



**International Convention on
the Elimination of All Forms
of Racial Discrimination**

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Committee on the Elimination of Racial Discrimination
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Summary record of the 1907th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 18 February 2009, at 10 a.m.

Chairperson: Ms. Dah

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The meeting was called to order at 10.10 a.m.

Filling of casual vacancy (*continued*)

1. **The Chairperson** invited Mr. Jens Hartig Danielsen, who had been elected by the Committee on 16 February 2009 to fill the vacancy left by Mr. Kjaerum, to make the solemn declaration provided for in rule 14 of the rules of procedure of the Committee.

2. **Mr. Danielsen** said that he was very honoured to have been designated to sit on the Committee and made the following solemn declaration:

“I solemnly declare that I will perform my duties and exercise my powers as a member of the Committee on the Elimination of Racial Discrimination honourably, faithfully, impartially and conscientiously.”

3. **The Chairperson** wished Mr. Danielsen every success and invited the Committee to continue its consideration of the combined fifteenth to nineteenth periodic reports of Bulgaria.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (*continued*)

Fifteenth to nineteenth periodic reports of Bulgaria (continued) (CERD/C/BGR/19 and HRI/CORE/1/Add.81)

4. *At the invitation of the Chairperson, the members of the delegation of Bulgaria took places at the Committee table.*

5. **Mr. Thornberry** welcomed the comprehensive replies the Bulgarian delegation had given to the experts' and Country Rapporteur's questions at the previous meeting. He noted the self-critical approach taken in the periodic report under consideration regarding Roma. With regard to education, he pointed out that articles 5 and 7 of the Convention contained very important provisions regarding measures States parties must adopt in the field of teaching given, inter alia, that education was a basic right which facilitated access to other rights, such as the rights to health, housing, employment, etc.

6. He confessed that he did not have a clear understanding of how the concepts of integration, separation and assimilation of ethnic communities were perceived in Bulgaria and wished to know what general principle the Bulgarian authorities followed in the area of minority education. In particular, he would like to know the exact meaning of the term “integration”, especially in light of the policy for educational integration of children and pupils from ethnic minorities referred to in paragraph 243 of the periodic report. In his view, very often the reason that some States parties felt the need to establish special schools for such minorities, in particular Roma children, was that State schools did not make enough of an effort to welcome minorities.

7. With respect to mother-tongue teaching, he noted that Romani was not taught and studied systematically as a mother tongue and wished to know whether languages of other ethnic communities were routinely taught in Bulgaria. The Bulgarian authorities should regularly evaluate progress achieved in the field of education thanks to the various plans, programmes and strategies adopted by Bulgaria in favour of minorities, particularly Roma.

8. **Mr. Lahiri** said that the problem of police brutality towards members of minorities remained a matter of serious concern and much work had yet to be done to improve the situation in Bulgaria, in particular with regard to Roma. Although the Bulgarian authorities had taken steps in numerous areas to improve the position of Roma, the fact that various problems persisted showed that the Government should take more specific and proactive measures to assist them.

9. He also noted the lack of socio-economic data disaggregated by ethnic origin in the 2001 census and recommended that the Bulgarian authorities should include such statistical information in the 2011 census so that the Committee could have a clear picture of the scale of the problem faced by members of minorities and ethnic communities and of how special measures had helped improve their situation. He also recommended that the next census should contain information that would enable Committee members to assess the level of access of minorities, particularly Roma, to the education and health systems.

10. He was also astonished by the lack of any significant reference to the Turkish minority living in Bulgaria, which was believed to number nearly one million persons. He recalled that until 1989 Turks had not been allowed to use their family names or to own land and that, at that time, hundreds of them had been deported to Turkey. He would like to know to what extent the situation of Turks had improved since 1989 and to have the delegation's view on reports of illegal migration of Turks from Bulgaria to other European countries.

11. He was surprised that during the dialogue with the representatives of Bulgaria there had been discussion of the question of the OMO "Ilinden" – Pirin party, whose aim was to establish an independent Macedonian state through the secession of the Macedonian region of Pirin from the Republic of Bulgaria. It was regrettable that OMO "Ilinden" – Pirin had had to resort to the European Court of Human Rights to contest the Bulgarian Government's refusal to register it as a political party. Even though it was a sensitive territorial issue, in his view the Bulgarian authorities should take steps to ensure that a satisfactory resolution of the matter was reached otherwise than through a decision of the European Court of Human Rights.

