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SESSIONAL WORKING GROUP OF GOVERNMENTAL EXPERTS ON THE IMPLEMENTATION
OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

SUMMARY RECORD OF THE 11th MEETING

Held at Headquarters, New York,
on Monday, 29 April 1985, at 3 p.m.

Chairman: Mr. KORDS (German Democratic Republic)

later: Mr. TEXIER (France)

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by States parties to the Covenant concerning rights covered by articles 6 to 9
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The meeting was called to order at 3.30 p.m.

CONSIDERATION OF REPORTS SUBMITTED IN ACCORDANCE WITH COUNCIL RESOLUTION 1988 (LX)
BY STATES PARTIES TO THE COVENANT CONCERNING RIGHTS COVERED BY ARTICLES 6 TO 9
(continued)

Report of Iraq (continued) (E/1984/6/Add.3 and Add.8)

1. At the invitation of the Chairman, Mr. Yonis (Iraq) took a place at the table.
2. Mr. YONIS (Iraq), replying to questions by the expert from Tunisia regarding the minimum age for employment and whether it applied in every sector, said that article 151 of the Labour Code stipulated the minimum age for employment to be 18 years, but gave details of work that could be performed under that age. The employment of children under the age of 15 was prohibited. In certain industries and professions, the minimum age was 16. However, an exception was permitted in the case of young people working within the family, under the supervision of a relative and in appropriate conditions.
3. The expert from Denmark had inquired whether political considerations played any part in employment policies. In answer to that question, he would say that in every State ideas had to be consonant with the kind of society that existed there; no legislation in Iraq specifically allowed activities aimed at destroying society.
4. The expert from the German Democratic Republic had asked about guarantees of the right to work. Article 7 of the Labour Code provided for the right of all to work in Iraq with no discrimination as to racial, religious or ethnic background. Labour legislation had been revolutionized since 1970 and was now well ahead of that in the rest of the region. Arab workers from other countries had the same rights as Iraqi workers and did not require a work permit. Foreign, non-Arab workers, if they had a work permit and were authorized to work in Iraq, were entitled to the same working conditions, and had the same rights and duties as Iraqi and Arab workers.
5. More details had been requested concerning the three sectors referred to in paragraph 3 of document E/1984/6/Add.3. The main national programmes, for electricity or telecommunications for example, came under the socialist (State) sector. There were also mixed societies managed by the mixed sector. The private sector played a role in various areas, under the supervision of the State. The expert from Japan had asked how the employment market was organized and how workers were recruited. Prior to 1970, the situation had been anarchic. Under the current Labour Code, employment and vocational training were organized under the supervision of the departments of employment, vocational training and professional training of the Ministry of Labour. Workers were assigned to areas where they were needed under the supervision of the Minister of Labour. The Central Employment Office of that Ministry ascertained employers' needs and registered requests for employment. Workers were interviewed and were then provided with an identity card and sent with an official note to the employer. If the employment offered was

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refused, the Centre sent another worker. The employer could refuse a candidate if he had valid reasons to do so. Under the Labour Code, all employers with one or more workers must notify their employment needs to the Ministry of Labour. The question had been raised as to whether provisions for vocational training applied to all three sectors. Two additional offices of the Ministry of Labour, were concerned with the training and counselling of workers in all sectors. There were country-wide training programmes for skilled and non-skilled workers and a central office for the vocational training of handicapped persons. All workers in Iraq enjoyed many medical, social and other benefits. The report was lacking in certain statistics in that connection: they would be included in the next report.

