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Summary record of the 2808th meeting*

Held at the Palais Wilson, Geneva, on Wednesday, 13 July 2011, at 3 p.m.

Chairperson: Ms. Majodina

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* No summary record was issued for the 2807th meeting.

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 40 of the Covenant
(agenda item 7) *(continued)*

*Third periodic report of Bulgaria (CCPR/C/BGR/3; CCPR/C/BGR/Q/3;
CCPR/C/BGR/Q/3/Add.1)*

1. *At the invitation of the Chairperson, the delegation of Bulgaria took places at the Committee table.*
2. **Mr. Tzantchev** (Bulgaria), introducing the third periodic report of Bulgaria, said that the high-level delegation participating in the consideration of the report reflected the will of the Government to hold an open and frank exchange with the Human Rights Committee on how Bulgaria was meeting its obligations under the Covenant, on the challenges faced in that regard and on the lessons learned during the implementation of the Covenant.
3. Over the past decade, Bulgaria had been unable to submit the required reports to the human rights treaty bodies because of the tremendous efforts needed to synchronize its domestic legislation and practices with European norms and principles. However, it was now up to date with the submission of its periodic reports and was determined to cooperate closely with the different human rights treaty bodies. The recent visit, in May 2011, of Ms. Gabriela Knaul, Special Rapporteur on the independence of judges and lawyers, and the even more recent visit (ending on 12 July 2011) of Ms. Gay McDougall, Independent expert on minority issues, illustrated the new impetus given to that cooperation. On 17 March 2011, the Working Group on the Universal Periodic Review had completed the first universal periodic review of Bulgaria. Of the 113 recommendations made, the Government was able to accept 108; the difficulties in accepting the remaining 5 stemmed largely from problems of inconsistency with the Constitution.
4. The report and the written replies to the list of issues had been prepared in close cooperation with all the relevant bodies, notably the Office of the Ombudsman of Bulgaria, the Commission for Protection against Discrimination and, for certain matters, the representatives of local authorities.
5. Considerable progress had been made in recent years. Bulgaria was now party to the core international human rights treaties and had accepted the most far-reaching scrutiny of its human rights record, including binding judgements of the European Court of Human Rights, with regard to individual complaints. Following the entry into force of the Lisbon Treaty in 2009, Bulgaria was also bound by the Charter of Fundamental Rights of the European Union. Generally, in accordance with the Constitution, the international treaties to which Bulgaria was party and which had been promulgated pursuant to the established procedure formed an integral part of domestic law and would prevail in case of a conflict of laws.
6. During the reporting period, Bulgaria had undergone profound changes, in terms of both legislation and practice. Those changes were linked to the fact that it had become a member of the Council of Europe and subsequently of the European Union, but they had also ensured a stricter implementation of the provisions of the Covenant. The authorities were continuing to strengthen legislation in order to ensure the full independence, impartiality and effective functioning of the judiciary; to improve the response of the executive to human rights challenges, such as the protection of vulnerable persons; to update national integration policy; and to strengthen the mechanisms allowing civil society to exercise control over the actions of law enforcement agencies. Several recent developments were worth noting. In the context of developing a European framework for national action plans to improve the situation of the Roma, the Bulgarian authorities had

once more reviewed their policy for the equal integration of the Roma in society. As in most other Central and Eastern European countries, the difficulties faced by the Roma in Bulgaria were largely socio-economic. Bulgarians of Roma origin enjoyed all the rights provided for in the Constitution and other legislation, which established the principles of non-discrimination and equality. Thus, members of the Roma community had equal access to public services and facilities, but they must avail themselves of the possibility of using those services. The Government had taken various steps to better inform the Roma about that matter. Moreover, the Penal Code had been amended to strengthen the response to hate speech and hate crimes, and the Ministry of the Interior had been working with the relevant international bodies to enhance its capacities in that regard.

7. The Government was continuing its efforts to close all childcare institutions by 2025 and to replace them by a network of community-based services providing the conditions of a family environment. The closure of institutions for children with disabilities and medical and social centres for children up to the age of 3 was also a priority. In the meantime, conditions in State and municipal childcare institutions had to be improved.

