

SUMMARY RECORD OF THE 321ST MEETING

held on Thursday, 31 March 1977, at 10.15 a.m.

Chairman:

Mr. KATHYNN

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued):

(i) FOURTH PERIODIC REPORTS OF STATES PARTIES DUE IN 1976 (continued)

Federal Republic of Germany (CERD/C/R.90/Add.26) (concluded)

1. At the invitation of the Chairman, Mr. Hillgenberg (Federal Republic of Germany) took a place at the Committee table.

2. Mr. HILLGENBERG (Federal Republic of Germany) thanked the Committee for giving him an opportunity to answer the questions raised at the previous meeting. He wished, at the outset, to make one general comment; some members had stated that his country's fourth periodic report (CERD/C/R.90/Add.26) indicated good intentions but less in the way of concrete measures. In fact, the report contained statements of Government policy which was itself reflected in administrative measures, many of which were also mentioned in the report. Thus, the report indicated much more than good intentions.

3. Mr. Sayegh had rightly pointed out that the figure "II" in the heading of annex 1 was not correct; it had been reproduced in error from other sources. In connexion with section I of the report, Mr. Ingles had requested figures concerning Asian nationals. He regretted that he could not provide additional figures at the moment, but his Government would certainly be more specific in its next report to the Committee. Mr. Valencia Rodriguez and Mr. Blishchonko had asked questions about the Danish minority referred to in section II. He could not, at the moment, give details about administrative measures to protect that minority, but paragraph 1 (a) of that section contained indications about the representation of the Federation of South Schleswig Voters in the Advisory Committee for Questions Relating to the Danish Minority. A number of members had asked whether that group was treated as a minority or as a party. It was of course a minority, but it had formed a party. The fact that it was a single party gave it a better chance of protecting its interests, and it was particularly important for it to be represented at the Länder level because, under the federal system, cultural affairs and most administrative matters were decided at that level. The 5 per cent clause, which normally excluded parties which had not obtained at least 5 per cent of the vote, was not applicable either at the Länder or at the Federal level.

4. Questions had been asked about the difference between the treatment of the Danish minority and the treatment of gypsies. He considered that the situations of the two groups were entirely different, and that each group required different positive treatment by the Government. The gypsies were mostly non-German and had no fixed residence. In contrast, the Danish minority lived together in a specific area. It was 95 per cent of German nationality and had historical links with Denmark. Because of those links, political minority rights were granted on the basis of reciprocity to Danes of German descent in Denmark. Annex 2 set forth the special arrangements regulating the rights of the German and Danish minorities. Mr. Valencia Rodriguez had inquired about the difference between the treatment of gypsies of German nationality and those of other nationalities. Gypsies of German

nationality enjoyed the same rights as other German citizens, whereas foreign gypsies were treated according to their nationality. Differences of treatment existed primarily in the field of political rights. Mrs. Warzazi had inquired about the implementation of the Council of Europe recommendations set forth in annex 3. He had no additional information at hand to answer that question, and thought that the next report might give more details in that regard. The Chairman had asked about the situation of stateless gypsies. As far as he was aware, the Federal Republic of Germany had recently ratified the Convention relating to the Status of Stateless Persons, which provided for special measures for the protection of such persons in the light of their particular situation.

5. Mr. Ingles had asked whether there was a Jewish minority in the Federal Republic of Germany. Annex 4 contained a reference to Israeli nationals but there were no statistics as to Germans of Jewish origin since no one was required to indicate his race. In so far as the Jewish faith was concerned, the Jewish community enjoyed equal status with other religious communities. Some members had asked about the definition of minorities; only the Danish minority sought special political status, whereas the other groups were interested solely in the maintenance of certain cultural traditions. No one was required to make a declaration regarding his membership of a minority group. The figures in the report were based on election results and membership of cultural associations. He wished to assure Mr. Hollist that there was no difference in the treatment of Caucasian and non-Caucasian minorities in the Federal Republic of Germany and that the same standard of equality applied to all minorities. The first periodic report had contained relevant statistics on African and Asian students and on inter-racial and other questions. Universities with limited access had special quotas for students from African and Asian countries and special scholarships were available to students and trainees from those countries. He hoped that the next report would give more up-to-date information on them.