6. With regard to paragraph 6 of document E/1984/6/Add.3, the expert from France had inquired whether there was a commission dealing with questions relating to the termination of employment and the experts from Tunisia and Japan wished to have more details concerning arbitrary termination. The subject was dealt with in the articles of the Labour Code referred to in paragraph 6 of the report, amendments thereto and decisions taken by the Court of Cassation to eliminate any ambiguities. No worker's employment could be terminated except under the terms of that legislation. A semi-official commission, under the Ministry of Labour, took decisions concerning termination. For the socialist sector, that body consisted of an official from the Ministry, one from the Employment Office, one appointed by the Minister and a representative of the worker's trade union. For the mixed sector, they were joined by a representative of management and for the private sector by a representative of the employers. Those commissions studied the case and heard explanations before rejecting or approving, by a majority decision, the request for termination. The commissions could meet only if all members were present. If a worker was not satisfied with the decision given, he could refer his case to the Labour Court for judgement and then, if he was still not satisfied, he could appeal to the Court of Cassation for a final decision.

7. The expert from Spain had asked about protection against unemployment in Iraq, the expert from the German Democratic Republic about the application of the Labour Code with regard to unemployment in the case of women and the expert from Japan about legislative measures to combat unemployment. In reply to all those questions, he said that since 1970 there had been no unemployment in Iraq, because the State had the responsibility of ensuring employment for all its citizens. The State development plans in every area provided for full employment. If, in certain categories of work, there were certain employment difficulties, the men and women concerned received counselling and training for other employment. The increasing number of foreign workers in Iraq was proof there was no unemployment. The employment of foreign workers was regulated by bilateral contracts with the State of origin. Under that contract, the income law did not apply to the foreign worker; he and his wife and two children were entitled to return air tickets home at the end of the contract, to two months' advance wages and to free medical care in Government hospitals. It also provided that, in the event of death, the body would be transported home at the expense of the State. Arab or foreign workers in the public or mixed sectors were entitled to transfer 66 per cent of their wages abroad.

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8. The experts from France, Tunisia and the German Democratic Republic had asked questions concerning the minimum wage, allowances and the wage scale in Iraq, and the experts from Japan and the USSR had asked whether the interests of both employers and workers were reflected in the wage scale. The minimum wage in 1980 had been 1,800 dinars a month (about \$US 350) for non-skilled workers and for skilled workers the equivalent of \$US 1,000 a month. In addition, workers received cost-of-living increases, family and child allowances and bonuses for dangerous work, and the holders of university diplomas received wages which encouraged them to continue their studies. Iraq's experience in determining wages in accordance with such criteria as competence, personality and working conditions had been most satisfactory. The Wage Commission fixed the wage scale in accordance with those criteria. Iraqi legislation granted workers such rights as a guaranteed minimum wage, paid leave, and maternity leave and allowances. Young workers could not be paid less than two thirds of the minimum adult wage. The Wages Commission was composed of the Director for Employment, a representative from the Ministry of Labour and the Ministry of Agricultural Planning and Land Reform, a representative of the Central Bank and three representatives each from the Central Employment Office, the trade unions and the private sector employers. The Commission met every six months to determine minimum wages in the various professions on the basis of the cost of living, the general situation in the country and a comparison with foreign wages. Its decisions were binding and were published in the Official Gazette. General democratic debate on the subject, held in the press and on television in Iraq, was taken into consideration by the Wages Commission in determining the salary scale, which was divided into seven categories of trades and professions.

9. With regard to safe and healthy working conditions, the expert from France had inquired whether a portion of the budget was set aside for that purpose. He did not have any statistics regarding the amount spent for that purpose, but all workplaces came under the jurisdiction of commissions which verified their compliance with the provisions of the Labour Code. The expert from Tunisia had inquired what sanctions were imposed when those provisions were violated. Offenders were fined and a prison sentence imposed on anyone who hindered the activities of the labour inspector responsible for health and safety conditions or ignored his instructions. Legislation adopted in 1976 laid down the sanctions to be applied against the worker in such cases. Any violation by employers must be posted in a public place to be brought to the attention of the workers. An offending employer was fined and the sanctions imposed could include the closing of the enterprise, with the employer having to pay compensation to his workers during that period. Workers' complaints concerning violations could be communicated to the inspector in order for the necessary administrative measures to be applied. The mass media also often took up such complaints.