12. **Mr. Cali Tzay** said he was surprised that the State party had enacted a law expressly prohibiting any direct or indirect discrimination on grounds of genetic heritage, in particular, and asked the delegation to explain the reason for such a legislative measure.

13. He would also like to know what was in the National Plan of Action for the Decade for Roma Inclusion (2005–2015) adopted in April 2005, and whether the authorities considered that it had achieved its aims.

14. **Mr. Murillo Martinez** noted that according to paragraph 131 of the periodic report the "[i]ntegration of minority groups and perfection of the ethnic model in civil society [had] been among the main priorities of successive Bulgarian governments in recent years", and asked the Bulgarian delegation to indicate whether that objective had been met. He suggested that Bulgaria should update its core document by adding socio-economic data disaggregated by ethnic origin.

15. **Mr. Prosper** asked the Bulgarian delegation to make clear who suffered from racist offences in the State party, what the nature of those offences was, whether that phenomenon was spreading or disappearing and whether the groups and minorities targeted varied over time and as circumstances changed.

The meeting was suspended at 10.55 a.m. and resumed at 11.20 a.m.

16. **Mr. Draganov** (Bulgaria) said that, regarding the problems of corruption identified by the European Commission in its report on progress in Bulgaria under the Cooperation and Verification Mechanism, judicial reforms had been initiated and steps taken to build the capacity of the judiciary, but that those efforts had not yet been successful and that, in future, emphasis should be placed on enforcing laws and dealing with the backlog of cases.

17. **Ms. Fikri** (Bulgaria) said that under article 5 (4) of the Constitution international instruments ratified by Bulgaria were directly applicable and that the Convention, which had been promulgated in 1992, was part of the domestic legal order. However, in a decision handed down in 1992, the Constitutional Court had ruled that international instruments were directly applicable in civil matters but that their provisions should be incorporated into domestic legislation in order to be applicable in criminal matters. In another decision handed down in 1996, the Constitutional Court had studied the provisions of the Convention and concluded that freedom of expression and the right to disseminate views should be restricted when they were used to undermine the principle of equality between all human beings and the dignity of the human person.

18. In 2008, the Commission for Protection against Discrimination had published a compendium of case law in Bulgarian and English on the implementation of the Protection against Discrimination Act. However, the failure to invoke the Convention in any of those decisions was due to a lack of familiarity with it on the part of jurists, including judges and lawyers, and victims. For that reason, in 2008, the Commission for Protection against Discrimination had organized a seminar for legal practitioners from all over the country. More than 130 lawyers and judges, including Supreme Court judges, had taken part, and specialists in national, European and international anti-discrimination legislation — including one of the members of the delegation — had given presentations on related issues.

19. The Commission for Protection against Discrimination had invoked the Convention in several cases that had been referred to it, including a case in which the mayor of a town had made inappropriate comments on the ethnic origin of the beneficiaries of a housing project intended for 150 Roma families, and a case regarding a programme broadcast by national television called “Gypsies use Bulgarians as slaves”. The Commission relied on the Convention to rule that both cases were instances of racial discrimination. In other cases, particularly a complaint filed by Roma women, including the journalist Violeta Draganova, who had been refused entry to a public swimming pool, the Commission had relied on the Protection against Discrimination Act to rule that there had been discrimination.

20. **Mr. Tehov** (Bulgaria) made clear that in the Volen Siderov case, the Convention had been directly invoked by the judges, who had, however, not found sufficient evidence to support the conclusion that article 4 of the Convention had been violated.

21. **Ms. Mileshkova** (Bulgaria) said that the Commission for Protection against Discrimination had been established under the Protection against Discrimination Act, which guaranteed its independence and gave it wide powers. In particular, the Commission was empowered to determine whether the Act or other texts relating to equal treatment had been violated, to consider complaints, to impose penalties on State bodies and local government agencies, to appeal against decisions taken by administrative authorities and to make proposals and recommendations to State and local authorities on discrimination issues.

