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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fortieth session

SUMMARY RECORD OF THE 918th MEETING

Held at the Palais des Nations, Geneva,  
on Wednesday, 7 August 1991, at 3 p.m.

Chairman: Mr. SHAHI

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under article 9 of the Convention (continued)

Ninth to eleventh periodic reports of Bulgaria

The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 9 OF THE CONVENTION (agenda item 3) (continued)

Ninth to eleventh periodic reports of Bulgaria (CERD/C/197/Add.4)

At the invitation of the Chairman, Mr. Dichev and Mr. Koulishev

(Bulgaria) took places at the Committee table.

1. Mr. DICHEV (Bulgaria) introducing his country's ninth to eleventh reports, which were contained in document CERD/C/197/Add.4, said that the reasons for the delay in submitting the most recent report would become apparent from his own statement and that of his colleague, Mr. Koulishhev. In fact Bulgaria was undergoing a process of radical change in terms both of its international relations and its domestic policies, and enormous efforts had been made to build a genuinely democratic system in the country since the events of November 1989. As an integral part of its new and pragmatic policy, his Government pledged its wholehearted cooperation with the Committee in seeking the fullest implementation of the Convention in Bulgaria, but he trusted that allowances would be made in the circumstances for any shortcomings in the current periodic report.

2. At the domestic level, profound changes had been taking place: free elections had been held the previous year, freedom of expression and association were now ensured, a new Constitution had been approved by Parliament, and the transition to a market economy was under way. At the same time, it would be premature to claim that all the rights and freedoms provided by the Convention were already enjoyed in practice, and his Government was fully aware that much remained to be done in that regard.

3. Mr. KOULISHEV (Bulgaria) said the events that had taken place in Bulgaria since 10 November 1989 constituted a peaceful revolution which had made the process of democratization irreversible, despite a background of economic crisis, bitter political confrontation and ethnic tension. The changes had had a profound impact on the political, social and legal context in which Bulgaria was fulfilling its obligations under the Convention in that they proved once again that democracy, political pluralism and the primacy of law were preconditions for safeguarding human rights and freedoms and preventing all forms of racial discrimination.

4. The process of transition to democracy in Bulgaria had been so rapid that much of the information contained in the report was now out of date. The process had begun with the round-table discussions in June 1990 at which efforts had been made to reach a consensus on the most urgently-needed reforms. During the second phase, which was characterized by intense legislative activity, the National Assembly had adopted the new Constitution on 12 July 1991. The third phase was only now beginning and would involve parliamentary and local elections and further legislation aimed at economic, social and political reform. The new Constitution reflected existing political realities in Bulgaria, even if there was still a long way to go before the country achieved a genuine and deeply-rooted democracy.

5. Bulgaria now had a democratically elected Parliament, President and Government. Political and trade union pluralism was evident from the emergence of approximately 80 registered political parties, some 10 of which were represented in Parliament, and a number of trades unions, all independent of the State. The press and other media were free, and important steps had been taken towards a market economy. He regretted that he would not be able to make available the text of the new Constitution in languages other than Bulgarian until the following week, and said that he would outline the constitutional, legislative and administrative provisions which related directly to the obligations arising under the Convention and were not mentioned in the report.

6. In that connection, reference should be made to the Agreement of 3 January 1991 in which the political forces represented in the National Assembly had stated that the process of democratization and humanization of society required, inter alia, recognition of the political, ethnic and religious diversity of the citizens of Bulgaria, fulfilment of the

country's international obligations in the human rights field, and prohibition of incitement to nationalist, chauvinist and extremist acts, in addition to prohibition of any form of pressure applied to citizens exercising their right to determine the ethnic or religious community to which they wished to belong. The same political approach had been adopted in the drafting of the new Constitution, which reflected the entire spectrum of civil, political, economic, social and cultural rights and, in particular, the principle of equality and non-discrimination, which was affirmed in article 6 of that instrument. Article 44, paragraph 2, specifically banned organizations inciting racial, national, ethnic or religious hatred. A further direct link with the issues covered by the Convention was to be found in the Constitutional provisions on the prohibition of forced assimilation, the citizen's right to study and use his mother tongue and to develop his culture according to his ethnic allegiance, and the inadmissibility of establishing political parties with an ethnic, racial or religious basis.

7. It was, of course, one thing to proclaim a right in the Constitution or in legislation, and quite another to ensure that all citizens were able to exercise it. One extremely negative aspect of the totalitarian regime had been the gap between the law and its practical application, and one of the most important and urgent tasks on the country's agenda was to bridge that gap.