10. The experts from Spain and the German Democratic Republic had raised the question of possible discrimination against women in employment. The Public Health Act, which specified the conditions under which men and women were employed, made certain exceptions in the case of women. They were not allowed to work at night except in certain cases. They could not be hired for dangerous work, such as work

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in the mines, or for work that could affect pregnant women. Those exceptions did not discriminate against women but were intended to protect them. Iraq based its legislation regarding night work for women on ILO Convention No. 41, which it had ratified. The expert from Japan had asked what chances women had of promotion. In accordance with the Constitution and the Labour Code, everyone had equal opportunities without discrimination as to race, ethnic origin, religion or language. Salaries were fixed in accordance with the work accomplished. In answer to the inquiry from the expert from Spain, he said that Friday was the weekly rest day in Iraq because that was the day of rest of Islam, the State religion of Iraq.

11. With respect to article 8 of the Covenant, the expert from France had asked whether there were trade unions in Iraq with differing viewpoints. The expert from the Soviet Union had asked, in connection with paragraph 40 of document E/1984/6/Add.3, what were the conditions for joining trade unions and what measures were taken in cases of conviction for offences involving loss of honour. In Iraq, workers over 16 years of age were free to decide whether or not to join a trade union. However, no one could be a member of more than one such organization. In cases involving 150 or more workers, the Government had the authority to establish a trade union. The conditions for membership were clearly stated and an individual could not be a member if convicted of a crime involving loss of honour such as rape. There were many trade unions in Iraq, each with its autonomy. There were trade unions for specific industries and others that operated on a country-wide basis. If there were more than two trade unions in a given province, they could establish a federation. The General Federation of Trade Unions exercised overall authority and its officers were elected democratically.

12. The experts from Ecuador and France had asked about the right to strike and whether wages were paid to workers on strike. There had not been a strike in Iraq since the establishment of the Labour Court in 1970. Individual disputes were decided by the Court of Cassation if they could not be settled by the Labour Court. However, collective disputes such as those between employer and the employees in a given industry over matters such as implementation of the Labour Code or contracts were more complicated. If they could not be settled between the employer and the trade union authorities and therefore threatened to disrupt operations, the Minister of Labour would be informed of the matter. The General Federation of Trade Unions would also become involved in settling the dispute. The Minister of Labour would contact the employer, the trade union and the General Federation with a view to settling the dispute. If the matter was not settled in three days, it was referred to the Minister of Justice, who would then ask the High Labour Court to meet within 48 hours and to take a decision within one week of being seized of the matter. That decision would be binding on all parties, and workers that did not abide by it would be dismissed. If an employer in the private sector did not abide by a decision of the High Labour Court, workers were free to strike within three days and could organize peaceful demonstrations. However, the Minister of Labour and the head of the General Federation would be informed of the matter and, if the employer remained adamant, would take control and ensure the smooth functioning of operations and the implementation of the decision of the High Labour Court.

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13. With respect to article 9, the Labour Code devoted a chapter to the matter of jurisdiction regarding social security. The tribunal in question consisted of three people: a presiding judge, a representative of the workers and a representative of the employer. It reported to the Supreme Labour Council, which consisted of nine persons: three judges, three representatives of workers and three representatives of employers. That Council was in turn divided into three bodies dealing with matters in the public sector, the private sector or a combination of both. Decisions of those bodies were final and, if all members were not in full agreement, the decision would be taken by the Supreme Labour Council whose meetings were attended also by the Attorney-General. The representatives from those bodies were elected by secret ballot and their decisions could be challenged by both the workers' and employers' representatives. All cases that came under the labour laws were free of administrative charges, which made it easy for workers to institute proceedings.