6. Mr. Valencia Rodriguez had asked about the percentage of workers from EEC countries. Of the two million foreign workers in the Federal Republic of Germany, approximately 25 per cent came from the Common Market countries. Mr. Blishchenko and Mr. Dayal had asked about discrimination with regard to foreign workers; all foreign workers enjoyed equal status. As explained in section III of the report, over 95 per cent of the foreign workers were covered by the legal provisions of the EEC or by bilateral social insurance agreements. The waiting period for the other 5 per cent had been introduced in order to give time to determine whether the workers in question wished to return to their home countries; a prior and binding statement by them had been deemed inappropriate. Mr. Dayal had inquired about the meaning of the term "illegal employment": it meant the employment of a worker without a work permit issued by the competent authority. In reply to Mr. Nettel, he wished to say that workers having such a permit could circulate freely throughout the territory; however, the work permit was limited to a specific area to ensure that all necessary facilities to which the workers were entitled could be provided for them. Mr. Dechezelles had asked about the representation of foreign workers in trade unions. Foreign workers could join trade unions, participate in trade union elections and become trade union officials.

7. A recent Government policy statement on measures for the economic and social integration of foreign workers would unquestionably be of interest to the Committee, since it updated previous information given on that group. The statement had indicated that the Federal Government reaffirmed its intention to integrate foreign workers and their families and would intensify its efforts in that direction. Since the recruitment campaign for foreign workers had ended, the Federal Republic had increased the funds available for social integration purposes from DM 22 to

DM 30 million a year, in spite of the economic recession and its consequent strain on the budget. In the years ahead the Federal Government would concentrate its efforts on a number of specific measures. Experienced welfare agencies throughout the country, with a total staff of 600, concerned themselves with the welfare of the foreign workers and their families. Those agencies received financial assistance totalling DM 16 million from the Federal Government, and that assistance would be continued. All district offices of the German Trade Union Federation, as well as 12 offices of the Catholic Labour Movement, provided advisory services for foreign workers. In addition, the German Trade Union Federation had 20 specialists, some of them nationals of the countries of origin of the workers, to give vocational guidance to foreign workers and also to advise them on various social matters. Those activities contributed decisively to safeguarding the position of foreign workers in law and, hence were a direct expression of the social responsibility exercised jointly by the Federal Government and the trade unions in relation to foreign workers. The Federal Government provided nearly DM 2 million a year for that important work and would continue to do so. The Federal Government also sought to improve language tuition for foreign workers, principally by increasing the range of language courses. It had also increased the funds available for that purpose from DM 600,000 in 1975 to over DM 1.5 million in 1976, indicating thereby the high priority it attached to language training as a decisive prerequisite for social integration. It would continue that policy in the years ahead.

8. For a number of years, the Federal Government had been carrying out a nationwide programme, in conjunction with the Federal States, which embraced both language and vocational education. In 1975 alone, 550 courses had been held for some 7,500 participants. The courses were designed to facilitate the integration of foreign workers and their participation in training schemes organized by the Federal Institute of Labour. The programme was an important basis for the further training of foreign workers and the Federal Government had earmarked a further DM 700,000 for the programme for 1976.

9. In order to improve the school education of the children of foreign workers, the Federal Government promoted a "homework help" scheme under which mixed groups of German and foreign children did their homework together after school. The scheme had proved successful and enabled the children of foreign workers to derive greater benefits from their educational opportunities. The Federal Government was considering with the State authorities ways and means of intensifying those activities. In order to make up for the language and educational disadvantages which impeded normal vocational training for young foreigners, the Federal Government financed 4-month preparatory courses based for the most part on language and general education. The new initiative, for which the Federal Government had made available more than DM 500,000, would develop into a broad-based "youth programme" and form a new area of activity in the Federal Government's efforts to further the social integration of foreign children. The Federal Government attached special importance to the problems confronting the second generation of foreigners. Thus, all young foreigners who had entered the Federal Republic of Germany before 30 November 1974 received, as a general rule, a work permit which was required for vocational training. Children of foreign workers who had been living with their parents in the Federal Republic for five years or more were entitled to such a permit and enjoyed the same status as Germans on the labour market. Children of foreign workers who had entered the Federal Republic before 1 January 1977 to join their parents would also be able to obtain a work permit. The Federal Government acknowledged the considerable attention which the media devoted to foreigners and their problems. It regarded that attention as valuable support for its own efforts to further the social

integration of foreign workers. It endeavoured to keep the foreign community informed by various publications; and one such publication, which appeared in six languages, had a total circulation of 300,000. Factories, local and regional authorities, as well as trade unions, churches and other social groups had introduced many different schemes to facilitate the social integration of the foreign population.