8. A major problem affecting the implementation of the Convention related to the demographic breakdown of the population. Before 1986 the Bulgarian reports had indicated the existence of various ethnic, linguistic and religious minority groups in Bulgaria. However, the censuses taken since 1975 had disregarded ethnic, linguistic and religious affiliation, so that there were no reliable data on the numbers of those minority groups. Bulgarians undoubtedly constituted the vast majority of the population. While most Bulgarians who were believers belonged to the Orthodox Church, the Pomaks, who were Bulgarian by ethnic affiliation, language and traditions, were Muslim. Other Bulgarians were Catholic or Protestant or belonged to various religions which were less widely represented in the country. Numerically, Bulgarian Turks constituted the largest minority ethnic group; most of them regarded themselves as ethnic Turks, even though many were the descendants of Bulgarians who had been forced to become Turkish during the five centuries of Ottoman rule. Other less numerically significant ethnic-religious groups were the Gypsies (some of them Muslim and others Christian), Armenians and Jews, in addition to smaller population groups such as Russians, Greeks and Tatars. Precise data on the country's demographic composition would be obtained from the census scheduled for December 1991, which would be carried out in cooperation with the United Nations.

9. The repression of Muslims and Bulgarian Turks and the attempt to force them to assimilate, particularly during the last six years of the totalitarian regime, had been strongly condemned by the State and public opinion after the regime had collapsed. The episode represented a sad chapter of Bulgarian history, even if the number of victims and the nature of the repression could not be compared to the ethnic strife with which a number of European countries were currently afflicted. In the previous two years a broad range of legislative and administrative measures had been introduced in order to restore rights violated during the attempted forced assimilation and to provide compensation for wrongs and injuries. In particular, the judicial procedure for the restoration of names forcibly changed had been replaced by a more streamlined administrative procedure with the amendment in November 1990 of the Citizens' Names Law, adopted in March of that year. By April 1991, some 600,000 applications for such restoration, mostly from Bulgarian Turks, Pomaks and Muslim Gypsies, had been approved.

10. In addition to the three Amnesty Laws mentioned in paragraph 4 of the report, mention should be made of the Amnesty and Restitution of Confiscated

Property Law of December 1990, which enabled amnestied persons to recover their property, and of the Law of June 1991, which affirmed the political and civic rehabilitation of all persons subjected to repression during the period of forced changes of name.

11. The report mentioned the large-scale exodus of Bulgarian Muslims between May and September 1989, when some 369,000 Bulgarian citizens had emigrated to Turkey. Of that number, 155,000 had returned to Bulgaria, thus confronting his country with extremely serious social problems, particularly with regard to housing, since some of those who had emigrated had been obliged to sell their accommodation or to cancel their leases. Those who returned had applied for reinstatement of their rights to the accommodation of which they had been either owners or tenants. Of the 2,270 applications received by June 1991, 1,091 had been complied with, but settlement of the other cases was rendered especially difficult by the country's highly critical economic situation. Recently, however, the Council of Ministers had enacted a statute aimed at resolving the problem.

12. Articles 13 and 37 of the new Constitution affirmed the right to freedom of thought, conscience and religion and urged the State to contribute to tolerance and mutual respect between believers and non-believers, in addition to establishing the separation of Church and State and affirming the inadmissibility of using religious communities and institutions for political ends. Since the end of 1989, measures had also been taken to restore the religious freedoms of all Bulgarian believers, and particularly Muslims, affected by various restrictions under the old regime. There were now 920 mosques in the country, and approximately 3,500 Christian churches of all denominations. In 1990 an Islamic university had been opened, as well as a Muslim religious secondary school. Religious literature of all beliefs was published and freely disseminated. The State subsidized the Muslim communities and the restoration and upkeep of Muslim cultural monuments.

13. The restrictions imposed on the use and study of the Turkish language in the final years of the totalitarian regime had been lifted.

14. Article 3, paragraph 2, of the new Constitution established that the official language of the country was Bulgarian. At the same time, article 36, paragraph 2, affirmed the right of all citizens whose mother tongue was not Bulgarian both to use their own language and to study Bulgarian. It was also stipulated that the cases in which use of the official language was obligatory would be established by law. No restrictions were imposed on the study of languages outside the national school system, and Parliament had entrusted the Government with the introduction in 1991 of the optional study of Turkish in the public schools in regions where such an option was requested by parents and pupils. As a preparatory measure, study of the Turkish language had recently been introduced on an experimental basis in a number of schools, with the participation of 264 pupils in 18 districts. The results of the experiment appeared to be satisfactory. In addition, the study of minority languages was being promoted by the free circulation of magazines in Turkish and Armenian and by the activities of cultural organizations.