14. The expert from Ecuador had asked about pensions and whether they were adjusted for inflation, and the expert from Denmark had asked about insurance and who paid it. The expert from Spain had asked whether the statement in paragraph 55 did not conflict with that in paragraph 58 and whether an individual could hold more than one job and, accordingly, receive two pensions. Retirement benefits were adjusted to account for inflation and maintain purchasing power. In addition, those laws had been amended because of the war. For example, benefits were paid to workers wounded during military training. In other words, such injuries were treated in the same manner as those sustained in industrial accidents. People in the military benefited from health insurance, old-age pensions, accident insurance and family allowances. Twenty-five per cent of wages were deducted for old-age benefits, which were based on the last three years of employment. No individual could receive two pensions even if that person had worked at two jobs. The terms for a lump-sum payment were set out in paragraph 55. In the event of the death of a retiree, that individual's children or family would receive the retirement pay. There was clearly no conflict between the provisions in paragraph 55 and those in paragraph 58. Pension benefits were calculated on the basis not of years of service but of the need for social assistance, which was regarded as an obligation of the State.

15. The 1970 labour law had covered only 160,000 workers out of 2 million, and even those workers had not been fully protected. The amendments to that law sought to cover all workers, in other words, over 3 million men and women. That social security law went far beyond any such legislation in any Arab, neighbouring or developing country. With respect to family benefits, and in reply to the question by the expert from Spain, Iraq had family planning programmes, which were the responsibility of the Ministry of Labour and the Ministry of Planning. Regarding the information in paragraph 66, Iraqi nationals living abroad were also covered by the retirement laws, provided that there was no duplication with respect to the laws of the countries in which they lived. As to the effect of the war on the labour situation, people working for the war effort were encouraged to improve the quality of their products and many had responded positively.

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16. The expert from Japan had asked about the possibility of assistance from the specialized agencies for the implementation of the Covenant at the national level. Iraq had joined the International Labour Organisation in 1932 and had participated actively in its activities. ILO provided assistance to Iraq, which had long ago ratified several of its conventions. The expert from Japan had asked whether Iraq had found it difficult to prepare and submit its report. The submission of the report had been no burden on Iraq, which fully supported the Covenant and had submitted its report on that basis.

17. The CHAIRMAN said that the Working Group had thus concluded its consideration of the initial report of Iraq.

18. Mr. Yonis (Iraq) withdrew.

19. Mr. Texier (France) took the Chair.

Report of Bulgaria (E/1984/7/Add.18) (continued)

20. At the invitation of the Chairman, Mr. Mratchkov (Bulgaria) took a place at the table.

21. Mr. MRATCHKOV (Bulgaria) said that the 48 questions which had been put to him by members of the Working Group illustrated the importance which they attached to his country's report.

22. The general thrust of the proposed reform of the Labour Code had already been partially explained in the report. The first labour legislation in Bulgaria had been promulgated in the labour law of 1951, which by 1984 had been amended 18 times. The current Labour Code comprised 185 articles but was supplemented by approximately 1,100 normative rules and regulations issued since 1951 for the effective implementation of the Code. The 1951 labour law had had as its basis the individual labour relationship existing between employee and employer. It had not, however, made provision for workers on co-operative farms, who represented a fairly substantial percentage of the total labour force. The reformed Code would provide for a considerable expansion of the scope of the Labour Code in terms of the basic relationship between worker and employer; it would also, for the first time, apply to workers on co-operative farms. The new Code would also cover collective relationships such as collective bargaining, the social services to be provided by enterprises to workers, and such matters as canteens and sports. It would regulate all issues bearing on labour relations apart from the specific individual or collective aspects. Labour legislation would in future be separated from social legislation. Previously labour legislation had governed part of the social security system, particularly as regards temporary incapacity. Under the reform, social legislation would be covered by a special social security law, which would also cover pensions.

23. The drafts of the reformed Labour Code and of the social security law would be submitted simultaneously to the National Assembly in the near future for discussion and adoption. Currently the draft Labour Code contained 400 articles.