10. With regard to section IV of the report, Mr. Bahnev had asked why more emphasis had been placed on tolerance and respect rather than on forms of prejudice. His Government considered that tolerance and respect were a positive approach to the problem of prejudice.

11. A number of members had asked questions in connexion with section V. Section I, paragraphs 1(a) and (b), of his country's third report contained information on the provisions of the Penal Code concerning prosecution of leaders, members and supporters of organizations which promoted racial discrimination (sections 84 to 86 of the Penal Code) and of persons who incited to racial hatred (sections 130 and 131). It might be useful to add that, according to section 129, the founding and membership of criminal associations as well as support for and advertisement of such associations were punishable. Participation in associations directed towards inciting to racial hatred or promoting racial discrimination could be prosecuted without any prior measure against the association itself. The newly introduced sections 88 (a), 129 (a) and 130 (a) concentrated on particularly dangerous activities. With regard to the question of whether, in conformity with article 4 (a) of the Convention, additional measures should be introduced to punish ideas of racial superiority, he wished to point out that his Government attached particular importance to the protection of all human rights, including freedom of opinion. Ideas of racial superiority should certainly be rejected; in many cases they constituted libel and slander vis-à-vis certain sectors of the population and as such were punishable offences. In so far as further measures were concerned, the guarantee of freedom of expression made it necessary not to create possible pretexts for undue limitations on that right, and the principles of the rule of law and the clarity of the law must also be maintained. Accordingly, his Government had, after careful consideration, reached the conclusion that dissemination of opinions of racial superiority should be punishable if it was intended to create or foster racial discrimination or hatred. That interpretation, which covered all ideas of an insulting or inciting character, was in line with article 4 of the Convention which allowed for "due regard to the principles embodied in the Universal Declaration of Human Rights". The Universal Declaration, in its articles 19 and 20, called for freedom of opinion and association.

12. A number of members had asked about the court cases listed in section V of the report. As indicated in paragraph 2 of that section, the sentences had been passed for remarks inciting to hatred against certain groups or insulting, ridiculing or defaming such groups; it had been thought that it might take too long to give every detail regarding those cases. Mr. Blishchenko and Mr. Bahnev had referred to a sentence passed by the Regional Court of Berlin on an innkeeper who had refused admission to Turks. In agreement with the three Powers, the Federal Republic of Germany had extended the scope of the Convention to cover West Berlin; and he thought that a discussion of the status of Berlin would be inappropriate in the Committee on the Elimination of Racial Discrimination.

13. In connexion with section VI of the report, concern had been voiced that the National Democratic Party (NPD) had not been outlawed. The question of a ban on the NPD had been commented on in his country's third periodic report and by his Government's representative on the occasion of the discussion of that report.

Section VI of the present report updated those comments. Safeguards for the protection of political parties against arbitrary actions by Governments contained in the Basic Law (article 21 (2)) required that the Federal Constitutional Court must decide on the outlawing of parties. The Federal Government had no concrete evidence which would permit action under that provision. He could only repeat that the NPD party programme of 1973, while stressing national ideas and the importance of characteristics of men and peoples according to their history and traditions, did not refer to racial differences and that NPD officials did not make statements advocating racial discrimination. There was no basis, therefore, for a ban on the party by the Federal Constitutional Court. During the Federal elections in October 1976, the NPD had attracted only 0.3 per cent of the votes of the electorate, half as many as in 1972. That result indicated that support for the party was very small and was dwindling. He wished to assure the Committee that the Federal Government paid close attention to the activities of the NPD. All organizations which were successors of outlawed parties or associations were automatically outlawed themselves, and membership of such successor organizations was automatically punishable. The NPD had never declared itself to be, or given evidence that it was, a successor of any outlawed party.

14. Many members had asked for information concerning his country's relations with southern Africa. The Federal Government had, in fact, once again carefully considered whether to include such information in its reports. As neither general recommendation III nor decision 2 (XI) entailed an obligation to include in reports submitted pursuant to article 9, paragraph 1, of the Convention any information on relations with the minority régimes in southern Africa or, in general, on relations with third parties, it had decided, on legal grounds, not to expound its attitude towards southern Africa in its fourth periodic report.

