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Summary record of the 2809th meeting

Held at the Palais Wilson, Geneva, on Thursday, 14 July 2011, at 10 a.m.

Chairperson: Ms. Majodina

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The meeting was called to order at 10 a.m.

Consideration of reports submitted by States parties under article 40 of the Covenant
(continued)

*Third periodic report of Bulgaria (continued) (CCPR/C/BGR/3;
CCPR/C/BGR/3/Q/1 and Add.1; HRI/CORE/1/Add.81)*

1. *At the invitation of the Chairperson, the delegation of Bulgaria took places at the Committee table.*
2. **Mr. Thelin** noted with satisfaction the delegation's statement the previous day that international treaties, including the Covenant, were directly applicable in Bulgarian courts. The judgement of the Supreme Administrative Court of 7 July 2011 which had come to the Committee's attention, and which did not uphold that principle, could therefore, presumably, be overturned on appeal.
3. He asked for more details about the investigation of alleged corruption of judges. At what point did the alleged corruption become a criminal rather than an administrative matter? Were judges automatically dismissed if found guilty? He asked the delegation to indicate — in writing if the information was not immediately available — how many police officers or prosecutors had been brought to trial for alleged corruption.
4. He asked for further information about the State party's plans to reform its juvenile justice system since, according to information before the Committee, the Committee on the Rights of the Child and the European Court of Human Rights had both recommended reforms.
5. He also asked for more information about reports that the arrests of some high-profile criminal suspects had been recorded and subsequently broadcast by the media before the persons concerned had been brought to trial, which was inconsistent with the principle of presumption of innocence.
6. He had previously asked the delegation for a breakdown of the figures in tables 9 and 10 of the written replies to the Committee's list of issues (CCPR/C/BGR/Q/3/Add.1, paras. 74 and 81). He would be glad to have that information in writing in due course.
7. **Ms. Motoc** noted that only one terrorism case had been brought to trial under article 108a of the Criminal Code (see document CCPR/C/BGR/Q/1/Add.1, paragraph 10, table 1). Why was the number so low, particularly when information provided by the delegation and other sources indicated that as many as nine terrorist cases had come before the courts in 2010? She asked about the penalties imposed on judges found to have committed substantive errors in the exercise of their functions rather than offences such as corruption. Finally, she asked how many cases of high-level corruption were brought to trial every year, and with what results.
8. **Mr. Salvioli** called upon the Government to reconsider the definition of torture in its legislation. Article 287 of the Criminal Code did not reflect the broad definition of torture contained in the Convention against Torture or the provisions of the Covenant. For instance, it did not cover torture committed on the orders of a superior officer or torture committed by a private individual. It was important to define precisely the various types of torture or ill-treatment, along with the penalties to be imposed for each.
9. He thanked the delegation for the information it had provided about domestic violence. Alleged perpetrators of domestic violence should be prosecuted by the State automatically and not merely if the victim chose to press charges, which many were reluctant to do. The provision of refuges and other protection measures for victims, while

valuable, was not sufficient by itself. He asked for further information on the issue of trafficking in persons.

10. **Sir Nigel Rodley** said that, according to the delegation, the Ministry of the Interior Act was being reviewed, with the participation of NGOs, for consistency with European standards. What inconsistencies currently existed? Could they explain the failure to convict those responsible for the death of Marian Dimitrov, which had taken place in Pleven on 23 July 2010?

11. **Mr. Flinterman** noted that the language of the Protection against Domestic Violence Act of 2005 was strictly gender-neutral. Did that mean that, in practice, the Act was less effective in protecting women?

12. **Mr. Amor** asked whether the State party had ratified the United Nations Convention against Corruption. If so, how had the provisions of the Convention influenced the State party's reform of its anti-corruption legislation and relevant institutions? He would welcome further information about the rules governing property owned by judges. Did judges have to declare the property they owned when they took up their posts and report any major acquisitions, stating their source? If so, how was the declaration system monitored? Did judges who were accused of taking bribes enjoy immunity from prosecution?