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24. A number of members had asked for further information regarding the use to be made of international experience in the new Labour Code. In that connection the question which had arisen had been how Bulgaria could use the experience developed in international legislation such as the International Covenants and other conventions adopted by the United Nations General Assembly as well as the recommendations and conventions of the International Labour Organisation. A detailed study had been made of all those instruments and they had been carefully borne in mind by the groups preparing both the new laws. Whenever doubt had arisen regarding any proposed provision, the relevant United Nations or ILO instrument had been consulted. In elaborating the revised Labour Code, Bulgaria had thus kept in mind its many international commitments. Apart from the two International Covenants, Bulgaria had ratified 84 ILO conventions covering all aspects of labour relations. The main issue had been to determine what were the commitments of the Government under international instruments which it had ratified and whether it was in a position to ratify other instruments which might be relevant. The objective was to make the reformed Code completely consistent with Bulgaria's international commitments.

25. Questions had also been raised regarding the employment of persons with reduced working capacity, and about work at home by mothers with children below six years of age. There were three categories of persons with reduced working capacity. The first category consisted of individuals who had lost all capacity to work, although there might be some persons in that group who could eventually be employed in conditions specially created for them. The second category consisted of those who were partially incapacitated and who, following rehabilitation, could work in suitable workplaces. The third group comprised those whose capacity was reduced but who could still do professional work of a less onerous type than that which they had performed previously. Special enterprises had been created for such individuals and workshops had been set up in existing enterprises where they could produce articles such as buttons or toys. In such cases, the problem was social rather than economic. Workers in all three categories already received pensions; the important issue was to give them something to live for. Since 1980 approximately 400 special enterprises and workshops had been created and about 50,000 individuals were employed in them.

26. Mothers with children below six years of age had the right to work at home. Until their children reached the age of six, such mothers retained their permanent jobs which were kept open for them in the enterprises where they had worked previously. Relations between them and their employers were in a state of suspension during that period. The enterprise was obliged to give the mother back her job. During the six-year period, however, the enterprise could recruit another woman worker, concluding with her a limited contract covering the period until the mother returned. Since 1980, legislation had also made it possible for a mother in that situation to start another job in an enterprise other than her own, for example, nearer her home. Such mothers could therefore work in another enterprise while retaining their contract with their basic employer. The object of the legislation was to protect the rights of women who found themselves at a special stage in their lives. Since 1980, those provisions had been used a great deal.

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27. Questions had also been asked about professional training. Women enjoyed the same rights and opportunities to improve their professional capacity as men. One special privilege related to women returning from maternity leave, who were retrained at courses organized in branches of economic activity where large numbers of women were employed, including particularly the textile and other light industries. There was also the related problem of job redundancy following the introduction of new technology. The social consequences of such changes were regulated strictly by legislation, so that all those who became redundant through job elimination were given new professional training if they so wished. A 1975 ordinance covered all aspects of those issues.

28. Special training courses for administrators were given in the Academy of Social Sciences. The courses varied in length depending on the personnel concerned and their specialization. Management courses always formed part of such training, as did a general course covering the constitutional aspects which might affect the staff both personally and in the performance of their jobs.

29. Of the 9 million people in Bulgaria, 1.5 million were retirees. Pensioners therefore represented a large human resource, which the State endeavoured to use. It was for the people themselves to decide whether or not they wished to continue to work. The legislation of 1984 was designed to encourage them to continue to work after retirement age by offering them a larger pension. There was also legislation to encourage people who had retired to return to work as working pensioners, entitled to both their pension and wages. That legislation, however, applied only to certain specified sectors of the economy. Working pensioners started with short-term contracts, the maximum duration of which was one year, after which the contract could be renewed if the pensioner and the enterprise so agreed. There were currently some 300,000 working pensioners in Bulgaria.