15. That did not, of course, mean that his Government wished to evade questions regarding its attitude towards southern Africa. In the Fourth Committee of the General Assembly, it had given a detailed account of all aspects of those problems in order to make its attitude known. Those statements were generally accessible in the relevant documents. Nevertheless, without recognizing any obligation to report on that subject, his Government, in order that the Committee might have as much information as possible, was willing to explain its attitude towards southern Africa, as it had done when the second and third reports were discussed. As might be seen in detail from the four reports, the Federal Republic of Germany, since its inception, had identified itself with the principle of racial equality in conformity with the Purposes and Principles of the United Nations and had taken the measures necessary to eliminate all forms of racial discrimination. Those considerations, which were based on its constitutional law, its contractual obligations and its political conviction, also guided his Government's attitude to questions relating to southern Africa. Hence, his Government concurred in the world-wide criticism of South Africa's policy of apartheid, considered that its continuing presence in Namibia was not in conformity with international law, and it held the view that the people of Southern Rhodesia had a right to self-determination. As early as 1963, the Federal Republic of Germany had joined the United Nations in condemning apartheid in South Africa and, in response to the Security Council's resolution 181 (1963), had imposed an embargo on the supply to South Africa of weapons, ammunition, military vehicles and equipment for the manufacture of war material, and had declared that it would not be a party to military co-operation with South Africa. That policy had since been reaffirmed by the Federal Government on many occasions and was strictly observed. The Federal Republic of Germany did not encourage investment in South Africa. It did not indulge in any nuclear co-operation whatever with South Africa. It had repeatedly called upon German firms in South Africa to adjust

the wages of white and coloured employees as a practical contribution towards the elimination of apartheid. However, since it respected the rule of law, the Federal Republic of Germany could not force private firms to take such measures. The Federal Republic of Germany was heavily dependent on international trade. Trade relations were a major part of the peaceful relations it sought with all nations, irrespective of the political character of the Government in question. Like many other countries in all parts of the world, it traded with South Africa, but its trade links did not prevent it from strongly denouncing apartheid. The Federal Republic and other Western countries had on numerous occasions stressed to the South African Government the need to grant Namibia independence speedily, to preserve the unity of that territory, to allow the political parties to participate in the constitutional conference and to allow the United Nations to supervise the process leading to independence.

16. The Federal Republic of Germany maintained no political, economic, diplomatic or other relations with Southern Rhodesia. The sanctions on Southern Rhodesia imposed by the Security Council were strictly adhered to and their observance was ensured.

17. Moreover, in conformity with United Nations resolution, the Federal Republic of Germany assisted persons who were the victims of racial discrimination and apartheid. It contributed to international humanitarian relief operations organized by the United Nations and by the OAU, and supported measures by private institutions to provide educational and training opportunities for the African population or refugees. Above all, it contributed to the United Nations Educational and Training Programme for Southern Africa, the United Nations Trust Fund for South Africa, and to the United Nations Fund for Namibia.

18. He hoped that he had answered most of the questions which had been put and wished to assure the Committee that his Government would continue its co-operation with it and would try to provide additional information in its next report and answer any questions it might not have answered fully in the present report.

19. Mr. BILISHCHENKO said that he did not agree with the view expressed by the representative of the Federal Republic of Germany that it would be inappropriate to discuss the question of the extension of the jurisdiction of the Federal Republic of Germany to West Berlin, an action to which many States had objected and one which constituted a flagrant violation of international law and of specific international obligations.

20. Mr. BAHNEV supported the position taken by Mr. Blishchenko. He observed, further, that he could not agree that the idea of "tolerance" in itself included also that of "combating prejudices which lead to racial discrimination" if only because both those ideas were mentioned in article 7 of the Convention.

21. Mr. SAYEGH paid tribute to the representative of the Federal Republic of Germany for the thorough and comprehensive, albeit brief, way in which he had tried to answer all the questions asked. He wished to place on record his views on three points. First, section V of the report contained tabulations of cases which had been disposed of by courts but did not give any indication of the sentences; that, in his opinion, was less than was required under article 9 of the Convention. It might have taken too long to give that information in a statement, but he would have liked to see it included in the report and very much hoped that it would be included in the next report. A reporting State had an obligation to report on legislative, judicial, administrative and other measures, and it was not enough for the Committee merely to know that sentences had been passed. It was important to

know what the sentences were and to have some indication of their severity, which would, in a sense, illustrate the degree of importance which the reporting State attached to cases of that kind.