13. **Ms. Chanet** asked how the Bulgarian legal system could respond to apparently mistaken judgements, such as that of the Supreme Administrative Court of 7 July 2011. Did the Constitutional Court, which was responsible for applying relevant international instruments, have the authority to overturn such judgements by lower courts?

14. The decision to hold meetings of the Supreme Court of the Judiciary in public (see document CCPR/C/BGR/Q/3/Add.1, paragraph 72) was an example to other countries and an excellent way to prevent corruption.

15. **Mr. Lallah** asked for more information, either at the current meeting or subsequently in writing, about the two systems for investigating and penalizing violence or discrimination against women – the courts and administrative proceedings. Were both routes of investigation equally available and effective?

16. The written replies to the Committee's list of issues stated that protection orders could be issued to safeguard the alleged victims of domestic violence (see document CCPR/C/BGR/Q/3/Add.1, paragraph 45). Was that the only remedy available? Did the State automatically prosecute the alleged offenders?

17. He was concerned about allegations of the forced eviction of Roma communities from their homes, including those made by Ms. Rolnik, the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in that context in a recent letter to the Government of Bulgaria. In the Dobri Zheliyazkov area of Sofia, for example, a Roma community including 15 minor children had allegedly been evicted from their homes. Such actions were likely to infringe the civil and political rights laid down in article 17 of the Covenant (arbitrary or unlawful interference with privacy, family, home or correspondence), article 24 (discrimination) and article 26 (equality before the law).

18. **Mr. Tzantchev** (Bulgaria), replying to points raised by Committee members relating to juvenile justice, said that a working group had been set up to draft amendments to the relevant legislation, including the Criminal Code, Code of Criminal Procedure, Child Protection Act and Judiciary Act. There were plans to develop a strategic concept of juvenile justice following the recommendations of the Committee on the Rights of the Child. Legislation relating to juvenile crime was also under review. Changes to child protection legislation were being discussed, including measures to support at-risk children

and their families. Training programmes for judges were being conducted with the assistance of UNICEF. In the long term, the Government planned to create dedicated juvenile courts.

19. Bulgarian legislators had deliberately adopted a broad definition of domestic violence, without provisions specific to either gender, since the phenomenon could affect any member of a family.

20. Victims of discrimination had two possible ways of obtaining justice: the courts and an administrative procedure conducted by the Commission for Protection against Discrimination. If the Commission's investigation concluded that discrimination had taken place, the victim could then pursue civil remedies through the courts.

21. It was difficult to determine whether the cases referred to by Ms. Motoc had been dealt with under article 108a of the Criminal Code, which criminalized terrorism and terrorist acts, or under other provisions of the Code which concerned related offences, such as kidnapping, and did not entail a specific requirement to prove the element of terrorism.

22. **Mr. Petrov** (Bulgaria) said that statistics on recent cases of high-level corruption would be submitted in writing to the Committee within the prescribed deadline.

23. **Mr. Rupchev** (Bulgaria) informed the Committee that the criminalization of acts of torture would be addressed by a working group in the context of the establishment of the new criminal court. He assured the Committee that Bulgaria's legal and institutional framework complied with United Nations standards.

24. His Government had signed and ratified the United Nations Convention against Corruption and had participated in the review mechanism for monitoring implementation of specific provisions of the Convention; a report on Bulgaria's implementation of the Convention was also being prepared by the United Nations Office on Drugs and Crime following its visit to Bulgaria. The Government had set up a multidisciplinary, preventive anti-corruption body in line with the provisions of the Convention. Judges, prosecutors and investigators must declare their assets — including income, property and source of the assets — when they took office and on a yearly basis, in accordance with national legislation relating to the transparency of assets of high-level officials. That information was published online on the websites of the national Audit Office and the Supreme Judicial Council.

25. The immunity of judges and prosecutors from criminal proceedings had been abolished with the introduction of the 2007 amendments to the Constitution. Prosecutors and investigators enjoyed functional immunity in order to prevent them from being punished for the work they did and to prevent retaliation against law enforcement officials for carrying out their duties.