30. He understood the doubts expressed by the expert from France concerning full employment. He did, however, hope that that expert would understand that Bulgaria's problem was not the achievement of full employment but the difficulty in filling the jobs created in the country. It was also important to note that those who worked only on a part-time basis did so of their own choice and could have full-time jobs if they so desired. Under the wage rate scales, the ratio between the minimum and maximum wage was, in the case of manual workers, 1:2.5 and, in the case of non-manual workers, 1:4.

31. In response to the question asked about the value of the Bulgarian currency, he said that the rate of exchange was generally about one leva to one United States dollar. It was not the fault of his Government that the currency was not convertible. In the period under review, prices had remained stable and, therefore, purchasing power had not declined. In speaking of purchasing power, it was important to consider not only the nominal wage but also the subsidies from the social consumption funds, reflected in free education, free medical care and low rent. Those subsidies amounted to 800 leva per person in 1984 and that amount increased every year, as did both real and nominal wages and the general standard of living.

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32. With regard to the promotion of civil servants, he said that, after three years at a particular grade, the work of the person concerned was reviewed by a committee, which took account of his seniority and level of qualifications and made an appropriate recommendation. If the individual did not agree with the recommendation, he was entitled to appeal.

33. In reply to the expert from Spain, he said that the seven steps in the wage-rate scale applied to all manual workers, each step corresponding to a certain level of skills.

34. The financial resources provided for safety and health at work had increased from 1,500,000 leva for the period 1976-1980 to 2,100,000 leva for the current five-year plan. Sums were also provided at the local level from social and cultural activity funds, their amount varying from one enterprise to the next.

35. Since the agricultural reform, a five-day week existed in practice in some sectors of agriculture, for example, forestry and livestock raising. The six-day week was still the rule in the case of crop farming, since that type of work was dependent on the weather and other factors. It was, however, planned to introduce the five-day week, with an 8 1/2-hour working day, for all agricultural workers. In response to a question asked by the expert from Ecuador, he said that the new model regulations governing the agro-industrial complex, mentioned in the report, meant that in practice the legal régime prevailing for other sectors of the economy also applied to agro-industrial complexes.

36. All workers in Bulgaria were entitled to join, or leave, the trade union corresponding to their sector of activity. Currently, 4 million workers, virtually the entire work-force, were members of trade unions. Workers could be dismissed by the administration only in the cases specified in the Labour Code. In all cases of dismissal, the administration asked the trade union committee for its opinion. Some categories of workers could be dismissed only with the consent of the trade unions, a condition that would be extended to all cases under the new Labour Code.

37. Since the trade unions were so closely involved in production and management, legislators had not considered it necessary to recognize expressly the right to strike. On the other hand, there were no explicit sanctions to prohibit strike action, and the question therefore remained open. Under the new Labour Code, workers would be able to refuse to do work that endangered their health.

38. Since 1945, the retirement age for women had always been five years lower than that for men. Bulgaria considered that to be a social achievement for women who, as mothers as well as workers, had to do more work than men.

39. With regard to mandatory withholding from pensions, he said that, where the pension was greater than the minimum salary, mandatory withholding was permitted in the same cases as those in which it was permitted for other income; if the pension was lower than the minimum wage, it could be applied only in those cases specified in the amendment to article 53 of the Pensions Act, mentioned in paragraph 43 (d)

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of the report. Pensions were raised every five years and increased at the same rate as wages in the course of the five-year plan.

40. With regard to family allowances, he said that the number of children in a family was a matter for the parents themselves to decide. The legislation on family allowances did, however, tend to encourage three-child families.

41. A number of foreign workers had come to Bulgaria to receive training in accordance with bilateral agreements. They left the country once their training was complete. There were also a number of experts from the developed countries working, for example, on the introduction of new technology.

42. In reply to the expert from Japan, he said that, from a strictly personal viewpoint, he felt that an interval of three years between reports seemed to be the optimum period. For its part, Bulgaria would continue to honour its obligations under the Covenant, having in mind the principle pacta sunt servanda.

The meeting rose at 6.15 p.m.