15. The ethnic problems confronting Bulgaria were by no means easy to resolve, and the fact that they had been disregarded and concealed under the totalitarian regime had contributed to dangerous ethnic tension.

16. The dialogue established within the Conference on Security and Cooperation in Europe (CSCE), most recently at the meetings in Copenhagen in 1990 and in Geneva in 1991, had resulted, if not in a generally acceptable definition of a national minority, at least in general recognition of the great diversity of situations and legal, historical, political and economic frameworks in the field of national minorities. In the case of Bulgaria, a solution to ethnic problems, particularly with regard to the Bulgarian Turks,

must take account of the traumatic effect on the Bulgarian people of five centuries of Ottoman rule. At the same time, instances of intransigence on the part of the minority itself hindered efforts to achieve national unity. His Government was convinced that the solution was to be found in the comprehensive development of democracy and the rule of law and in respect for the rights and freedoms of all people, including those belonging to ethnic, linguistic and religious minority groups. Such an approach might be gradual and complex, but it was also realistic.

17. Referring to the question of the implementation of the Convention in Bulgarian domestic law, he said that, until recently, the Convention had not been directly applicable in the Bulgarian legal system and in most cases required the adoption of appropriate provisions in Bulgarian legislation. Under the new Constitution, however, international treaties which had been duly ratified would form an integral part of domestic law and would take precedence over that law in the event of incompatibility. Certain provisions of the Convention, however, would require specific legislation in Bulgaria, particularly in respect of the criminal law. The new status of the Convention would enable an individual to invoke its provisions in proceedings before the administrative and judicial authorities in order to uphold his rights. The precedence now accorded to the Convention would be enhanced by the establishment of a new institution provided for under the Constitution, namely the Constitutional Court, which would have the function of determining the compatibility of laws with the generally-recognized norms of international law and with the international treaties to which Bulgaria was a party.

18. Article 6 of the Convention accorded great importance to remedies available in national tribunals and other State institutions in cases involving racial discrimination. Much remained to be done in Bulgaria to ensure satisfactory implementation of that article, due to the lack of existing jurisprudence in that field and widespread scepticism regarding the impartiality of the courts. However, the new Constitution aimed to ensure both the independence of the judiciary and the impartial functioning of the courts.

19. In conclusion, he said that his Government had changed its position with regard to some of the international bodies responsible for monitoring compliance with the obligations arising under the Convention, in particular by recognizing the compulsory jurisdiction of the International Court of Justice in regard to the interpretation and implementation of the Convention, and also by recognizing the competence of the Committee to receive and consider communications under article 14.

20. Mr. de GOUTTES, country rapporteur, thanked the Bulgarian representatives for updating their country's eleventh report. Many new elements had been introduced: the adoption of a new Bulgarian Constitution providing for the direct application of international treaties under Bulgarian domestic law; legislation on an amnesty and the restoration of property; a political rehabilitation act; the possibility of testing the constitutionality of Bulgarian legislation; and the decision to conduct a new census at the end of 1991 that would provide an ethnic breakdown of the population. He had drafted his own comments on the basis of the information provided in the eleventh report, but the statements by the Bulgarian representatives reflected so much change that those comments were probably out of date and too severe.

21. He had a number of general comments on the eleventh report. Firstly he thought the Committee should welcome the general evolution towards liberalization and democratization in Bulgaria since 1989. Legislative elections had been held in June 1990, leading to the emergence of a genuine opposition; a coalition Government had been formed; the functions of chief of State and head of party had been separated; the Communist Party had relinquished its leading role; and advances had been made in the protection of

civil and human rights, including the repeal of articles in the Penal Code inconsistent with human rights, an amnesty for political prisoners, restoration of the right to hold political demonstrations and to form independent trade unions, and the abandonment of the policy of forced assimilation of the Muslim minority of Turkish origin and of the accompanying repression.

22. The Committee should note with satisfaction that Bulgaria had made a point of presenting its eleventh periodic report despite the profound difficulties it was currently facing. Its willingness to cooperate with the United Nations had recently been shown during the visit to Sofia in June 1991 of the Under-Secretary-General for Human Rights, and in the conclusion of a cooperation and assistance agreement with the Advisory Services of the Centre for Human Rights.

