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on Civil and
Political Rights**

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Sixth session

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Held at Headquarters, New York,
on Friday, 13 April 1979, at 10.30 a.m.

Chairman: Mr. MAVROMMATIS

later: Sir Vincent EVANS

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The meeting was called to order at 10.55 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT: INITIAL REPORTS OF STATES PARTIES DUE IN 1977 AND 1978 (continued)

Bulgaria (CCPR/C/1/Add.30)

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

1. Mr. YANKOV (Bulgaria) stated that Bulgaria, which had always attached particular importance to international co-operation within the framework of the United Nations for the promotion and universal recognition of human rights and fundamental freedoms, was a party to most of the international instruments in the field of human rights and was an active member of most of the United Nations bodies dealing with human rights. In keeping with the spirit and the letter of its Constitution, his Government had taken measures to set up the juridical framework necessary for the promotion and protection of human rights. As the report indicated, particular attention had been paid to the juridical guarantees provided for in article 2.3 of the Covenant, the majority of which, in any case, had already been part of the Bulgarian legal and socio-political system before the Covenant came into force.

2. To understand more fully the functioning of the system of rules relating to the promotion of and respect for human rights, it should be borne in mind that the system could be divided into three principal, interrelated levels. The first consisted of the fundamental constitutional provisions setting out the rights and obligations of citizens and the general rules of prevention and protection, which were the basis of the national laws and of judicial and administrative activities; the second level consisted of general and specific laws and other juridical instruments and the third of judicial and administrative appeals.

3. As indicated in the report, under articles 125 and 133 of the Constitution, the defence of the legitimate rights and interests of citizens was a matter for the courts and the Public Prosecutor's office; in the case of violation of those rights or interests by State administrative bodies, citizens had the right to a supplementary appeal, provided for in the Act on Administrative Procedure; when the administrative channels had been exhausted, recourse might be had to a judicial appeal.

4. Articles 3 and 4 of the Bulgarian Constitution laid down the fundamental goals pursued by the socialist State, namely, the freedom of development of the individual, the promotion and protection of the individual's rights and dignity and the continuous extension of democracy. Provision was made for the rights and liberties recognized in the Covenant, not directly, but on the basis of the relevant provisions of national legislation. Before ratifying the Covenant, the competent authorities had examined Bulgarian legislation to verify that all the rights and freedoms stipulated in the Covenant were covered in the appropriate national laws. At present, those rights and freedoms were provided for in the

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(Mr. Yankov, Bulgaria)

relevant provisions of the 1971 Constitution and in various legislative instruments and, in some cases, might derive from the general principles of Bulgarian law. The fact that approximately a third of the constitutional provisions referred to the rights of citizens illustrated the importance attached to that matter; when the Constitution had been drafted, account had been taken of the country's international obligations and, specifically, of its obligations under the International Covenant on Civil and Political Rights.

5. Since 1971 the legislation had been brought up to date in accordance with the new Constitution and, in the drafting of many legal instruments relating to civil and political rights, account had been taken of the rules laid down in the Covenant.

6. The Government of Bulgaria attached great importance to the question of guarantees and judicial appeals. Over the previous 10 years it had sought to perfect the system of guarantees of human rights. Administrative bodies were subject to supervision by the National Assembly, the Council of State, the Council of Ministers, the Public Prosecutor's Office and the Ministry of Justice. Both the Constitution and the law offered citizens and foreigners, on an equal footing, the opportunity to appeal against any violation of their rights to the State authorities, the Public Prosecutor's office and the courts of justice; the Act on Administrative Procedure, adopted in 1970, emphasized the role of courts in the protection of human rights. The Bulgarian Government was aware that the perfecting of the legal guarantees of the respect for human rights should be a permanent concern.

7. The Bulgarian Constitution and legislation contained no provision concerning either the co-ordination of national laws with international instruments or the inclusion of provisions of international instruments in national laws. In general, international instruments were not applied directly, but through internal legislation. Nevertheless, certain laws made reference to international instruments, thus making possible the direct application of the latter within the internal juridical system and, in certain cases international provisions had actually been given precedence over internal legislation. In Bulgarian legal and administrative practice, account was taken of the rule that, in the case of doubt, internal legal provisions should be interpreted in the light of the international obligations of the State.