22. The Commission managed its own budget, which was implemented by its Chairperson. It had nine members – five elected by the National Assembly and four appointed by the President of Bulgaria. The Chairperson received a basic monthly salary equal to 80 per cent of the monthly salary of the President of the National Assembly and the other members received a salary equal to 75 per cent of the salary of the Chairperson of the Commission. The Commission's services were provided free of charge.

23. Article 7 of the Protection against Discrimination Act, which listed the differentiated measures and treatment considered as non-discriminatory, should be interpreted in light of article 1 of the Convention and article 4 (1) of the above-mentioned Act, which established approximately 20 grounds for discrimination. In general terms, the aim of article 7 was to ensure equality of opportunity and, in particular, to guarantee access by all to employment and education. One of the provisions of that article established special measures for disadvantaged groups. Lastly, the Commission had, to date, relied on article 7 in only two cases to rule that no discrimination had taken place.

24. **Mr. Tehov** (Bulgaria) said that from May 2005 to December 2008, the Ombudsman had received seven complaints against administrative authorities, which, according to the complainants, had taken discriminatory measures against them. In one of those cases, the authors, who were from the Roma minority, had maintained that the demolition of their home by the municipal authorities had constituted an act of racial discrimination. After investigating the case, the Ombudsman had found that the complainants had either built their home on land they did not own, or had built homes that did not meet existing standards. Consequently, the Ombudsman had considered that the measures taken by the administration did not amount to discrimination. In another case in which the complainants alleged that Roma children in Blagoevgrad were at risk of being victims of school segregation, the Ombudsman had recommended that the local authorities should take steps to avoid the risk of marginalization of those children and to create favourable conditions for their integration and education.

25. In the social services sector, a citizen of Roma origin had complained that he had been the victim of racial discrimination on the basis of ethnic origin because he had not been provided with home help services. Following an investigation, the Ombudsman had concluded that no discrimination on grounds of ethnic origin had occurred. In fact, the social services in question had simply not had anyone available who was able to meet the needs of the applicant. However, the Ombudsman recommended that the social services should take account of the particular situation of the claimant, which they had done. The rights of that citizen had been protected.

26. Similarly, a citizen of Roma origin had complained to the Ombudsman that a municipal employee had been very unhelpful and had refused to carry out the necessary administrative procedures. Following an investigation, the Ombudsman had concluded that the employee in question had indeed been intolerant towards that citizen. The latter had subsequently had access to the service he had requested and measures had been taken in order to avoid similar situations in the future.

27. Lastly, in the field of labour law, the Ombudsman had had to investigate a case in which a citizen had maintained that he had been refused a job on grounds of his ethnic origin. The investigation had established that the citizen had been turned down because he did not have the necessary qualifications, and not because of his ethnic origin.

28. Like the Convention, domestic legislation and the Constitution of the Republic of Bulgaria did not use the terms "national minorities" but the terms "national or ethnic origin". Furthermore, there was no definition of "national or ethnic minorities" in international law, not even in the Council of Europe Framework Convention for the

Protection of National Minorities. The latter convention applied to all those who claimed membership of a given minority group, according to the principle of self-identification as set out by the Committee in general recommendation VIII (1990) concerning the interpretation and implementation of article 1, paragraphs 1 and 4, of the Convention.

29. In the case of *Ognyanova and Choban v. Bulgaria*, concerning Mr. Stefanov, who in 1993 had jumped from the third floor window of a police station while in custody, the European Court of Human Rights had concluded on 23 February 2006 that there had been violations of articles 3, 5 and 13 of the European Convention on Human Rights but no violation of article 14, prohibiting discrimination. Therefore, there had been no discrimination against that person on grounds of ethnic origin and there was no reason to discuss the case any further with the Committee since it did not fall within its remit.

30. The Human Rights Commission, which had been set up within the National Police Department, had become in 2003 the Standing Committee on Human Rights and Police Ethics within the Ministry of the Interior and was chaired by a deputy minister with a senior police commander as deputy chairperson. Its purpose was to improve respect for human rights and to increase awareness of the standards enshrined in the code of conduct of civil servants in the Ministry of the Interior. It was tasked with reviewing existing relevant legislation and proposing improvements to it, monitoring respect for ethical standards within the police force and ensuring that basic rights were better protected by working together with government bodies and non-governmental organizations active in that area. Its principal partners were the Ombudsman, the Commission for Protection against Discrimination and the National Council for Cooperation on Ethnic and Demographic Questions. In coordination with its offices set up within regional directorates of the Ministry of the Interior, the Standing Committee was working to prevent police brutality by carrying out training programmes.