23. He welcomed the radical change in tone in the eleventh report. During the consideration of the eighth report in 1986, a difficult discussion had taken place with the representative of Bulgaria, in particular on the subject of the policy of forced assimilation of Turkish or Muslim minorities. The Bulgarian representative had maintained that the allegations against his country had been without foundation and slandered a socialist country. It was gratifying that the eleventh report had departed from that earlier attitude. It had, in particular, condemned the Bulgarian Government's policy of discrimination against Bulgarian citizens of Turkish or Muslim origin and acknowledged that the totalitarian regime had forced its citizens to change their names in 1984 and 1985, compelling them to emigrate to Turkey in 1989.

24. It should also be noted, however, that traces of past terminological usage had found their way into the eleventh report. For example, the phrase "Turkish-speaking Bulgarian citizens and those who profess the Islamic religion" had been used in paragraphs 3 and 83 to avoid saying "Turkish minority" or "Bulgarian citizens of Turkish or Muslim origin". Certain unacceptable stereotyped expressions and sweeping statements continued to appear, such as the assertion in paragraph 1 that racial discrimination was incompatible with the ideology and social practice of the Bulgarian people, whose tolerance had been transmitted through its centuries-long history. Such assertions were not convincing. According to certain information, discriminatory attitudes in fact persisted with regard to Turkish minorities in the local administrations and in sections of the population. It was to be hoped that the Bulgarian delegation would eliminate such wording from its next report.

25. The eleventh report devoted too much attention to listing the existing provisions and gave too little attention to their actual implementation, providing no specific examples, no statistical data and no information on any relevant court decisions. Thus, it did not reply to any of the questions that had been raised by the Committee during the consideration of the eighth report. In responding to those questions in its next report, Bulgaria might wish to draw upon the advisory services of the United Nations for assistance.

26. Turning to part I of the report, he noted that Bulgaria had not taken sufficiently into consideration the Committee's updated 1990 guidelines in drafting the report, which contained no section on the social, economic, political, institutional, legal and administrative framework within which the Convention was implemented or information on changes in the population. Despite requests made during the consideration of the eighth report, the eleventh report provided no general political, social or economic information on the country, which was indispensable, given the alarming economic situation in which Bulgaria at present found itself and to which its representatives had just referred. It would be useful to know what measures had been taken to alleviate the effects of the economic crisis on the population, for instance, by increasing wages, family allowances or retirement benefits. The eleventh

report also failed to provide data on Bulgaria's demographic evolution, or a breakdown of the population by ethnic groups, that information having been requested during the examination of the eighth report. Current events had made the question of the status of minorities throughout Central Europe even more crucial. Thus, the questions already raised by the Committee in 1986 remained. For instance, could the Bulgarian Government provide figures from the most recent population censuses pending the results of the next census at the end of 1991? Could it give a breakdown of the population by ethnic groups? Did Bulgarian citizens have the right to give expression to their ethnic affiliation? Could information be furnished on the situation of the Muslim Turks, the Gypsies, the Armenians, the Jews, the Macedonians, the Greeks and other ethnic groups and on the languages spoken by each group, their level of education, their social and cultural development, the number of marriages between members of different ethnic groups and on the situation of the various religions in Bulgaria? Information would also be useful on migratory movements, particularly in the direction of Turkey following the period of forced assimilation of Bulgarian citizens of Turkish origin, who had been compelled to emigrate in 1989. Paragraphs 2 and 3 of the eleventh report discussed the various measures that had been taken to restore the rights of Bulgarian citizens of Turkish origin, but information was also needed on the nature of those measures, for example, whether they included amnesties, the right to reassume Turkish names, compensation etc., on whether persons who had been dismissed had been able to return to their employment and persons evicted to their accommodation, and on proceedings instituted in connection with the numerous human rights violations that had accompanied the policy of forced assimilation, violations that had been denounced in the 1990 report of Amnesty International.

27. With regard to part II of the eleventh report, although ample information had been provided on legal provisions, the information made available on the actual implementation of the Convention had again been inadequate.