26. **Ms. Panova** (Bulgaria), replying to a question on rulings relating to the corruption of judges, said that under the Judicial Systems Act disciplinary and administrative measures could be taken against members of the judiciary who were found to be corrupt. Those matters were overseen by the Supreme Judicial Council, which comprised commissions on ethical matters and corruption.

27. On a question raised the previous day about incompatibility, under article 195 of the Judicial System Act court judges, prosecutors or investigating judges were prohibited from engaging in activities — whether political, trade-union or professional — that could affect their independence or create a conflict of interest. Judges must declare any activities that might give rise to such a conflict and bore no civil or financial responsibility for any errors resulting from their work.

28. Replying to a question about the deprivation of liberty of minors, she said that while Bulgaria had no specific juvenile courts, there were special rules governing offences committed by minors that every judge, investigator and prosecutor had to follow. Special training on those rules was required for officials involved in trying or investigating such cases. Minors received mandatory legal representation, including court-appointed lawyers for those whose families could not afford representation. There were also provisions under the Juvenile Anti-Social Behaviour Act for assignments to a residential institution or reform school. In cases of unwarranted absence from school, training sessions and counselling were provided, as per article 13 of that Act. More severe measures could be imposed in the event of more than two absences without due reason.

29. **Mr. Tzantchev** (Bulgaria), referring to a question relating to cases of corruption among police officers, said that in 2010 there had been 97 investigations of police officers suspected of corruption. Thirty cases had been declared groundless, 51 had gone to court, 27 had resulted in convictions and 3 in acquittals.

30. **Ms. Cherneva** (Bulgaria) said that the police could use force only in accordance with criteria set out under article 74 of the Ministry of the Interior Act, and only in extreme cases of danger or threat. They were required to file written reports if they used firearms. The core problem was the issue of disproportionate use of firearms. A working group had been established to discuss amendments to the Act.

31. **Mr. Thelin** asked for more information on the schedule for the building of new prisons with the aim of reducing overcrowding. He would also welcome the State party's views on the information in the Bulgarian Helsinki Committee report about prison conditions in Varna, particularly the proportion of guards to inmates as compared with the VIP treatment provided in certain cells, accessible through the use of corruption, for example, by using forged medical certificates.

32. He asked what alternatives to detention were available, in the light of the high cost of imprisonment; some alternative means, such as electronic monitoring, were less costly and could be just as effective.

33. He welcomed Bulgaria's signing of the Convention on the Rights of Persons with Disabilities and its Optional Protocol, but wished to know when it would ratify the Convention. He asked what the timeline was for the phased closure of the 14 specialized institutions for persons with disabilities which did not meet the standards and criteria for location and physical assets or for staffing.

34. Regarding the dissemination of the Committee's work, he invited the State party to consider requesting NGOs to help it in preparing future reports to the Committee. Also, the State party should publicize the Covenant and the work of the Committee more widely, for example, by making relevant information available within law faculties and bar associations, with the aim of promoting the implementation of the Covenant in practice.

35. With regard to communications, he wished to know what mechanism was in place in Bulgaria for follow-up to communications alleging violations under the Covenant. Follow-up on communication No. 257/2004, for example, had been due in February 2009.

36. **Ms. Motoc** asked what was being done to improve the living conditions of children in alternative care institutions and to help them reintegrate into society. The State party should confirm that no children were housed in the Pastra Home facility, which held adult males with mental disabilities.

37. Many legal proceedings were said to be unreasonably protracted (question 19 of the list of issues). The European Court of Human Rights had delivered its first pilot judgements concerning Bulgaria in May 2011 in two cases: *Dimitrov and Hamanov v. Bulgaria* and *Finger v. Bulgaria*. The Court had concluded that Bulgaria must introduce remedies to deal

with unreasonably long criminal proceedings and a compensatory remedy in respect of unreasonably long criminal, civil or administrative proceedings. She asked how the State party proposed to implement those judgements.

38. The Committee had received reports from several sources to the effect that some of the surveillance measures taken by the authorities to obtain evidence of corruption, such as telephone eavesdropping and recording of private conversations, were not fully in compliance with the Covenant (question 20). She asked what action had been taken to ensure that bodies which engaged in such surveillance had received proper authorization. Such violations of the right to privacy were allegedly committed not only by public authorities but also by private entities. She enquired about the penalties imposed for those offences.