8. In April 2011, Bulgaria had ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Ombudsman had expressed his willingness to act as the national preventive mechanism provided for in the Protocol. With regard to domestic legislation, new legislation had been adopted that provided for the creation of special courts for organized crime and corruption cases. A new unified Election Code had also been adopted which should provide better safeguards for free and democratic elections.

9. Cooperation with non-governmental organizations (NGOs) had been strengthened and several ministries had decided to avail themselves of the civil society monitoring mechanisms in order to enhance the effectiveness of their activities. For example, the Ministry of the Interior had been working with the Open Society Institute to monitor the implementation of projects with a view to the accession of Bulgaria to the Schengen area. The same NGO was cooperating with the Ministry of Labour and Social Policy to define benchmarks to measure the effects of the integration policy. Finally, it should be noted that the Ombudsman and the Commission for Protection against Discrimination had applied for accreditation by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights.

10. **The Chairperson** thanked the Bulgarian delegation and invited Committee members to ask additional questions concerning items 1 to 14 on the list of issues.

11. **Mr. Thelin** noted that since the submission of the second periodic report (CCPR/C/32/Add.17), which dated back to 1993, Bulgaria had undergone significant changes and, in particular, had joined the European Union in 2007. Bulgaria's membership of the European Union provided a guarantee of enhanced respect for international human rights standards by the State party, as the fundamental element of any democracy based on the rule of law. Among other instruments, Bulgaria had ratified the Covenant and therefore had an obligation to honour its commitments arising therefrom.

12. The Covenant was directly applicable in the State party since it was an integral part of domestic law. In its concluding observations on its consideration of Bulgaria's second periodic report (CCPR/C/79/Add.24), the Committee had welcomed the references that the Constitutional Court had made to the Covenant in several of its judgements. He had therefore been surprised to read in the written replies that the Supreme Judicial Council had no record of cases where provisions of the Covenant had been directly invoked before the courts. Perhaps that was due to the fact that, since the State party had joined the Council of Europe and the European Union, European conventions and European law in general had taken precedence over the Covenant, which had been relegated somewhat to the

background, to the point where judges, lawyers, and even more so, the public, were perhaps not even aware that it was still in force in the State party. The Bulgarian Government should clearly encourage the dissemination of information about the Covenant because, although there were many similarities between all the international human rights instruments, they could be considered to reinforce each other in many respects, and the judiciary could usefully base its decisions on both European conventions and United Nations instruments.

13. He referred to a very recent judgement of the Supreme Administrative Court in a case involving issues of gender discrimination, which had held that international instruments were binding on the State but not on the courts. Of course, the decision could apparently be appealed before the national courts, and the possibility that the judges' finding might be overturned by a higher court could not be excluded, but it might also reflect the fact that the judges did not know that ratified international human rights instruments were an integral part of domestic law. Furthermore, the written replies also stated that the courts were one of the remedial mechanisms in cases where rights under the Covenant had been violated. However, if the courts never invoked the provisions of the Covenant, it would be difficult for them to play that role. In any case, judges must recognize the applicability of the Covenant and other ratified international instruments for victims to refer violations of their rights to the courts.

14. Bulgaria had set up a Commission for Protection against Discrimination, and the written replies provided statistics on cases examined under the Law on Protection against Discrimination (table 5). He noted that in 2009 the motion had been granted in only two cases, and only three in 2010, which was very little. He asked the Bulgarian delegation to comment on the figures given in table 5.

15. Bulgaria had harmonized its legislation with the *acquis communautaire* following its accession to the European Union. However, it would also be interesting to know what reforms had been undertaken to strengthen institutions, particularly the judiciary and the legal system, in anticipation of Bulgaria's accession to the European Union in 2007. More generally, he concurred with the opinion of the Special Rapporteur on the independence of judges and lawyers that the judiciary was a pillar of any democratic society and that its integrity and independence must be fully assured.