28. With regard to article 2 of the Convention, paragraph 10 of the eleventh report stated that the Constitution and the other normative documents were binding for the local and national authorities. Yet that went without saying. It would be useful to learn whether the Declaration on the National Issue, mentioned in paragraphs 4 and 34 of the eleventh report, was binding. Paragraph 12, according to which neither Bulgarian practice nor legislation needed to be reconsidered, contradicted paragraph 2, which stated that during the period of the totalitarian regime, basic rights had been seriously violated and that the political practice had run counter to the legislation, in particular with regard to Muslim Bulgarians.

29. Concerning article 3, he paid a tribute to Bulgaria for its continued and active commitment to opposing apartheid; paragraphs 17 to 28 of the eleventh report were very complete in that regard. He noted, however, that, according to paragraph 18, article 417 of the Bulgarian Penal Code provided for the death penalty for the crime of apartheid and, according to paragraph 44, article 416 of the Code provided for the death penalty for the crime of genocide. The death penalty could not, however, be justified in connection with the protection of human rights, even in cases of the most serious violations of those rights, such as apartheid or genocide. He recalled that the Second Optional Protocol to the International Covenant on Civil and Political Rights, concerning the abolition of the death penalty, had just entered into force.

30. In respect of article 4 of the Convention, paragraph 30 et seq. of the eleventh report discussed the various sections of the Bulgarian Penal Code that provided penalties for such offences as inciting racial enmity, acts of violence or damage to property for reasons of race, participation in racist organizations, meetings or demonstrations, etc., but it did not indicate

whether other racist manifestations were punishable under Bulgarian law, for example, the refusal to accord a right or provide a service for reasons of ethnic, national, racial or religious affiliation. He asked whether citizens of Turkish origin and Gypsies had not been the victims of such activities in the past and whether it was planned to improve Bulgarian legislation in that area.

31. Regarding article 5, the eleventh report referred to the right to equal treatment before the tribunals and all other organs administering justice and the right to security of the person and protection by the State against violence or bodily harm, and stated in paragraph 45 that whenever their guaranteed rights had been violated, all citizens without exception could address requests, complaints and suggestions to competent State authorities or petition the court for defence, which could not be refused them. Yet the report contained no example of legal decisions imposing penalties for violations of that principle or of any specific case. Such information should be made available in the next report. Paragraph 49 stated that access to public service was not restricted, except on the basis of such requirements as education, speciality, conviction, etc. He asked what conviction would lead to refusal of access to public service, whether the wording meant that there were other criteria justifying such refusal, and whether it was true that citizens of Turkish and Muslim origin were denied access to public office.

32. Paragraph 50 stated that no prohibition as to movement around the territory of the country had been imposed on any group of citizens and that the residence institution encompassing all Bulgarian citizens, binding them administratively to one or another settlement, had been eliminated. He inquired whether that applied in all cases.

33. Paragraph 51 noted that all citizens had the right to leave the country and to return when they had Bulgarian passports. He asked what the conditions were for obtaining a passport and what group of persons, as noted in paragraph 51, had not been allowed to obtain passports to travel abroad for certain periods of time.

34. Paragraph 70 indicated that the Constitution guaranteed citizens the right to work, but no information was provided on the actual implementation of that right, on the employment situation, the level of unemployment, the fate of citizens of Turkish origin and Gypsies, the right to work of foreign workers, etc. It should be noted that during the consideration in 1990 of the Bulgarian report relating to ILO Convention No. 111 concerning discrimination in respect of employment and occupation, the relevant committee of the International Labour Conference had not been completely convinced that the Government of Bulgaria had taken all necessary measures to comply with that Convention, in particular, as concerned the return to their place of work of those citizens of Turkish origin who had been dismissed in connection with the earlier policy of forced assimilation.

35. Where the right to housing was concerned, paragraph 73 of the eleventh report provided no precise statistical information on the actual housing situation in the country. According to that same paragraph, the State provided houses to rent for those who needed them after they had been grouped into one of five categories, and he asked for fuller information on those categories and on the criteria to which the paragraph referred. He also inquired whether the Government of Bulgaria could confirm that Bulgarians of Turkish, Muslim or Gypsy origin were not discriminated against when such housing was allocated.

36. As to the right of access to any place or service intended for public use, referred to in paragraph 78, the report maintained that no restrictive measures had been taken in that area. He asked whether that had been true under the totalitarian regime, even during the period of the policy of



discrimination against Bulgarian citizens of Turkish or Muslim origin.