39. **Mr. Bouzid** noted that the State party, according to its written reply to question 22 of the list of issues, was closely monitoring manifestations of intolerance on grounds of religion and belief and taking resolute steps to punish such acts. According to the Bulgarian Helsinki Committee, however, the extremist party known as Vâtreshna Makedonska Revolyutsionna Organizatsiya (VMRO) had held a press conference on 29 March 2010 at which it had provided misleading information concerning Jehovah's Witnesses with the aim of inciting hatred and intolerance. On 17 April 2011, VMRO had organized a demonstration to call for the banning of Jehovah's Witnesses in front of Kingdom Hall, their place of worship in Burgas. A group of hooded young men had raided the hall and 10 of them had been arrested following clashes with the police. Although the police and the Prosecutor's Office had announced that an investigation was under way, the executive and legislative authorities had failed to condemn the incident. He asked whether legal proceedings had been instituted against the offenders and whether any of them had been convicted.

40. Even officially registered religious organizations were allegedly subjected to discrimination, for instance when they sought authorization for the construction of places of worship. What measures were being taken to address such discrimination?

41. The Bulgarian Helsinki Committee had described several attacks on mosques and Muslims (question 23 of the list of issues). For instance, on 20 May 2011 members of the far-right Ataka party had assaulted Muslims congregating for Friday prayer in Sofia's Banya Bashi mosque. They had thrown stones at the worshippers and the security forces had intervened to quell the disturbance. He asked whether the resulting investigations had led to any convictions. According to the Supreme Holy Council of the Muslim Community in Bulgaria, there had been 110 attacks on places of worship during the past two decades. What action was being taken to prevent such attacks?

42. In its written reply to question 25, the State party said that manifestations of anti-Semitism were practically non-existent in Bulgaria and that whenever isolated incidents occurred, the competent institutions immediately took adequate measures. Yet according to the Bulgarian Helsinki Committee report, hate speech proliferated in a disquieting manner, notwithstanding the existence of multidimensional relevant legislation. In 2009 and 2010, there had apparently been 17 extreme acts of overt anti-Semitism. For instance, defamatory writings had been strategically placed on various Jewish heritage artefacts and explicitly anti-Semitic titles were being sold in bookstores throughout the country. The authors enjoyed their royalties and undisrupted impunity. He wondered why the relevant legislation was not being applied in such cases.

43. SKAT TV and other television channels allegedly broadcast programmes containing incitement to hatred and anti-Semitism. Although the Electronic Media Council had issued numerous administrative orders against SKAT TV, most of the administrative penalties had

been appealed and subsequently rescinded by the courts. He asked whether any action was being taken to combat such impunity.

44. The Criminal Code did not recognize bias or hate as an aggravating circumstance. For instance, the perpetrator of the racially motivated murder of the Nigerian footballer Muaiua Kolain in 2007 had been sentenced to a prison term of only 5 years.

45. The State party claimed to have executed the judgement of the European Court of Human Rights of 20 October 2005 in the case of the *United Macedonian Organization Ilinden – Pirin and others v. Bulgaria*, arguing that the judgement had not required it to register the party but simply to afford the applicants a legal opportunity for a new registration (question 26 of the list of issues). The law had been amended to reduce the minimum number of members required for registration of a political party, but the party that had brought the case in the European Court of Human Rights had not yet been registered. He requested the delegation to clarify the situation.

46. According to NGOs, including the Bulgarian Helsinki Committee, where peaceful assemblies of Macedonians were allowed they remained subject to unwarranted restrictions. The security forces were usually present in disproportionate numbers and sometimes even arrested participants in the assemblies. He invited the delegation to comment.

47. **Mr. Salvioli** said that the State party had failed to reply to the part of question 21 of the list of issues concerning the different treatment of the Bulgarian Orthodox Church and other religious denominations. The former was the only religious denomination that was not required to register before a judicial body.

48. He asked how the compulsory unification of a split religious community under a single leadership could be reconciled with freedom of religion.