16. It was stated in the written replies that the Government had developed a strategy to combat corruption, but no details had been provided on substantive measures envisaged within that framework. He would appreciate receiving information from the Bulgarian delegation on that matter. He also wished to know what the composition of the Supreme Judicial Council was; what links that body had with other institutions, such as the Bar Association; and how the authorities reconciled the need for judicial review permitting, for example, disciplinary action against judges on the one hand, and respect for the independence of the judiciary on the other. Some countries had addressed the issue by entrusting the judiciary with the task of taking disciplinary action, while others had chosen to give that responsibility to the executive. He wanted to know what the situation was in Bulgaria.

17. According to the information provided by NGOs, particularly the Bulgarian Helsinki Committee, efforts to combat corruption were currently focused on the judiciary and did not cover corruption within the police force and the prosecution services. He hoped that was not the case in reality because, if corruption also existed in the police force and the prosecution services, the authorities must act, especially since those two institutions did not enjoy independence from the executive as the judiciary did. He asked the Bulgarian delegation to indicate the number of judges, police officers and prosecutors who had been punished and what those punishments had been.

18. Cases concerning the Law on the Liability of the State and the Municipality for Damage had been referred to different courts, as reflected in table 9 of the written replies. However, the table did not specify the number of cases in which judges had awarded compensation to the complainant, had found against the applicant or had dismissed the proceedings; nor did it specify the nature of the injury suffered and the amount of compensation awarded. He requested details on all those points.

19. The Committee had asked the State party to provide information on the grounds on which a person could be deprived of liberty, as the written replies focused essentially on police detention. According to information provided by the Bulgarian Helsinki Committee, deprivation of liberty affected the mentally ill, foreigners and even schoolchildren. He asked the Bulgarian delegation to clarify the situation in that regard. Moreover, the Committee on the Rights of the Child had recommended that the State party bring its legislation on juvenile delinquency into line with the Convention on the Rights of the Child; it had apparently not yet done so, and he enquired what stage the process had reached.

20. NGOs had also reported an increase in police brutality in Bulgaria, and in particular several cases in which overzealous police officers had arrested important political figures and business leaders in conditions that violated the right to presumption of innocence. He recalled that, as stated in the Committee's general comment No. 32 on article 14 of the Covenant, it was a duty for all public authorities to refrain from prejudging the outcome of a trial, to avoid committing a violation of the right to presumption of innocence.

21. Finally, table 10 of the written replies contained statistics on cases of legal challenge to arbitrary arrest or detention under the Law on the Liability of the State and the Municipality for Damage, but did not indicate the number of cases in which the complainants had obtained satisfaction. Nothing was said about the amount of compensation awarded and he would be grateful to the Bulgarian delegation to supplement that information orally.

22. **Ms. Motoc** noted that, in the fight against terrorism, Bulgaria was party to several international conventions, that it had implemented Security Council resolution 1373 (2001) and that it had taken a number of legislative measures. However, table 1 in the written replies, which addressed anti-terrorism cases brought under the provisions of the Penal Code, mentioned only one case in 2010, and none for 2009. Was that due to the fact that there had been no terrorist acts in Bulgaria? Yet, NGOs had mentioned some activities related to terrorism, and she was therefore surprised by the small number of cases mentioned in the written replies. She asked the Bulgarian delegation to clarify the matter.

23. Some substantive steps had been taken in the fight against terrorism, which were to be welcomed. For example, Bulgaria had adopted various measures to ensure security at Burgas airport and, with regard to international cooperation, agreements had been reached with neighbouring countries such as Greece and Romania. A cooperation programme for training anti-terrorism operatives had also been developed with the United States of America.