8. Certain general comments were called for concerning the implementation of articles 2, 3, 24, 26 and 27 of the Covenant. Firstly, Bulgaria could be considered an ethnically homogeneous country, since more than 92 per cent of its population was of the same ethnic origin. Secondly, by its very nature, the Bulgarian socio-political system prohibited all forms of racial discrimination. Nevertheless, the Bulgarian Government was constantly aware of the importance of preventive measures and of social and educational measures to prevent the emergence of racial, ethnic or religious prejudices. Membership of a minority group did not place persons in an unfavourable position since all citizens enjoyed the same rights, without any distinction. Thirdly, the Bulgarian Government tried

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constantly to promote national unity and to foster social integration on the basis of the free expression of national identity. In accordance with that principle, all the conditions necessary for the preservation of cultural traditions of ethnic groups had been fulfilled by various means, including education, freedom of access to the media and the publication of books and periodicals in the various languages.

9. The Bulgarian Government was convinced that both the enjoyment of human rights and fundamental freedoms and international co-operation for the promotion of those rights and freedoms required that peace and security should be safeguarded throughout the world. The consolidation of peaceful coexistence and international détente were inseparably linked to the respect for human rights. The Bulgarian Government was determined to take all appropriate measures in accordance with its international obligations in general and with the International Covenant on Civil and Political Rights, in particular.

10. Mr. TARNOPOLSKY said that the initial report of Bulgaria (CCPR/C/1/Add.30) showed that ratification of the Covenant by that country did not automatically entail its implementation, which would require its incorporation into the national legislation.

11. Article 2, paragraph 3, of the Covenant dealt with remedies available to any person whose rights or freedoms as recognized in the Covenant had been violated, even if the violation had been committed by persons acting in an official capacity. Article 56, paragraph 3, of the Constitution established that citizens had the right, in accordance with the conditions established by law, to be indemnified by guilty officials for damages inflicted on the citizens by the unlawful execution of the officials' duties. In that connexion, he wished to know whether the Penal Code contained specific provisions covering violations by public officials of the freedoms and rights recognized in the Covenant or whether the reference was to provisions of a general nature. Furthermore, he wished to know whether specific provision was made for the right of the injured person to institute proceedings against the official for damages.

12. With regard to article 6 of the Covenant, the report stated on page 6 that the Penal Code permitted the death penalty as a provisional and exceptional measure. That was commendable, and it would be useful to have details concerning the crimes to which the death penalty was applicable, as well as the relevant statistics on its application since the entry into force of the Covenant.

13. Article 48 of the Constitution guaranteed the inviolability of the human person and, according to the report (p. 7) in reference to articles 7 and 9 of the Covenant, the Code of Criminal Procedure prohibited the use of coercion against citizens participating in criminal proceedings, except in the cases provided for in the Code of Criminal Procedure and in accordance with the procedures laid down therein. He felt that the wording was somewhat ambiguous and asked in what specific situations the reservations referred to in the report were applied and to what types of coercion the Code of Criminal Procedure referred.

(Mr. Tarnopolsky)

14. Articles 7 and 9 of the Covenant also related to the question of deprivation of personal liberty by confinement in an institution for the mentally ill. In that connexion he requested that the Committee should be provided with details concerning the procedures under which individuals could be confined in such institutions.

15. Under the Constitution no one could be detained for more than 24 hours without the authorization of a court or the Procurator. In that connexion he wished to know how long and for what reason a person could be detained and whether "preventive procedure" was the same thing as preventive detention.

16. With reference to the humane treatment of persons deprived of their liberty (art. 10 of the Covenant; p. 8 of the report), he asked what provisions existed to ensure that persons deprived of their liberty could maintain contact with their families.

17. With regard to the right to liberty of movement and freedom to choose one's residence (art. 12 of the Covenant), the report (p. 9) stated that the right to choose one's residence was exercised by making an application in writing to be entered in the population register of the place in which the individual concerned wishes to establish his domicile; he wished to know who had the authority to make decisions with regard to such applications.

18. The report also stated that in certain cases passports for travel abroad could be refused or impounded. In that connexion he requested details concerning the cases in which such a situation could arise, other than the two referred to in the report (individuals convicted or violations of ordinary law and persons whose travel jeopardized State security); he also wished to know whether passports were issued to all members of a family, so that they could travel together, or only to an individual.