22. Secondly, with regard to article 4 (b) of the Convention, it now seemed clear that the Federal Republic of Germany did not consider itself obliged to declare illegal and to prohibit racist organizations. It considered itself obliged to prosecute the leaders and members of such organizations for their activities but not to declare the organizations themselves illegal and to prohibit them; and it invoked the "with due regard" clause as a justification for its attitude. The drafters of the Convention had nevertheless affirmed explicitly the obligation to declare illegal and prohibit racist organizations; and they could not have understood or intended the "with due regard" clause to cancel out that specific and explicit obligation.

23. Thirdly, two questions were involved in connexion with the obligation for States to report on their relations with southern Africa. The first was whether there was in fact an obligation to report and the second was what kind of relations between a State Party and the racist régimes in southern Africa were compatible with the letter and spirit of the Convention. The Committee had been told once again that the Federal Republic of Germany did not consider itself legally obliged under the Convention to report to the Committee on its relations with South Africa. In that case, why had it not expressed a reservation to resolution 31/81 which had been adopted by the General Assembly without a vote at its thirty-first session and in which all concurring States had agreed to report on their relations with South Africa?

24. Mr. NETTEL commended the representative of the Federal Republic of Germany for having replied to the many questions put to him. Having been in a similar position at the Committee's last session, he knew how difficult it was to furnish replies to all questions.

25. He had drawn attention at the last meeting to the reference in the report to the judgements of the Courts of Berlin, and had stated that he did not consider it useful for the Committee to discuss that question since it concerned a convention between four States which could be interpreted correctly only by those States. The representative of the Federal Republic of Germany had no doubt intended to use the word "inopportune" rather than the word "inappropriate" in that connexion.

26. Mr. PARTSCH, referring to Mr. Sayegh's comments on the legal provisions relevant to the interpretation of paragraphs 4 (a) and (b) of the Convention, said that there were two prohibitions that had to be considered separately. The first was the prohibition of political parties in accordance with article 21 of the Basic Law quoted in annex 1 to the third report of the Federal Republic of Germany (CERD/C/R.70/Add.24). The second was the banning of associations. It was the task of the representative of the Federal Republic of Germany to provide information on new developments. The third report contained sufficient information on earlier developments to show that associations whose purposes and activities not only conflicted with criminal law but were directed against constitutional order and international understanding were prohibited. Article 3, paragraph 3, of the Basic Law covered non-discrimination. Political parties which sought to impair or abolish the free democratic basic order were banned. The only new provision under the Penal Code was article 129 which provided that the founders of new associations could be punished even if the association itself had not been prohibited. It was incorrect to state, however, that there was no provision for the banning of associations as such. The representative of the Federal Republic of Germany had not been required to mention such provision since it had already been reported to the Committee.

27. Mr. INGLES recalled that during its discussion of the third periodic report of the Federal Republic of Germany, the Committee had requested the Government of that country to take note of the comments made and the concern expressed, and to provide in its next report information about the programmes and activities of the National Democratic Party. The only reference to that party in the fourth periodic report was the conclusion by the Federal Republic of Germany that the aims and activities of that party did not violate the law or contravene the Convention. The Committee had requested specific information on which to draw its own conclusions and had not merely asked for the conclusions of the reporting Government.

28. Mr. HILLGENBERG (Federal Republic of Germany) said that the question raised about West Berlin had already been noted by his Government. He realized that the opinion of Governments differed in that respect. Referring to the question raised by Mr. Bahnev, he said that there were also different interpretations of tolerance in different parts of the world. His Government maintained a positive approach. It considered that tolerance should include the suppression of racial discrimination.

29. Replying to Mr. Sayegh, he said that his reference to the "with due regard" clause had not been made in connexion with article 4 (b) of the Convention. What he had said was that the National Democratic Party had not been abolished since there was insufficient evidence on which to base such action. His reference to the "with due regard" clause had been made in relation to article 4 (a). His Government had supplied information on the National Democratic Party as requested, and he had made additional comments. He was prepared to furnish the entire text of the party's programme in German if the Committee so desired.