24. She asked the delegation where it considered the corruption within the judiciary came from in Bulgaria and why the European authorities were more interested in that subject in the case of Bulgaria than in other former communist countries that had joined the European Union before Bulgaria, such as Hungary, the Czech Republic or Slovakia. In view of the Law on the Judiciary, adopted in 2010, she asked whether the Bulgarian authorities intended to establish a system to oversee disciplinary action against judges; what kind of system they would choose; and what was the position of judges on that issue. Bulgaria had informed the European authorities of its commitment to the adoption of a new Penal Code and she wondered what stage had been reached in the process of drafting that

text, the final version of which was expected by the end of 2011. She also enquired how the system for the publication of judicial decisions worked and what the procedure was for appointing senior judges. It was a fact that trials often ended in acquittal in corruption cases, especially when politicians were involved, which raised the question of corruption at high levels of government; what measures had been taken to ensure that effective investigations were conducted in such cases? She asked whether the delegation would be able to indicate what stage had been reached in the reform of the customs administration that had been undertaken as part of the fight against transnational organized crime. Given the implementation of Framework Decision 2005/212/JHA of the Council of the European Union, dated 24 February 2005, on confiscation of crime-related proceeds, instrumentalities and property, and as the State party had drafted a bill in that field with the help of the European Commission for Democracy through Law (Venice Commission), it would be interesting to know if it already applied the broad provision to confiscate the illegal profits and possessions obtained from crimes committed abroad that were kept in Bulgaria.

25. **Mr. Lallah** thanked the State party for its detailed written replies that gave specific information about the actual situation, although, with regard to discrimination cases, the statistics revealed nothing about the grounds for discrimination or the action taken. Questions 4 to 7 of the list of issues dealt with the broad subject of discrimination; the Committee referred to article 26 of the Covenant, which prohibited discrimination in conjunction with other articles, such as article 3 and other provisions that guaranteed the right of individuals or specific groups to protection by the State. According to information from the Bulgarian Gender Research Foundation and the Bulgarian Helsinki Committee, there were many cases of discrimination against minority groups and women in Bulgaria. The State party had adopted a National Strategy for Promotion of Gender Equality 2009–2015, but it did not seem to have been implemented effectively. The Bulgarian authorities had also set up a Commission for Protection against Discrimination and it would be interesting to know whether the Commission had the power to enforce its decisions. He was concerned that neither the Commission nor the courts seemed to feel directly implicated in the task of restoring the rights of victims of discrimination. It would perhaps be necessary to provide training for judges on that issue.

26. The report of the Working Group on the Universal Periodic Review on Bulgaria (A/HRC/16/9) contained numerous recommendations for measures to improve the situation in regard to gender equality, which reflected the lack of action by the State party to combat gender-based discrimination.

27. He was concerned about the situation of the Roma, who were still disadvantaged economically and socially; whose physical integrity was attacked; and who continued to suffer from the treatment accorded to them by the judicial system. He referred to the worrying campaign of forced evictions of Roma from their homes to which they had recently been subjected in some cities, even though they had occupied the houses for many years. He believed those expulsions had been motivated by the fact that the dwellings were located near the city centre, an area of interest to property developers. He asked whether the Bulgarian authorities planned to compensate those expelled or provide them with alternative accommodation.

28. According to the information available to him, a guardian was appointed to persons with mental disabilities, which was sometimes the same authority that was responsible for the person with disabilities. That situation appeared to present a high risk of conflict of interest, especially as persons with disabilities often did not even know who their guardian was. It followed that in case of a dispute or if the interests of the person with disabilities were seriously jeopardized, they had virtually no recourse. Would it not be possible to consider ways to remedy the situation to ensure the fundamental rights of persons with mental disabilities and to enable them to receive assistance?

29. **Mr. Salvioli** said he was concerned that the Bulgarian Penal Code still contained no definition of torture corresponding to that given in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and that torture had not been specifically criminalized in accordance with the Covenant. That issue had already been the subject of a recommendation by the Committee against Torture in the conclusions and recommendations made in 2004 following consideration of the third periodic report of Bulgaria, and had also been raised by the Human Rights Committee in 1993 in connection with its consideration of the State party's second periodic report. The legislature must take immediate steps to bring national legislation into line with the international obligations undertaken by the State party.