19. Article 14, paragraph 1, of the Covenant called for the independence and impartiality of the judicial power, which should be understood to mean independence in respect of the parties to the proceedings one of which often was the State. It was therefore necessary to ask to what extent the judicial power was independent of the executive and legislative power. Article 128 of the Bulgarian Constitution established that judges and assessors could be recalled before the expiry of the term for which they had been elected, whereas article 132, paragraph 3, stipulated that the Supreme Court was responsible for and reported on its activity to the National Assembly and, between its sessions, to the State Council. Those provisions seemed to jeopardize the independence of the judicial power, and it would be useful to have more detailed information on the subject. The same comments applied to the institution of the Public Prosecutor's office.

20. With reference to article 14, paragraph 3 (c), according to which everyone charged with a criminal offence had the right to be tried without undue delay, and with further reference to the comment in the report (p. 11) to the effect that the

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(Mr. Tarnopolsky)

Code of Criminal Procedure specified the time-limits for the completion of preliminary investigations, it would be useful to receive the relevant portions of the code.

21. With regard to protection against arbitrary interference with privacy, family, home or correspondence (art. 17 of the Covenant), articles 49 and 51 of the Bulgarian Constitution stipulated exceptions to the guarantees in question, and he requested that details of the laws establishing such exceptions should be provided to the Committee.

22. Article 53 of the Bulgarian Constitution guaranteed freedom of conscience and creed (art. 18 of the Covenant). The report made reference to the prohibition of abuse of the church and religion for political purposes and of the establishment of political organizations with a religious basis; he wished to know whether that meant that religious groups could not participate in political activities.

23. Article 18, paragraph 3, of the Covenant stated that freedom to manifest one's religion or beliefs was subject only to such limitations as were prescribed by law and were necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others. However, article 53, paragraph 5, of the Bulgarian Constitution stated that religion was no justification for refusing to fulfil duties imposed by the Constitution or the laws. It would seem that such a provision was not in conformity with the Covenant.

24. With reference to articles 18, 19, 21, 22 and 25, he asked a general question which was in fact linked to article 2, paragraph 1, of the Covenant, according to which States parties to the Covenant undertook to respect and ensure to all individuals within their territory and subject to their jurisdiction the rights recognized in the Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Although there was certainly no general agreement on the exact interpretation of that paragraph, he felt that all of the civil and political rights referred to in the Covenant were subject to the provisions of article 2, paragraph 1. The Bulgarian report made repeated reference to the prohibition of any distinction based on race, colour, language or religion, but not to that of distinctions based on political belief. Although he felt it was not necessary for States parties to enumerate in all cases all of the possible reasons for discrimination, the constitution of a State, in defining its political position and social organization, should indicate explicitly the prohibition of any distinction based on political grounds. In that context, it was important to know whether the restrictions applied only in the case of violent dissent or whether every form of disagreement was against the law.

25. With regard to article 24 of the Covenant, dealing with the protection of children and young people, article 38 of the Constitution stated that parents had the right and obligation to attend to the Communist education of their children, and article 39 stated that the education of young people in a Communist spirit was

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(Mr. Tarnopolsky)

the duty of society as a whole. He asked whether those provisions were simply goals or whether they were inescapable requirements and parents were obliged to impart a Communist education to their children.

26. With regard to the right to take part in the conduct of public affairs (art. 25 of the Covenant), article 6 of the Constitution provided that all citizens who had reached 18 years of age might elect and be elected, with the exception of persons who had been placed under complete tutelage. He wondered how that "complete tutelage" was to be understood and in what circumstances that provision, which presumably referred to persons interned in institutions for the mentally ill, was applied.

27. With regard to the rights of persons belonging to ethnic, religious or linguistic minorities (art. 27 of the Covenant), the report pointed out that numerous newspapers and periodicals were published for Bulgarian citizens of Turkish, Armenian and Jewish origin, and he wondered who produced and distributed those publications.

28. Sir Vincent Evans took the Chair.

29. Mr. BOUZIRI observed that, according to article 36 of the Constitution (CCPR/C/Add.30, p. 5), women and men enjoyed equal rights in Bulgaria. He asked what form that equality took in practice and what proportion of office-holders in Government and Parliament were women.

30. With regard to the right to life (ibid., pp. 5-6), he asked whether there existed in Bulgaria the concept of a crime against the national economy and, if so, whether the death penalty applied to that type of crime.