49. How did the State party ensure that decisions to grant funding to specific religions or denominations were not discriminatory?

50. He understood that in some cases early marriages were permitted between Roma children aged between 10 and 12 because of the customary status of such marriages, even though they breached the relevant provisions of the Criminal Code.

The meeting was suspended at 11.45 a.m. and resumed at 11.55 a.m.

51. **Mr. Tzantchev** (Bulgaria), replying to question 16 of the list of issues, said that the Government's position was that all childcare institutions must be closed by 2025 and replaced by a network of community-based services providing a family-type environment. Priority was being given to the closure of homes for children up to the age of 3. In the meantime, conditions and municipal childcare institutions were being improved. A document encompassing such measures entitled "Vision for children's deinstitutionalization in the Republic of Bulgaria" had been published and a national strategy based on the United Nations "Guidelines for the alternative care of children" had been adopted in 2010. The strategy was updated by means of an annual plan of action. National budgetary funds were supplemented by financial resources from the European Union.

52. The first project entitled "Childhood for all" had been launched on 2 June 2010. Multidisciplinary teams were currently reviewing the individual care plans for children and adolescents with disabilities in the specialized institutions. The next steps would involve: enhancing the process of regional planning of community-based social services; training and upgrading of personnel; preparing children to leave the institutions; supporting families who adopted children with disabilities; expanding the scope of foster care; and raising public awareness.

53. The Pastra facility in the village of Rila was for mentally-ill men and not for children, and was included in the deinstitutionalization programme. The 34 occupants currently lived in a building that had been renovated in 2009/2010. The second building had been closed and its 36 occupants moved to family-type centres in other parts of the country. As the Pastra facility was located in an isolated area, the Ministry of Labour and Social Policy and the mayor of Rila were discussing the possibility of moving the occupants to a family-type centre in the village when the facility was closed.

54. Turning to question 22, he said that Bulgaria was a country in which ethnic and religious tolerance had always prevailed. Bulgarian Muslims, Jews and Armenians had peacefully coexisted with their neighbours for centuries. The authorities closely monitored all alleged manifestations of intolerance, including on grounds of religion and belief, and took resolute steps, if necessary, to punish such acts. Offences against freedom of religion and belief were punishable under chapter 3, section II, of the Criminal Code entitled "Offences against religious denominations". With regard to the letter sent by the city of Burgas to schools warning them of dangerous sects, the Directorate of Religious Affairs of the Council of Ministers had immediately sent a letter to the competent district prosecution office requesting the institution of criminal proceedings.

55. The Bulgarian authorities categorically condemned acts of vandalism such as those directed against Jehovah's Witnesses in Burgas on 17 April 2011, since they were incompatible with the religious rights and freedoms provided for by Bulgarian legislation. The Religious Denomination Directorate of the Council of Ministers had immediately informed the County Prosecutor's Office in Burgas of the incident, since it clearly constituted a *corpus delicti* under the Criminal Code. The Regional Directorate of the Ministry of the Interior in Burgas had initiated the necessary pretrial proceedings and had identified seven persons as perpetrators of the crime. Six of them had already been charged under the Criminal Code with hooliganism and participation in a mob aiming to perpetrate an attack on religious grounds. The seventh person had also been charged with causing minor injuries to citizens because of their religious affiliation.

56. As the incident had involved members of the VMRO party who had previously made derogatory statements about the Jehovah's Witnesses, the matter had been referred to the Commission for Protection against Discrimination, which had initiated proceedings. Administrative proceedings were pending against members of the VMRO party in Burgas to establish whether they had breached the Assemblies, Meetings and Demonstrations Act.

57. Burgas police officers had been present at the meeting of the Jehovah's Witnesses at the time indicated by the organizers. However, the incident had occurred long before that time. The police had reacted immediately on being informed, thereby preventing a worsening of the situation.