30. According to information from the Bulgarian Helsinki Committee and Amnesty International, Bulgarian security forces and police used excessive force and abuses generally remained unpunished, as had already been noted by the European Court of Human Rights in the cases brought before it. The comments of the delegation in that regard would be helpful. On the matter of domestic violence, the information provided focused only on cases filed under civil law and he said that he would welcome information, including statistics, on criminal prosecutions against and convictions of perpetrators of domestic violence. He asked if cases of domestic violence were prosecuted automatically, whether or not the victim had made a complaint. The State party had adopted many measures to eradicate the practice of corporal punishment, but, given the recommendation made in 2008 by the Committee on the Rights of the Child (CRC/C/BGR/CO/2, para. 32 (c)), he would like information on decisions taken by the administrative authorities and on criminal proceedings that might have been instituted against the perpetrators of corporal punishment against children. It would be helpful if the State party undertook an assessment of the situation regarding traffic in persons. In view of the persistence of the problem, the answers given on the subject did not meet the concerns expressed by several States in 2010 within the framework of the universal periodic review of Bulgaria.

31. **Mr. Bouzid** said that the State party had made significant efforts in the fight against trafficking in persons and, in particular, had adopted the Law on Combating Trafficking in Human Beings. However, the problem remained and, according to NGO reports, there had been cases of trafficking in pregnant Bulgarian women at the border with Greece for the sale in Greece of their newborn children, as well as cases of trafficking in Roma children. The delegation might inform the Committee of additional efforts that had been made in that area. Also according to NGO reports, it sometimes happened that, in case of a dispute within couples, the father took the child away from the mother. When she filed a complaint, she was told that both parents had equal rights with regard to the children; was there perhaps a difference in treatment between fathers and mothers?

32. **Mr. Flinterman** said that there was no specific law in Bulgaria to promote gender equality and that the relevant legislation in that regard was the general Law on Protection against Discrimination. He asked whether a new Equal Opportunities for Women and Men Bill would be presented to Parliament, since the text proposed in 2006 had been rejected. The State party stated in its written replies to the list of issues that most of the cases reported to the Commission for Protection against Discrimination related to multiple discrimination. It would be interesting to know what forms of discrimination were concerned, including how many cases involved acts of discrimination against minority women, particularly Roma women.

33. He asked the delegation to clarify the role of the Ethics Commissions in efforts to address the dissemination through the media of stereotyped messages of women. It would be useful to have examples of complaints made to those bodies and to know what follow-up had been given to those complaints. With regard to the Law on Protection against Domestic Violence, it was surprising to see that it did not differentiate between men and women, even

though the victims of such violence were mainly women and that violence against women was undeniably a form of gender discrimination. It would be desirable for the State party to review its position to reflect, in law, the fact that domestic violence raised primarily the issue of protecting women's fundamental rights. Similarly, although trafficking in persons affected both men and women, it was always interesting to know the proportion of victims of each sex. He invited the delegation to comment from that perspective on the figures given in the written replies on the subject.

34. **Sir Nigel Rodley** noted that the investigating commission charged with shedding light on the death of Marian Dimitrov in 2010 had concluded that the officers of the Pleven Regional Directorate had acted in conformity with the requirements of the Law on the Ministry of the Interior. Not knowing the content of that Law, he questioned its compliance with the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, particularly with regard to the criteria of necessity and proportionality. The comments of the delegation on that point would be welcome.

The meeting was suspended at 4.25 p.m. and resumed at 4.50 p.m.

35. **Mr. Tzantchev** (Bulgaria) said that the Constitutional Court had referred to provisions of the Covenant in several of its decisions. He mentioned in particular decision No. 2 of 1998, relating to the application of article 8 of the Council of Europe Framework Convention for the Protection of National Minorities, in which the Court cited article 18 of the Covenant, and decision No. 1 of 2000, which referred to paragraph 2 of article 22 in conjunction with article 11 of the European Convention on Human Rights. It was true that in current practice, judges tended to refer to the European Convention rather than to the Covenant, but that was simply due to the influence of the extensive jurisprudence of the European Court and did not mean that Bulgaria had established a hierarchy of international instruments to which it was party. The Supreme Court of Cassation had also confirmed the applicability of international treaties in domestic law, including the Covenant, in its interpretative decision No. 2 of 16 July 2009.