31. Following up on the information on police brutality provided at the previous meeting (see CERD/C/SR.1906), he said that 325 complaints had been filed between 1 January 2007 and 12 December 2008 regarding police brutality, especially the use of physical force and wrongful detention in the premises of the Ministry of the Interior. Thirty-one complaints had been declared inadmissible. The perpetrators had been punished: 5 had been removed from their posts, 1 had been denied a promotion, 17 had been reprimanded, 14 had received written warnings and 4 had received verbal warnings.

32. **Ms. Mileshkova** (Bulgaria) said that the Commission for Protection against Discrimination had in 2005–2006 initiated legal action in 45 cases of discrimination on grounds of ethnic origin, which accounted for 23 per cent of the total number of complaints filed during that period. That proportion had fallen to 21 per cent in 2007 and then risen to 46 per cent in 2008. Between 2005 and 2008, 68 decisions had been handed down by the Commission in cases of discrimination, half of which had been on grounds of ethnic origin. In some cases, there had been multiple forms of discrimination.

33. **Mr. Sahov** (Bulgaria) said that, following publication in 2004 of Emil Antonov's book on the foundations of National Socialism, the chairperson of the NGO Bulgarian Helsinki Committee had lodged a complaint about the anti-Semitic content of the work with the Sofia Public Prosecutor's Office. A preliminary inquiry had concluded that it had not been the aim of the book to denigrate the Israeli people or the State of Israel. Consequently, the Sofia Public Prosecutor had not instituted proceedings against Mr. Antonov.

34. The Council on Electronic Media supervised the activities of radio and television stations and prohibited any broadcast likely to give rise to a feeling of intolerance in society or to constitute an incitement to hatred on grounds of race, sex, religion or nationality.

35. The Council had punished the television station "Skat", in particular in 2003, 2005 and 2008, for incitement to ethnic intolerance directed against Roma and Turks, a Muslim

organization and Jews. Penalties had also been imposed on the station in 2005 for incitement to political intolerance and in 2007 for incitement to religious intolerance. In an effort to improve the situation, the Council on Electronic Media had organized a debate on hate speech in the electronic media with the participation, inter alia, of members of Parliament and representatives of non-governmental organizations.

36. On the issue of the OMO “Ilinden” – Pirin party, about which non-governmental organizations had unfortunately been active in spreading disinformation, the European Court of Human Rights had found that there had been no violation of article 14 of the European Convention on Human Rights prohibiting discrimination, and therefore that issue should not have been raised by the Committee. However, as it was a matter of interest to the Committee, he said that party had been declared unconstitutional because its statutes referred to the will of the Macedonian region of Pirin to secede from the Republic of Bulgaria. In 2005, the European Court of Human Rights had ruled that article 11 of the European Convention on Human Rights had been violated, arguing that the action taken by Bulgaria against that party had been legitimate but disproportionate to the real risk to the unity and territorial integrity of the Republic of Bulgaria. The European Court had not instructed Bulgaria to recognize OMO “Ilinden” – Pirin as a political party. To be recognized as such, that group had only to meet the technical criteria laid down in the Political Parties Act, which required it to submit a list of 5,000 members in support of its application, something which it had still not been able to do. That was the only reason that its applications for registration had been turned down since 2006. Lastly, he said that OMO “Ilinden” – Pirin was currently being prosecuted for forging signatures.

37. As a general rule, only children with severe learning difficulties were placed in special schools. In a very few cases, Roma children had been referred to such schools for social reasons. The Bulgarian authorities had no intention of closing special schools but simply wanted to review the enrolment criteria for such establishments. The particularly high level of unemployment among Roma was linked mainly to their lack of education and their poor command of Bulgarian. The Framework Programme for Equal Integration of Roma in Bulgarian Society included a range of measures to broaden labour market access for Roma.