58. The National Assembly had unconditionally condemned the aggressive conduct of the Ataka party towards Muslims in Sofia. Its action in front of the Banya Bashi mosque on 20 May 2011 had alienated the party from Bulgarian democratic society. The National Assembly had issued a declaration on 27 May 2011 against attempts to undermine ethnic and religious peace in the country. The incident had also been unequivocally condemned by the National Council for Cooperation on Ethnic and Integration Issues and many NGOs. The Prosecutor's Office had opened a pretrial investigation into the incident and the police had detained two persons. Witness statements were being gathered to identify all those responsible for the incident, during which five police officers had been injured. The Minister of the Interior had held a special meeting with the mayor of Sofia and the Directorate on Religious Denominations to identify additional measures to strengthen prevention.

59. With regard to question 21 of the list of issues, he said that freedom of religion was enshrined in article 13 of the Constitution, which also stipulated that religious institutions were separate from the State. The right to association on religious grounds was guaranteed by article 12 of the Constitution. The 2002 Religious Denominations Act entrusted responsibility for the registration of religious communities seeking legal status to the Sofia City Court. Article 10 of the Act did not create inequality between the Bulgarian Orthodox Church and other denominations. It merely provided for a different manner of acquiring legal status. Moreover, paragraph 3 of article 10 explicitly stated that the first two paragraphs in no way constituted grounds for conferring privileges or advantages under any law. A total of 75 new religious denominations had been registered between 2003 and 2009.

60. Religious communities and institutions were solely responsible for their internal administration, in accordance with their statutes and rules. The Religious Denominations Act did not compel religious communities to merge. It merely barred breakaway groups from using the property of duly registered religious institutions. The affiliation of a person to a particular religion or belief depended solely on his or her personal conviction.

61. Early marriage was a crime punishable under Bulgarian legislation. The fact that early marriage was traditionally permissible in some groups did not preclude the authorities from prosecuting offenders. Civil marriages were concluded before a representative of the relevant local authority. Where a minor was involved, the marriage ceremony would not be performed.

62. Turning to question 20, he said that special surveillance techniques were resorted to on very rare occasions. They were legally regulated by the Code of Criminal Procedure and the Special Surveillance Means Act, which contained a number of safeguards against abuse. The authorizing authority was the president of the competent district or appellate court. In 2008 the Act had been amended to include a new chapter on control and monitoring, which took into account the judgements of the European Court of Human Rights on more effective and reliable control procedures, and the storage and destruction of information gathered which was not required for operational detection or criminal proceedings.

63. A Permanent Subcommittee of the National Assembly's Legal Affairs Committee controlled and monitored the procedures for authorization, application and use of special surveillance techniques, the storage and destruction of information obtained through such techniques, and protection of citizens' rights and freedoms. The Subcommittee was required to submit annual reports to the National Assembly. If it had reason to believe that special surveillance techniques had been wrongfully used or applied, or that information obtained through such techniques had been wrongfully stored or destroyed, the Subcommittee apprised the prosecuting authorities and the heads of the other relevant authorities and structures. In February 2011, the Subcommittee had held a round table to discuss two main issues: how to render use in court proceedings of evidence obtained by special surveillance techniques more effective; and how to strengthen personal inviolability, including inviolability of correspondence.

64. In April 2011, an inter-ministerial working group had been established. It was chaired by the Minister of Justice and co-chaired by the Deputy Ministers of the Interior and of Justice. The group was mandated by the Prime Minister to prepare draft amendments to the Special Surveillance Means Act in order to provide additional guarantees for the protection of the human rights and fundamental freedoms of persons under surveillance.

65. With regard to hate speech (question 25), the Bulgarian authorities were committed to preventing and combating the use of hate speech and the spread of racial hatred. The Radio and Television Act explicitly prohibited the use of hate speech. The independent

Council on Electronic Media closely monitored the content of broadcasts and imposed penalties on broadcasters who were found guilty of ethnic intolerance.

66. The code of ethics of the Bulgarian media adopted by media professionals clearly stated that journalists should avoid referring to a person's race, colour, religion or ethnicity unless it was of relevance to the meaning of a story. Complaints about radio and television programmes were received by the National Council for Journalistic Ethics, a monitoring body set up by journalists' associations.