36. His delegation did not have sufficient information to respond immediately to questions on terrorism cases and the reform of the customs administration, but the information requested would be sent shortly to the Committee in writing. With regard to the Law on Forfeiture of Criminal Assets, it should be noted that the text presented to Parliament had not been approved on first reading and was therefore still pending.

37. **Ms. Panova** (Bulgaria) said that the Supreme Judicial Council was regulated by the 2007 Judicial System Act. It had 25 members, of whom 3 (the President of the Supreme Court of Cassation, the President of the Supreme Administrative Court and the Prosecutor General) were ex officio members and 22 were elected for a non-renewable term of five years (11 by the judiciary and 11 by the National Assembly). Since the 2007 reform, the Supreme Judicial Council had become a permanent body, composed of two committees, charged with addressing questions related to professional competence and to the career of judges and ethical issues respectively.

38. The Constitution and the 2007 Act contained various provisions to ensure the transparency of the judiciary and the independence of judges. The meetings of the Supreme Judicial Council were public. Decisions of the Council were published on the Internet, as were nominations for judges, prosecutors and inspecting magistrates with their personal and other relevant information. Several mechanisms had been set up to combat corruption, the most recent being the General Inspectorate, established in 2007, which could initiate disciplinary proceedings. In addition, a strategy to combat corruption had been adopted by the Council for 2008–2012. Judges were prohibited from holding a certain number of other functions incompatible with their office and from participating in political activities. In addition, all magistrates had to declare their income and assets to the Court of Audit.

39. Amendments to enhance the competence of the Supreme Judicial Council in disciplinary matters had been adopted in January 2011. A Code of Ethics had been developed in collaboration with the representatives of NGOs and the exchange of information between civil society and the standing committees of the Council had been strengthened to ensure better follow-up of disciplinary cases. Since 2010, 192 cases had been submitted to the Council, which had handed down administrative sanctions against 42 judges. The adoption of disciplinary measures did not preclude bringing criminal charges. Between January 2007 and June 2011, 9 judges, 17 prosecutors and 20 investigators had been prosecuted.

40. The Council of the European Union Framework Decision on Confiscation of Crime-Related Proceeds, Instrumentalities and Property had been transposed into domestic law in 2010. A special law on the mutual recognition of confiscation orders had been adopted. Its application was based on the mutual interest of the European Union States concerned.

41. The National Institute of Justice, which was overseen by the Supreme Judicial Council, provided initial and ongoing training for judges. Its programmes included a module on the European Convention on Human Rights and others on the treatment of minors in civil and criminal proceedings, transnational crime and the fight against trafficking.

42. **Mr. Tzantchev** (Bulgaria) said that the Council for Electronic Media was the main body in charge of monitoring the content of programmes broadcast by radio stations and television channels, as well as films and advertisements. It could be approached by the Minister of Labour and Social Affairs, other government agencies, NGOs or individuals. It analysed in particular the risks of gender-based discrimination, taking into account both explicit and implicit messages conveyed by the media. Since 2006, complaints could be submitted to both Ethics Commissions (for the press and for electronic media) of the National Council of the Foundation for Journalism Ethics.

43. The decision of the Supreme Administrative Court to which Mr. Thelin had referred was not final and the case was likely to continue. It was to be hoped that the competent court, later in proceedings, would leave no room for doubt as to the direct application of the Covenant by the Bulgarian courts.

44. The fight against trafficking in persons was a priority for the Bulgarian Government. The Ministry of the Interior had participated in joint international investigations of trafficking cases, and the work of the teams of border guards set up by Bulgaria and Romania on the border between the two countries and along the Black Sea coast had produced very good results. National legislation to combat trafficking in persons was fully in line with international standards in the field. The Penal Code prohibited all forms of trafficking and since 2009 the penalties for all trafficking-related offences had been increased. The sale of children constituted a separate offence and had also been punished more severely since 2009. It remained difficult to obtain the cooperation of victims of trafficking with the police and justice system, but it was encouraged by measures such as the granting of temporary residence and work permits for the duration of the trial. The Committee would find in the written replies (tables 7 and 8) statistics from the National Anti-Trafficking Commission on the number of trafficking investigations under way and the number of prosecutions and convictions to which they had given rise. All victims of trafficking were entitled to free medical and psychological treatment from the public health system and various NGOs. They could ask to be housed in a shelter for an initial period of 10 days, which could be extended up to 30 days. If the victim was involved in legal proceedings, accommodation could be provided until the end of the trial. With regard to the trafficking of babies to Greece, the Greek and Bulgarian authorities were cooperating closely to prosecute and punish those responsible. They had successfully conducted a joint

operation in January 2011, following which charges had been brought. The trial was under way.