38. **Ms. Fikri** (Bulgaria) said that in 2008 within the framework of the European Union’s PROGRESS programme, the Commission for Protection against Discrimination had organized a seminar for 122 police officers in order to improve their awareness of discrimination issues and their knowledge of groups that were most often the victims of discrimination.

39. **Mr. Tehov** (Bulgaria) invited the Committee to refer to Bulgaria’s written reply to question 23 of the list of issues, which had been submitted to it (document without a symbol, distributed at the meeting by the Bulgarian delegation), regarding the measures taken to promote understanding and tolerance among racial and ethnic groups. In preparation for accession to the European Union, the Bulgarian authorities had carried out a careful review of constitutional provisions and other legislation in order to ensure full compliance with European legislation. Numerous European Union directives had been transposed into domestic legislation. The Framework Programme for Equal Integration of Roma in Bulgarian Society was subject to ongoing evaluation. According to initial studies, results were satisfactory although there was still room for improvement regarding coordination of sectoral policies and greater participation by local authorities in its implementation, in view of the fact that it was based on voluntary integration rather than forced assimilation.

40. No statistics were available on hate crimes, but the delegation would provide the information requested by the Committee at a later date. The National Statistical Institute, which carried out a population census every 10 years, had to comply with legislative

provisions which allowed citizens to choose whether or not to reply to questions relating to ethnicity. All other questions were mandatory. The next census would take place in 2011 and the results would be made available to the whole population once they were known.

41. **Mr. Draganov** (Bulgaria) said that in the 2005 legislative elections, the nationalist Ataka party had won 8.93 per cent of the vote and 11 seats in Parliament. For various reasons, there were fears that the party would achieve a similar or even higher score at the forthcoming elections, which were due to be held in July 2009.

42. **Ms. Mileshkova** (Bulgaria) said the Commission for Protection against Discrimination had received a complaint from an American-Roma couple who had gone for medical examinations in a leading Sofia hospital, where the medical authorities had allegedly asked each of them to indicate their ethnic origin. According to the medical team, the question had been justified by the search for genetic diseases in one of the partners. Generally, patients, or indeed any citizens, were not asked about their ethnic origin.

43. **Mr. Garvalov** (Bulgaria) provided explanations of the incidents in the village of Mechka in Pleven District in 1998. The police had been expressly instructed not to resort to excessive use of force in apprehending offenders, cattle thieves and burglars in Mechka. Nevertheless, during the operation some villagers had attacked the police officers, who had had to call for reinforcements to stop the violence. Force had indeed been used, in particular batons and handcuffs. Roma from the village had filed a complaint with the District Military Prosecutor's Office of Pleven, which had opened an investigation to identify those guilty of causing bodily injury. Nevertheless, after considering the evidence in the case, the Military Prosecutor's Office decided that there was no proof of unlawful action by the police. The case was therefore discontinued. No appeals were lodged against that decision.

44. **Mr. de Gouttes** (Country Rapporteur) thanked the Bulgarian delegation for its comprehensive written and oral replies. He invited the delegation to clarify more fully in its next periodic report the concepts of national minority and national unity, which had been mentioned during the discussion. With respect to article 2 of the Convention, some experts had expressed concern at the lack of representation of minority groups in Parliament and the civil service. The State party was requested to provide statistics in its next periodic report on the ethnic and racial make-up of the population, and details of the role of the Commission for Protection against Discrimination, the Ombudsman and the National Council for Cooperation on Ethnic and Demographic Issues. With respect to article 5 of the Convention, the Committee would like further information on follow-up of the Framework Programme for Equal Integration of Roma in Bulgarian Society. In that respect, the Rapporteur drew the delegation's attention to the Committee's general recommendation XXVII on discrimination against Roma. It would be interesting if the State party were to give further details in its next report on the steps taken to prevent police violence against persons from ethnic minorities and to combat stereotypes.

45. With regard to article 7 of the Convention, the State party should intensify efforts to raise awareness of the Convention, particularly among members of the judicial professions. As regards articles 4 and 6 of the Convention, the State party was invited to provide judicial statistical data on complaints, prosecutions and verdicts.

46. **The Chairperson** appreciated the candid and constructive dialogue between the Committee and the delegation and invited the State party to submit its periodic reports with greater regularity than it had done in the past.

The meeting rose at 1.10 p.m.