37. With reference to article 6 of the Convention, paragraphs 79 and 80 of the report stated that existing civil and criminal procedures enabled citizens or the prosecutor's office to initiate proceedings in cases of racial discrimination. He had two questions to ask in that regard - in what circumstances could the prosecutor's office bring actions in race-related cases, and was there any provision for collective civil or criminal actions by associations protecting the interests of particular groups?

38. The explanations given at the end of paragraph 80 on the procedure regulated by the Administrative Lawsuits Law were unclear, and he wondered whether there was not some error in the text. What was the role of that administrative procedure in relation to the civil and criminal procedures referred to in the previous paragraph?

39. The statement in paragraph 83 to the effect that no case of racial discrimination had been tried during the period covered by the report, although acts of racial discrimination had been committed, particularly against Turkish-speaking Bulgarian citizens and Muslims, and the reference to only one criminal trial, that of the former head of State, Mr. Zhivkov, prompted several comments and questions. Firstly, he wished to know whether the latter trial had been initiated and what were the judgement prospects. Secondly, the fact that no other example of conviction or even prosecution, and no data on the filing of complaints, had been given, was one of the most regrettable omissions from the eleventh report. The only figure given - in paragraph 84 - concerned the number of applications to restore names that had been changed by force, about which the Committee had been informed, moreover, that some bureaucratic resistance had been encountered. Explanations were needed as to why, when acts of discrimination had clearly been committed before 1989, no complaints had been registered and no trials held, apart from that of Mr. Zhivkov. Was it because the victims had not dared to file complaints, or had not known how to do so? Had the complaints been simply filed and disposed of? Had the complainants been refused legal remedies? Information on that subject should be provided in Bulgaria's next report.

40. With reference to article 7 of the Convention and paragraphs 87 and 89 of the report, he wished to know whether the constitutional provision that citizens of non-Bulgarian origin had the right to study their mother tongue was applied in practice, and whether any figures were available on the number of Turkish-speaking pupils studying Turkish as a vernacular language. In paragraph 93, the report referred to major cultural activities and events organized regularly in regions with a large Turkish-speaking population, even between 1986 and 1989. Given the fact that they had been held at the height of the harsh policy of forced assimilation of citizens of Turkish origin, the credibility of that information was in doubt. Was it not to be feared that the cultural events organized at the time had in fact been an occasion for totalitarian propaganda?

41. In conclusion, the many questions asked were evidence of the Committee's great interest in Bulgaria's report and in the liberalization process. That the Committee should ask such questions and expect a reply - something which could scarcely have been hoped for in the past - was a tribute to the democratization of Bulgaria and a token of trust in its will to pursue the liberalization process, bearing in mind the exceptional difficulties experienced by the country in effecting that transition.

42. Mr. WOLFRUM associated himself with Mr. de Gouttes' comments and findings and welcomed Bulgaria's dialogue with the Committee. He, too, had noted the discrepancy between the disappointing written report and the commendably explicit oral presentation. To judge from the Bulgarian representative's reference to ethnic composition data to be derived from the

forthcoming national census, he assumed that the census survey would contain a question relating to membership of ethnic groups, and he would like to know whether the applicable criterion for membership of such a group was self-identification, or whether other criteria were considered. It might be remembered that the Committee favoured the criterion of self-identification.

43. He commended the attitude reflected in the Bulgarian representative's reference to a number of minority groups not mentioned in the written report. He sought confirmation of his understanding that political parties could not be formed on an ethnic basis, and asked why that was the case.

44. The frequent references by the representative of Bulgaria to "national unity" prompted the comment that national unity, to which all countries aspired, should not mean the assimilation of ethnic groups, but could best be achieved and enhanced by preserving and protecting the cultural identity of all groups. Minorities had rights and also obligations, as spelled out at the Copenhagen meeting of CSCE. The reference by the Bulgarian representative to the rule of law as offering the only genuine protection of ethnic groups prompted the comment that the implementation of rules and regulations must be overseen by an impartial, independent judiciary. He looked forward to the next report for further details of the new legal system.

45. Mr. VIDAS associated himself with the conclusions reached and questions asked by Mr. de Gouttes. It should be borne in mind that the report of Bulgaria was that of a country in transition, and he looked forward to the twelfth report, which he hoped would be submitted punctually and would provide a full picture of the profound democratic changes taking place in Bulgaria; democratization would inevitably have a positive effect on that country's implementation of the provisions of the Convention. The Bulgarian Government should follow the Committee's guidelines in drafting the report, which should reflect the de facto as well as the de jure situation in the country. He, too, trusted that the forthcoming national census would provide the data essential to a proper consideration of the report by the Committee.

