C/126/Add.4	Second periodic report of Namibia
CERD/C/129/Add.3	Fifth periodic report of Qatar
CERD/C/131/Add.13	Seventh periodic report of Barbados
CERD/C/144/Add.3	Fourth periodic report of Bangladesh
CERD/C/145/Add.1	Fifth periodic report of Burundi
CERD/C/147/Add.2	Seventh periodic report of Haiti
CERD/C/149/Add.25	Ninth periodic report of Nigeria
CERD/C/149/Add.26	Ninth periodic report of Ecuador
CERD/C/149/Add.27	Ninth periodic report of the Libyan Arab Jamahiriya
CERD/C/149/Add.28	Ninth periodic report of Niger
CERD/C/149/Add.29	Ninth periodic report of Yugoslavia
CERD/C/153/Add.1	Third periodic report of Namibia
CERD/C/153/Add.2	Third periodic report of China
CERD/C/156/Add.2	Sixth periodic report of Qatar
CERD/C/156/Add.3	Sixth periodic report of Ethiopia
CERD/C/158/Add.6	Eighth periodic report of Algeria

CERD/C/158/Add.7	Eighth periodic report of Sweden
CERD/C/158/Add.8	Eighth periodic report of Denmark
CERD/C/158/Add.9	Eighth periodic report of the Netherlands
CERD/C/159/Add.1	Ninth periodic report of Finland
CERD/C/159/Add.2	Ninth periodic report of Iraq
CERD/C/159/Add.3	Ninth periodic report of Canada
CERD/C/165	Third periodic reports of States parties due in 1988: note by the Secretary-General
CERD/C/166	Fourth periodic reports of States parties due in 1988: note by the Secretary-General
CERD/C/167	Fifth periodic reports of States parties due in 1988: note by the Secretary-General
CERD/C/167/Add.1	Fifth periodic report of the Republic of Korea
CERD/C/168	Sixth periodic reports of States parties due in 1988: note by the Secretary-General
CERD/C/169	Seventh periodic reports of States parties due in 1988: note by the Secretary-General
CERD/C/170	Eighth periodic reports of States parties due in 1988: note by the Secretary-General
CERD/C/170/Add.1	Eighth periodic report of the German Democratic Republic
CERD/C/171	Ninth periodic reports of States parties due in 1988: note by the Secretary-General
CERD/C/172	Tenth periodic reports of States parties due in 1988: note by the Secretary-General
CERD/C/172/Add.1	Tenth periodic report of Niger
CERD/C/172/Add.2	Tenth periodic report of the Libyan Arab Jamahiriya
CERD/C/172/Add.3	Tenth periodic report of Cyprus
CERD/C/172/Add.4	Tenth periodic report of Ecuador
CERD/C/172/Add.5	Tenth periodic report of Czechoslovakia
CERD/C/172/Add.6	Tenth periodic report of the Union of Soviet Socialist Republics

CERD/C/172/Add.7	Tenth periodic report of Hungary
CERD/C/172/Add.8	Tenth periodic report of the Holy See
CERD/C/172/Add.9	Tenth periodic report of Yugoslavia
CERD/C/173	Reporting obligations of States parties to United Nations conventions on human rights: note by the Secretary-General
CERD/C/174	Provisional agenda and annotations of the thirty-sixth session of the Committee on the Elimination of Racial Discrimination: note by the Secretary-General
CERD/C/175	Submission of reports by States parties in accordance with article 9 of the Convention: note by the Secretary-General
CERD/C/176	Consideration of copies of petitions, copies of reports and other information relating to trust and Non-Self-Governing Territories and to all other Territories to which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention: note by the Secretary-General
CERD/C/SR.815-SR.830	Summary records of the thirty-sixth session of the Committee