30. The CHAIRMAN thanked the representative of the Federal Republic of Germany for his informative statement and for his replies to the various questions raised. Note had been taken of his intention to report to his Government on the questions he had been unable to answer and on the Committee's additional comments, so that they could be taken into account when the Government prepared its next periodic report.

31. Mr. Hillgenberg withdrew.

Philippines (CERD/C/R.90/Add.20)

32. At the invitation of the CHAIRMAN, Mr. Siazon (Philippines) took a place at the Committee table.

33. Mr. SIAZON (Philippines) said that the brief and concise report of his Government (CERD/C/R.90/Add.20) covered developments in the Philippines only up to 12 June 1976. Developments since that date would be dealt with in a subsequent report. He would take note of any comments or requests the Committee might wish to make and would convey them to his Government so that they could be taken into account in its next report.

34. Mr. NABAVI, welcoming the representative of the Philippines, said that he was sure the majority of members of the Committee would share his view that the fourth periodic report of the Philippines was entirely satisfactory and showed the Government's desire to collaborate constructively with the Committee. The annex to the report gave a clear and detailed picture of the ethnic composition of the population of the Philippines.

35. During the Committee's consideration of the third periodic report of the Philippines, certain members had requested information on the specific legal, judicial and administrative measures taken to implement the provisions of article 4, paragraphs (a) and (b), of the Convention. In particular, Mr. Ingles had asked whether a Government whose legislation condemned racial discrimination could be called upon to introduce new legislation with regard to article 4. The majority of members had considered that, even in a country where racial discrimination was condemned categorically by the Constitution, it was desirable to have specific legislation with regard to article 4. He would welcome information on the measures taken in that respect. He was glad to note the information given in paragraph 6 of the fourth periodic report of the Philippines, but would like to see the text of the draft decree referred to, or to be informed of its general content. He would also like to know if its provisions were intended as specific measures or merely as declarations of a general nature?

36. At earlier sessions of the Committee, many members had emphasized the importance of the application of all the provisions of the Convention and had referred in particular to the provisions of article 7. No information had been given in any of the reports received from the Philippines with regard to the implementation or the provisions of that article. He would be interested to hear the comments of the representative of the Philippines in that respect.

37. Mr. VALENCIA RODRIGUEZ noted with satisfaction that the Philippines had signed the International Convention on the Suppression and Punishment of the Crime of Apartheid and had ratified the International Covenant on Economic, Social and Cultural Rights. He hoped the former would be ratified in due course. He also welcomed the other steps taken by the Government of the Philippines and described in its fourth periodic report, all of which showed the strong desire on the part of the Philippines to comply with the provisions of the Convention. Referring to paragraph 5 of the report, he said that it was the International Softball Association that deserved censure rather than the Softball Association of the Philippines, which had acted in accordance with United Nations resolutions condemning participation in sport with South Africa because of apartheid.

38. Referring to paragraph 6 of the report, he said that he, too, would be glad to see the text of the draft decree.

39. The steps taken by the Government of the Philippines to apply the provisions of the Convention were particularly welcome in view of the large number of races of which the population was composed. He commended the Government on its report.

40. Mr. DEVETAK welcomed the position taken by the Philippines towards South Africa, and its pledges of contributions to the funds referred to in paragraph 4 of its fourth periodic report. He shared Mr. Nabavi's view with regard to article 4 (a) and (b) of the Convention. He would welcome further information on the diplomatic and political relations of the Philippines with South Africa and other racist and illegal régimes in southern Africa. Bearing in mind the large number of ethnic and religious groups in the country, he would also welcome information on the manner in which the provisions of article 7 of the Convention were being implemented.

41. Mr. PARTSCH recalled that, during its discussion of the third periodic report of the Philippines, the Committee had received the text of that country's new Constitution, which had come into force on 17 January 1973. He would be interested to know whether the Constitution was still in full effect or whether any of its provisions had been suspended. It was interesting to note that article II,

section 9, contained a clause prohibiting discrimination on the grounds of sex, race or creed; but that that provision related only to labour relations. In order to comply with article 5 of the Convention, a general guarantee affirming the rights of everyone before the law would have to be inserted in the Constitution, together with a special clause prohibiting discrimination on the ground of race, colour or national or ethnic origin. Such a provision appeared to have been omitted from the Constitution of the Philippines. He would welcome an explanation of that omission.