46. Paragraphs 1 and 16 of the eleventh report gave the impression that the authorities' approach was not sufficiently self-critical, since in practice no society was free from racial discrimination.

47. Was there any legislation recognizing the existence of minorities in Bulgaria? It was not clear whether any group could be defined as a minority on the basis of existing legislation. Reference had been made in the Committee to the CSCE meeting in Copenhagen and its implications for the identification and definition of minorities. Recognition of the existence of a minority was an underlying principle of the Convention; should that principle be denied, there would be no possibility of granting rights to a particular sector of the population entitled to such rights.

48. It would be most useful if the Committee could receive a copy of the very important Declaration on the National Issue adopted in January 1990 and referred to repeatedly in the report.

49. In addition to Mr. de Gouttes' comments on paragraph 12 of the report, he asked how the authorities could explain the well-known events involving Turkish-speaking Bulgarian citizens if, as was stated in paragraphs 12 and 16, practice and legislation had always been consistent with the Convention and required no rectification. He also requested clarification of the term "certain racial groups" in paragraph 16.

50. With regard to the very important Amendment Law to the Passports Law (paragraph 51), he wished to know which institutions were competent in those matters, whether there was any provision for a remedy, and how many cases had been registered since the adoption of the amendment in 1989.

51. Referring to paragraphs 76 and 77, he, like Mr. de Gouttes, sought clarification of the question of language and education, and asked how many students of non-Bulgarian origin actually studied their own language. In that regard, further clarification was needed of the statement in paragraph 91 to the effect that Turkish-speaking citizens could study Turkish as a foreign language. It was not clear whether Turkish was in fact the medium of instruction in the primary schools referred to by the Bulgarian representative.

52. He had been informed that an organization of Macedonians in Blagoevgrad had not been permitted by the authorities to register as a social organization. If that report was accurate, what were the reasons for the refusal, and on the basis of which legal regulation had permission been refused?

53. Mr. SONG Shuhua said that he had been concerned by the omission of any reference to changes in nationality in the written report, although the matter had been touched upon by the representative of Bulgaria in his oral presentation, which had also helped to clarify the question of citizens who were not of Bulgarian origin. He looked forward to the data that would emerge from the national census. On the subject of citizens of Turkish origin, could it be assumed that they fell into two categories - those who were not Bulgarian citizens, but constituted Turkish minorities, and those who were originally Bulgarian citizens but had turned to Islam?

54. Like previous speakers, he pointed to the discrepancy between the statement in paragraph 12 of the eleventh report that it was not necessary for either the practice or the legislation to be reconsidered since they had always been consistent with the Convention, and the criticism in the report of the previous Government's policy of coercing citizens of Turkish origin into changing their names and abandoning some of their customs and traditions. He wished to know which of the former Government's practices or policies were not in keeping with the Convention, in what way the situation was changing or had already changed, and, specifically, what measures had been taken.

55. Paragraph 89 of the report referred to 4,000 Turkish-speaking teachers and to 1,200 teachers and schoolchildren who had left Bulgaria for Turkey. Of those who had reportedly returned, he wished to know how many were teachers, since their presence was obviously crucial if students of Turkish origin were to be able to learn their language.

56. Finally, in the context of the forced name-changing policy, it would be of interest to know whether relations between Turkish-speaking citizens and other Bulgarian citizens had now improved.

57. Mr. BANTON, after expressing his pleasure at the improved attitude displayed by the Bulgarian Government in its eleventh report, asked what view it took of the application of article 2, paragraph 1 (e), of the Convention, which concerned integrationist multiracial organizations, eliminating barriers between races. He asked what organizations of that kind existed in Bulgaria and how they functioned. He hoped that Mr. Koulishev could answer that they existed, that they were independent of the Government and so healthy that the Government was not involved with them. But "independent" meant that they did not need to be registered by the State and he wondered if that was the case. Mr. Dichev had spoken of freedom of association, which suggested that such organizations should not need to be registered. Pointing out that "integration" was originally a mathematical term, he said that the component parts of society were of unequal power, which determined how they bargained over their future position. He therefore wanted to know on whose terms integration was achieved, whether on those of the Government or of the organizations. Successful negotiation over time required "political pluralism", as Mr. Koulishev had said, which in turn called for tolerance. He

hoped Bulgaria was tolerant towards such groups. He asked whether it would show them a copy of the eleventh report or of the following discussion. He suggested that the United Nations Information Centre in Sofia might in future be better equipped to provide information for such organizations, particularly with regard to article 6: remedies had to be both available and effective. The way to establish whether that was the case was to ask the organizations themselves and to incorporate their answers in the twelfth report. He asked whether, as potential victims of abuse, they knew what remedies were available, where to find out about them and who would bear the cost. Stressing that it was not necessarily a question of ethnic political parties, though common ethnicity might be one aspect of them, he said that if the Government could find a role for such organizations, it would be a welcome contribution towards achieving the purposes of the Convention.