45. Corporal punishment was prohibited by law. Sections 10 and 11 of the Law on Child Protection guaranteed the protection of children against educational methods that were detrimental to their dignity, physical or moral violence and any form of control contrary to their interests. Under the Penal Code, as amended in 2010, anyone who physically abused a minor in their care could face up to 3 years' imprisonment. If the behaviour involved offences punishable by more severe penalties, they would be applied, in accordance with the relevant articles of the Penal Code. Alongside legislation, measures to raise awareness of child rights had been implemented for parents and professionals working with children, including teachers, to change attitudes and promote the use of other disciplinary methods. The State Agency for Child Protection played a highly active role in that area. It also provided a free helpline so that cases where children were being abused could be reported, but it was also open to parents seeking information or advice regarding their relationships with their children.

46. The Government was continuing its efforts to improve the situation of disabled persons in all areas of daily life. A set of provisions had been put in place to protect persons who, as a result of their health, age or social status or for other reasons beyond their control, were unable to look after themselves. Elderly persons living on their own and persons with physical or mental disabilities received special protection. Hospitalization without consent was allowed only in the case of people who were a danger to their immediate circle, to society or to themselves and must be ordered by a judge. Persons subject to such a measure were cared for in institutions specializing in the treatment of psychiatric disorders.

47. The Protection against Domestic Violence Act had been adopted in 2005. Under that Act, the court could impose various protective measures, including forcing the abuser to move out of the family home and stay away from the victim, the place of work and any other place that he or she frequented, and could sentence the abuser to a fine of between 200 and 1,000 leva. Since 2009, failure to respect a protection order had been punishable under article 296, paragraph 1, of the Penal Code. Non-legislative measures had also been taken to combat domestic violence. An inter-ministerial programme had been drawn up in that area and the Ministry of the Interior had appointed a national coordinator to facilitate its implementation and ensure that cases of domestic violence were treated with due diligence. An information brochure for victims had been published on the website of the Ministry of the Interior, which also provided models of complaints that victims could use as a guide. There was also a toll-free, staffed telephone number from which victims could obtain information, as well as psychological and legal assistance. There were currently three refuges and five emergency shelters for women victims of domestic violence, funded jointly by the State, local authorities and non-governmental sources.

48. Two types of remedy were available to victims of discrimination: administrative remedies, via the Commission for Protection against Discrimination, and the judicial remedies. With regard to the statistics in the written replies, it should be noted that the figures given in paragraphs 13 and 14 concerned the number of discrimination complaints submitted to the Commission for Protection against Discrimination, while those in the table corresponded to cases examined by the courts. Those figures clearly showed that victims favoured proceedings before the Commission – 896 complaints had been received in 2010, as against only 18 cases dealt with by the courts in the same year. Doubtless the fact that the costs of the proceedings before the Commission were fully covered by the State budget partly explained that success, but it could also be seen as a sign of confidence in the effectiveness of that procedure. With regard to legal proceedings, 36 judgements and 6 judicial reviews were currently pending.

49. The Equal Opportunities for Women and Men Bill had been approved by the Council of Ministers on 20 July 2006, but the standing committees of Parliament had sent it back for reconsideration on the grounds that many provisions duplicated those of the Protection against Discrimination Act. The competent authorities were currently working on the implementation of measures formulated by the National Council on Gender Equality.