31. In connexion with the right to liberty of movement and freedom to choose one's residence, he asked whether applications in writing to be entered in the population register of the place in which the individual concerned wished to establish his domicile (ibid., p. 9) were usually approved. Recalling the large number of Bulgarians who had travelled abroad in 1976, he requested information concerning the amount of foreign currency allowed for tourists and the distribution of tourism by host countries, i.e. socialist, third-world, Western, etc.

32. With regard to article 14 of the Covenant (ibid., p. 10), he pointed out that article 128 of the Bulgarian Constitution stated that judges and assessors could be recalled before the expiry of the term for which they had been elected. That being so, he wondered who elected those judges and assessors, what the length of their respective mandates was and how the independence of judges could be reconciled with the possibility of their being recalled before the end of their term. He stressed that respect for the civil and political rights of citizens could be guaranteed only when the judiciary was independent.

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(Mr. Bouziri)

33. He pointed out that article 51 of the Constitution provided that the secrecy of correspondence, telephone conversations and telecommunications was inviolable (ibid., p. 13). In the context of article 17 of the Covenant, relating to arbitrary interference with privacy or the family, he asked whether exceptions were made in dealing with a person suspected of homicide or espionage.

34. With regard to freedom of conscience and religion (ibid., p. 13), he wished to know whether religious, anti-religious or atheistic propaganda was permitted and whether it was permissible, in accordance with freedom of speech, of the press and of assembly (ibid., p. 14), to criticize socialism, the Communist Party and the Government.

35. He asked whether a citizen could be deprived of citizenship and, if so, in what cases, and what means existed to recover it. With regard to the assertion that the Constitution guaranteed the right to freedom of association and provided, in article 52, that citizens could form political organizations (ibid., p. 14), he asked whether the organizations referred to were political parties. If so, he wished to know how many political parties existed in Bulgaria and whether there were political parties opposed to socialism or favourable to capitalism or to forms of socialism other than the form that existed in Bulgaria.

36. The Bulgarian report stated on page 15 that, under the Constitution (art. 2, para. 2), the people exercised power through freely elected representative bodies, and directly. He wished to know whether citizens could choose between different lists of candidates, different programmes or different persons.

37. In connexion with article 1, paragraphs 1, 2 and 3, of the Constitution, which provided that the People's Republic of Bulgaria was a socialist State of the working people of town and country, headed by the working class, that the Bulgarian Communist Party was the guiding force in society and the State and that the Party headed the construction of an advanced socialist society in the People's Republic of Bulgaria in close fraternal co-operation with the Bulgarian Agrarian Union, he pointed out that the working class appeared to stand above the others and that members of the Communist Party appeared to be in a position of predominance vis-à-vis members of the Agrarian Union and, above all, vis-à-vis those who did not belong to either of the two entities. He asked how that state of affairs could be reconciled with the provisions of article 2, paragraph 1, article 5, paragraph 2, and article 25 of the Covenant.

38. Mr. Mavrommatis resumed the Chair.

39. Mr. LALLAH, referring to article 12 of the Covenant, providing for the right of liberty of movement, said that perhaps Bulgaria placed excessive emphasis on discouraging citizens from exercising that right and asked what penal consequences could arise if a citizen who knew that members of his family travelling abroad did not intend to return failed to communicate that information to the authorities.

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(Mr. Lallah)

40. He wondered whether the way in which political thinking was controlled in Bulgaria was compatible with the provisions of the Covenant. Although the Covenant did not postulate a specific type of political system, it was important to see to what extent the rights it provided for were given effect. In that regard, it was essential that the Committee should give careful consideration to the experiments being carried out, not only in the socialist countries but also in other parts of the world, in connexion with the one-party system. He wished to know, in that connexion, whether Bulgaria had laws facilitating the creation of political parties or institutions in which political ideas could be expressed or whether, on the contrary, there were laws opposed to it. In particular, some clarification was necessary with regard to the right provided for in article 25 of the Covenant, i.e. to the question what opportunities for access to public office were open to persons who did not belong to the Communist Party or the Bulgarian Agrarian Union.

41. With reference to article 19 of the Covenant, he asked whether there were rules permitting members of the Communist Party to voice tendencies at variance with those of their leaders.

42. Lastly, with reference to article 40 of the Constitution, he asked whether the right freely to choose one's profession was restricted to manual labour for persons who did not support the Government.

The meeting rose at 1 p.m.