67. The scope of article 162 of the Criminal Code had recently been expanded to cover public incitement to discrimination, violence or hatred motivated by race or national or ethnic origin, and violence motivated by race, religion, political belief or national or ethnic origin. The sanctions included prison terms ranging from 1 to 4 years. A new provision had been introduced into article 419a of the Criminal Code, pursuant to which acts of condoning, denying or grossly trivializing crimes of genocide, crimes against humanity and war crimes were recognized as criminal offences when the acts were carried out in a manner that was likely to incite violence or hatred against a person or group of persons defined on the basis of race, colour, descent, religion or belief, or national or ethnic origin.

68. The Ministry of the Interior cooperated closely with the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe. A key element in its cooperation was the programme of human rights training for police officers, which focused on issues pertaining to hate crimes.

69. **Mr. Rupchev** (Bulgaria) said that many measures were being taken to improve prison conditions, as outlined in the written reply to question 15 of the list of issues. Plans were under way to ensure that in future each detainee would have a living space of at least four square meters. While it had not yet been possible to implement all the measures included in the 2011–2013 action plan owing to budgetary constraints, the plan provided for alternatives to detention, such as probation, electronic surveillance, early release and amnesty in order to reduce prison overcrowding.

70. Both the legal and institutional frameworks provided for the equal treatment of Bulgarian citizens and foreigners before the courts and their equal access to justice. Free legal aid was available to foreigners in criminal, civil and administrative cases and at all stages of the process of application for refugee status.

71. A 2010 amendment to the Criminal Code had increased punishment from 1 to 6 years' imprisonment for those found guilty of producing, using or possessing special surveillance technology, which was now categorized as a serious offence. In addition, a 2009 amendment to the legislation on liability for damage incurred by the State and municipalities had explicitly provided for damage caused by the unlawful use of special surveillance methods.

72. Under an amendment to the Criminal Code that had entered into force at the end of May 2011, racist or xenophobic grounds in cases of murder and causing physical injury were now considered an aggravating circumstance. Anti-Semitism was considered to be racism.

73. **Ms. Panova** (Bulgaria) added that, while the attempted murder of the Nigerian footballer Muaiua Kolauole in 2007 had occurred before the introduction of that amendment, the relevant court ruling had in fact made explicit reference to the racist motive.

74. On the issue of special surveillance, on 8 March 2011 the European Court of Human Rights had reached a decision in the case of *Goranova-Karaeneva v. Bulgaria* (No. 12739/05). It had found no violation of article 8 of the European Convention on Human Rights, since the provisions of that article were incorporated in the Special Surveillance

Means Act. It had found a violation of article 13 of the Convention, since at the time there had been insufficient provision in Bulgarian legislation for the right to an effective remedy. That had since been resolved through the 2009 amendment to the legislation on liability for damage incurred by the State and municipalities.

75. Some 70 per cent of all criminal cases were solved within three months. The Codes of Civil, Criminal and Administrative Procedure all provided for cases to be heard within a reasonable period of time. They should provide a remedy for the unreasonably long criminal proceedings on which the European Court of Human Rights had passed pilot judgements concerning Bulgaria — *Dimitrov and Hamanov v. Bulgaria* and *Finger v. Bulgaria* — which dated from the 1990s and the early 2000s. Under the 2006 Code of Criminal Procedure, it was possible to implement brief court investigations, settlements between the prosecutor and counsel for the accused, and discharge from criminal liability with imposition of an administrative sanction. In order to reduce delays further, in 2010 legislative provision had been made for an alternate defender to be available in cases in which accused persons had not organized their own defence or their defence counsel had failed to appear in court. It was also possible to have expert and witness statements read out in court rather than requiring all experts and witnesses to appear in person. The Criminal Code also provided for reduced sanctions for defendants who were found guilty in cases where court proceedings had been unreasonably long, provided the defendant and their counsel were not responsible for the delay. The 2008 Code of Civil Procedure incorporated many measures to speed up court proceedings, such as simplified summons procedures and deadlines that could be imposed at several stages of the process.