50. Any alleged violation of the law by police officers led to an investigation; if, on the basis of the evidence gathered, there were reasonable grounds to believe that a violation had been committed, the file was forwarded to the public prosecutor's office for follow-up. That procedure was applied in all cases, regardless of the ethnicity of the victim or the nature of the offence. The independence of the investigations was guaranteed by the Criminal Procedure Code, which expressly provided that investigations into crimes allegedly committed by members of the police force must be conducted by judges, and not by police investigators. The police officers' duties were defined in the Code of Police Ethics, overseen by the Permanent Commission on Human Rights and Police Ethics; any breach of the duties defined in that code was a disciplinary offence. The inspection services of the Ministry of the Interior conducted an annual analysis of reported disciplinary offences and verified that appropriate sanctions had been applied. They then reported to the Ministry of the Interior, which decided whether any measures should be taken to reinforce discipline and prevent further violations. Instruction No. Iz-1711 of 15 September 2009 of the Ministry of the Interior expressly prohibited the use of physical force, auxiliary tools or weapons against detainees, except for the rare cases provided for by the Law on the Ministry of the Interior. The use of torture and cruel, inhuman or degrading treatment, incitement to commit such acts or consenting to such acts were also prohibited, as was discrimination. Officers were required to inform detainees of the reasons for their arrest and their rights at the time of detention. Those provisions also applied to members of the armed forces. In May 2011, the Ministry of the Interior had held a public debate on amendments to the Law on the Ministry of the Interior designed to restrict the use of force by law enforcement agencies to those situations that satisfied the criterion of absolute necessity, in accordance with European standards. A bill was currently under review. With regard to the case of Marian Dimitrov (question 10), the inquiry commission had examined the circumstances of death and concluded that the officer concerned had acted in compliance with the Law on the Ministry of the Interior. The prosecutor handling the case had dropped the preliminary investigation after concluding that the officer had not committed an offence. The Pleven District Court had upheld the decision of the prosecutor.

51. **Mr. Rupchev** (Bulgaria) said it was the European Commission that should be asked why it was so interested in corruption in Bulgaria since it was responsible for having set up the Mechanism for Cooperation and Verification under which the situation in Bulgaria in that regard was evaluated. However, that should not be taken to mean that corruption was a phenomenon that affected only certain European countries. Testament to the fact that all countries of the European Union were affected was the announcement, by the European Commission in June 2011, of new anti-corruption measures that would apply to all member States. The Bulgarian Penal Code punished corruption among judges, prosecutors or police officers in the same way.

52. A question had been asked concerning the announced adoption of a new Penal Code. A working group, composed of academics, experts from the Ministry of Justice, prosecutors and judges, was preparing a draft. It was expected to complete its work by 2012. The text would be the subject of a public debate before being submitted to Parliament, ideally by summer 2012. The fact that the definition of torture, as set out in the Convention against Torture, was not included in a particular provision of the Penal Code did not mean that all actions to which that definition related were not covered by different provisions of the Penal Code. Therefore, acts of torture, as defined in the Convention against Torture, were

offences under the Penal Code and were punishable as such, as required by the prohibition of torture set out in article 7 of the Covenant.

53. **Mr. Tzantchev** (Bulgaria) said that the Government had demonstrated the political will needed to improve the situation of the Roma; however, that was a complex problem that required concerted efforts and an equal sharing of responsibilities between the Government, Roma communities and their leaders and civil society. The coordination of various initiatives to address the needs of the Roma was provided by the National Council for Cooperation on Ethnic and Demographic Issues. The participation in the Council of representatives of local communities encouraged the implementation of the Government's integration policy at the local level.

54. With regard to the alleged forced expulsion of the Roma to serve the interests of property developers, he said that he did not have any information to confirm those accusations. There had been evictions of Roma in several cities in his country, but they had all been designed to restore property or land that was illegally occupied by Roma to the owner. Evictions could also be carried out for reasons of public health or safety, in the interests of the occupants themselves. Persons who had no other home could apply for social housing. Sometimes eviction procedures resulted in never-ending legal battles, but the mechanisms for mediation between local authorities, NGOs and the communities concerned usually made it possible to find solutions that were satisfactory to everyone.

55. **The Chairperson** thanked the delegation and invited it to continue the discussion at the next meeting.

The meeting rose at 6 p.m.