42. He commended Mr. Ingles for his initiative as described in paragraph 6 of the fourth periodic report of the Philippines.

43. Mr. LAMPTEY welcomed the co-operation which the Committee was receiving from the Government of the Philippines. That Government's first periodic report had contained the texts of a large number of legislative provisions, but subsequent reports had stated that there had been no necessity to enact any decrees or adopt any further measures to promote the objectives of the Convention. He commended Mr. Ingles for the action he had taken in connexion with the implementation of article 4 of the Convention. He noted that the breakdown of the population given in the annex was a breakdown by mother tongue. In view of the problem of the Moslems in the Philippines, he would have liked to have further information in that respect. With that exception, he was satisfied with the report from the Philippines.

44. Mr. PARTSCH recalled that the first report received from the Government of the Philippines had been one of the best reports submitted. Since that time, there had been a new Constitution, and a new situation had been created.

45. Mr. BAHNEV associated himself with previous speakers who had expressed their satisfaction with the co-operation established between the Committee and the Government of the Philippines. He also welcomed the fact that the Philippines had signed the International Convention on the Suppression and Punishment of the Crime of Apartheid and had ratified the International Covenant on Economic, Social and Cultural Rights. The steps described in the fourth periodic report of the Philippines in implementation of General Assembly resolutions on relations with South Africa were in accordance with article 3 of the Convention and with the Committee's recommendations. He would welcome further information on diplomatic and other relations between the Philippines and South Africa. He was glad to note the action outlined in paragraph 6 of the fourth periodic report of the Philippines with regard to the draft decree to implement article 4 of the Convention. Such action was all the more gratifying in view of the statement by the representative of the Philippines during the discussion of the third periodic report to the effect that the Government considered it unnecessary to enact legislation in implementation of article 4. He would look forward to seeing the next report, which he hoped would contain information on the final adoption of the decree.

46. No information was given in the fourth periodic report about the régime of martial law in the Philippines. He would be interested to know whether any change had taken place in that respect, and whether any new legislative or administrative steps had been taken that might have a bearing on the general question of human rights as provided for in the 1973 Constitution, and on the problem of racial discrimination in particular.

47. The first periodic report of the Philippines had referred to the question of the integration of minorities. He had not yet received the document giving information on that subject. He would be interested to know what special measures had been taken to assist minorities in integrating into Philippine society in accordance with article 1, paragraph 4, and article 2, paragraph 2, of the Convention.

He had particularly in mind the need to give such groups equal opportunities in the enjoyment of economic, social, political and other rights.

48. Mrs. WARZAZI said that the report before the Committee, like earlier reports submitted by the Philippines, showed that the Philippine Government was making every effort to implement the Convention. However, specific details of legislative acts and projects intended to promote the implementation of the Convention were not given. The action of the President of the Philippines referred to in paragraph 7 of the report was a positive contribution at the international level. She welcomed the inclusion, in the annex, of a detailed breakdown of the population of the Philippines by mother tongue; but with regard to the Moslem population in the South, she did not think that the Committee should examine matters pertaining to religion.

49. The State control of education which prevailed in the Philippines should be a means of facilitating the implementation of article 7 of the Convention. She wished to know what particular measures had been taken with respect to the implementation of that article in secondary schools in the Philippines. In addition, she would like to know whether the right of effective recourse to the courts by persons who had been subjected to racial discrimination was based on any legal texts, whether specific cases of that kind had been heard by the courts and, if so, what the verdicts had been.

50. Mr. BLISHCHENKO agreed with earlier speakers that the report under consideration, taken together with earlier reports, provided a complete picture of the determined efforts made by the Philippine Government to comply with the Convention, and therefore deserved the Committee's full support. The Philippine Government continued to adopt a constructive approach and to participate actively in the dialogue with the Committee. He had been particularly impressed by the actions referred to in paragraphs 3, 4 and 6 of the report. He welcomed the ratification by the Philippines of the International Covenant on Economic, Social and Cultural Rights, and wished to know whether the Philippines also intended to ratify the International Convention on the Suppression and Punishment of the Crime of Apartheid.