76. In June 2011, the President of the European Court of Human Rights and his Bulgarian colleague had visited Bulgaria to participate in a round table organized by the Supreme Court of Cassation. They had discussed the pilot cases with other participants, who had included judges, prosecutors and civil society representatives. The round tables had resulted in additional proposals to speed up court proceedings. A working group from the Ministry of Justice would examine and implement the proposals and take steps to ensure that the relevant legislative amendments made provision for compensatory remedy in respect of unreasonably long criminal, civil and administrative proceedings. Disciplinary procedures could be brought against members of the judiciary who did not act in a timely fashion, which would count against them in promotion and tenure procedures. A commission within the Supreme Judicial Council had also examined the issue at three meetings in 2010 in different parts of the country with judges, prosecutors and representatives of bar associations. They had addressed the problem of witnesses, experts and defendants who failed to appear in court when summoned, which had resulted in the possibility of trying defendants in absentia.

77. **Mr. Petrov** (Bulgaria) said that in 2009 some 52 per cent of convicted prisoners had been put on probation.

78. Early marriage and sexual relations with female minors were criminalized under the Criminal Code. While the punishments were admittedly mild in some cases, the State did not neglect its obligation to prosecute those crimes, especially when female minors gave birth. No detailed statistics were currently available on such cases.

79. **Mr. Petkov** (Bulgaria) said that in 2010 domestic legislation had been amended to ensure the right to free and peaceful assembly. In June 2011, the Committee of Ministers at the Council of Europe had declared the *United Macedonian Organization Ilinden and Ivanov v. Bulgaria* case closed. The case of the *United Macedonian Organization Ilinden-Pirin and others v. Bulgaria* had been a purely judicial issue, with no political agenda. Once it fulfilled all the requirements of the Political Parties Act, there would be no obstacles to registering the Ilinden political party. One criticism of the Bulgarian system had been the requirement of 5,000 members in order to register a political party. An

amendment had therefore been introduced to bring that number down to 2,500. The Committee of Ministers at the Council of Europe had adopted a final resolution in December 2009 confirming Bulgaria's compliance with the court judgement in that case.

80. **Mr. Thelin** requested written replies to the questions the delegation had been unable to answer, particularly data on the prison population. He would also appreciate written details on the Government's efforts to ensure that all the necessary procedural safeguards were in place in the asylum process, in addition to legal aid. Lastly, he asked for updated information on the case of a ship that had sunk in the Black Sea on 13 February 2004. The sinking of the *Hera*, which had been flying the Cambodian flag, had allegedly been observed by people on board a nearby vessel, who had called into question the official version of events. While a joint Turkish-Bulgarian investigation had formally closed the matter, it appeared that 14 Bulgarian sailors were still unaccounted for. He therefore requested details of the Government's attempts to follow up the testimony of the people on the other vessel.

81. **Mr. Salvioli** stressed that the Committee was not concerned with official marriages, but those that were conducted under customary law. The Committee would welcome written details of the criminal prosecution of all persons engaging in sexual relations with female minors. Regardless of whether the girls became pregnant, such relations constituted rape under the Criminal Code and should be treated accordingly.

82. **Mr. Tzantchev** (Bulgaria) drew the Committee's attention to the details of the rights of foreign citizens resident in Bulgaria that had been provided in paragraphs 104 to 106 of the written replies. Asylum-seekers had the right to free legal assistance and representation throughout asylum application proceedings until a decision had been reached. While the State did not provide such assistance for asylum-seekers wishing to appeal court decisions, it was available from the State Agency for Refugees. Unaccompanied minors were granted legal aid without any restrictions.

83. **The Chairperson** commended the State party for the many positive steps it had taken to implement the provisions of the Covenant, including the work of the Commission for Protection against Discrimination. While welcoming measures to bring legislation on the use of force by law enforcement officials into line with European Union standards, she recalled the need to ensure that it complied with the international instruments to which Bulgaria was a party. In the fourth periodic report, the Committee would welcome information on the results of the State party's programmes to integrate the Roma. The Committee also remained concerned about several issues, including the independence of the judiciary, the need for more training on the provisions of the Covenant for members of the judiciary, the lack of a definition of torture in the Criminal Code, discrimination against women, the Roma and religious minorities, freedom of religion and freedom of expression, and corruption among the judiciary and at all levels of government.

The meeting rose at 1 p.m.