58. Mrs. SADIO ALI, after commending Mr. de Goutte on his detailed analysis of the report, asked whether the Turkish community had been allowed to vote in the 1989 elections. Referring to the statement by Bulgaria that 155,000 Turks had returned, she said that the Committee's estimate had been that 300,000 had fled to Turkey. If her information was correct, she asked what had happened to those who had not returned and whether their return would depend on the availability of housing. She also wished to know what effect the new guarantee of freedom of expression and of association would have on the implementation of article 4 of the Convention and expressed the hope that a reply would be forthcoming in the next report. Given the weakness of the Bulgarian economy, her next question was whether any elements of the welfare State were still in force since the introduction of the market economy. Finally, with reference to article 7, she asked what was being done to sensitize magistrates and the police to the problems of minorities, particularly the Turkish community, and whether steps would be taken to educate the public regarding the Convention.

59. Mr. FERRERO COSTA said that the contradictions in the Bulgarian report, already pointed out by his colleagues, were the marks of a country in transition; but they represented positive changes, reflecting a new respect for human rights and sincerity. Both the written report and the oral presentation were based on the new Constitution and new standards, but the next report should indicate how the new policies were actually working and avoid repeating such sweeping assertions as, for example, that racial discrimination did not exist. They should follow the Committee's guidelines and present a report which reflected real life, not the desires of the Government. The next census would be useful, as containing a real ethnic breakdown of the population. He asked, first, what the current situation of the Turkish minority was in its relations with other Bulgarians and whether there had been any social or cultural improvements. He also wished to know how the Law of the State Liability for Damage Inflicted on Citizens, mentioned in paragraph 82, was enforced. Would the Government indemnify people whose rights had been violated under the previous Government or would the law apply only to future damage?

60. Mr. RESHETOV, congratulating Bulgaria on taking the path of democracy after years of totalitarianism, said that the presence before the Committee of Mr. Koulishchev, who held a high Government post, showed Bulgaria's respect for the Committee. Democracy was a harder road to follow than totalitarianism, under which there was no need to think for oneself. Conventions could be signed and then ignored, as he knew from the former experience of the USSR. Since such societies were in theory the most advanced in the world, new laws to accommodate international standards had been deemed superfluous. Some of the new positions adopted, however, perhaps went too far. Thus, paragraph 8 of the eighth report seemed to promise unnecessarily full rights to foreigners, and it was later contradicted by paragraphs 40 and 49. Referring to the provisions of article 52, paragraph 4, of the 1990 Constitution, quoted in paragraph 30 of the report, he questioned whether Bulgaria needed to be

concerned about its "territorial integrity" (whatever that meant). The integrity that mattered was that defined by the right to freedom of expression and association. With respect to paragraph 49, he asked what kind of conviction was meant and what kind of post conviction might preclude a person from holding. The provision was open to abuse. Regarding paragraph 52, he wished to know what kind of freedom of movement was allowed to foreigners. Also, did the abolition of censorship mentioned in paragraph 64 include such sensitive issues as military matters?

61. He congratulated the Government on the improvement in its dealings with the Turkish and Muslim minority. But, referring to paragraph 84, he asked why members of that minority had to go to court in order to have their original names restored. The process could be difficult and expensive. Finally, he applauded the section on education and teaching, but was concerned by the final words of paragraph 91, where the words "all foreign languages" implied discrimination against the Turkish community.

62. The CHAIRMAN said he shared the general sense of relief at the new attitude regarding human rights in Bulgaria. He was sure that the inconsistencies that had been noted would be ironed out in the next report. Specifically, clarification was needed of paragraph 7, which should be amplified by examples, and of paragraph 84. He endorsed Mr. Reshetov's remarks concerning the restoration of original names and also asked how many applications for restoration of names had actually been granted, as opposed to being filed or examined.

The meeting rose at 5.55 p.m.