51. He would like to have further information on the measures taken in the Philippines to implement articles 5 and 7 of the Convention, as well as the efforts made to promote the aims of the Convention in the context of the constructive measures taken to solve the problems which had arisen in the southern Philippines. He also wondered to what extent the breakdown of the population by mother tongue was in fact a breakdown by ethnic origin, and how much importance was attached to linguistic differences in efforts to prevent racial discrimination.

52. Mr. SAYEGH congratulated the Philippine Government on its informative report, the greater part of which dealt with the very important question of relations with racist régimes and the attitude of the Philippine Government to racism in other countries. Paragraphs 1, 3, 4, 5 and 7 showed that action had been taken in a number of different areas - legal, political, financial, sports and commercial. The action of the President of the Philippines, referred to in paragraph 7, was evidence of the gratifying vigilance of the Philippine Government in overcoming the subterfuges to which racist régimes sometimes resorted.

53. Questions had been raised about the diplomatic position of the Philippines with regard to South Africa and Rhodesia; but it had already been stated in the second periodic report (CERD/C/R.30/Add.37) that the Philippine Government maintained no diplomatic relations with South Africa and had provided for sanctions aimed at making South Africa abandon its policy of apartheid and its illegal régime in

Namibia, and that it maintained no diplomatic relations with Southern Rhodesia. In the absence of any indication to the contrary, it must be assumed that those statements still applied.

54. The breakdown of the population by mother tongue was extremely detailed. However, noting that no mention of language was made in article 1 of the Convention, he requested more information concerning the extent to which the linguistic groups listed corresponded to ethnic categories.

55. The initiative taken by Mr. Ingles as Acting Secretary of Foreign Affairs was greatly appreciated. He wondered, however, why the draft decree concerning implementation of article 4 of the Convention had been submitted to the President of the Philippines by the Department of Foreign Affairs rather than the Department of Justice, whether it had now become law and, if so, whether the text could be made available to the Committee.

56. He agreed with earlier speakers that the implementation of article 7 was mandatory and that further information on that question was needed.

57. Mr. DAYAL expressed his deep appreciation of the continued constructive co-operation of the Philippine Government. He wished to know whether the mother tongues listed in the annex to the report were languages or dialects, whether they were officially recognized, whether instruction in schools was given in all or some of them and what the national languages of the Philippines were. In addition, it would be interesting to know to what extent language groups corresponded to ethnic groups in the Philippines, and whether there was any degree of homogeneity in the Philippine population.

58. Mr. Lamptey had raised the question of the Moslem population in the south, but that problem was not within the competence of the Committee, unless the Moslems concerned constituted a separate ethnic group.

59. Further information was needed on the Constitution adopted in 1973 and the effect of the imposition of martial law on the general enjoyment of human rights in the Philippines, and particularly on the prevention of racial discrimination. He would also like to have further details of the measures adopted in pursuance of article 7 of the Convention. In a country covering a vast area like the Philippines, the administrative arrangements for ensuring compliance with the Convention and promoting national integration must certainly raise great difficulties.

60. Mr. ABOUL-NASR praised the Philippine Government for its efforts to implement the Convention and for its co-operation with the Committee. With regard to paragraph 7 of the report, it would be useful for the Committee to know which country's name was marked on the canned sardines which had actually come from South Africa. He would also like to know what the official language of the Philippines was, what was meant by the "Belgian" language referred to in the population breakdown, and what language was spoken by the Moslems in the south.

61. Mr. BRIN MARTINEZ congratulated the Philippine Government on its fourth periodic report. The actions taken by that Government under article 3 of the Convention were gratifying and were of considerable importance for the implementation of the Convention as a whole. He also welcomed the initiative taken by Mr. Ingles concerning the implementation of article 4, and would like to know whether the draft decree had been approved and, if so, whether the text could be made available. It was to be hoped that future reports by the Philippine Government would contain further information on the constitutional changes which

had taken place in the country, on compliance by the Philippines with article 5 of the Convention, and on the measures taken in implementation of article 7.

62. Mr. DECHEZELLES said that the Philippine Government fully deserved the appreciation which had been expressed by members of the Committee. The Philippines was a country of 7,000 islands with a heterogeneous population speaking some 90 different dialects and consisting of groups at widely varying levels of development. The implementation of the Convention in such a country was clearly difficult, and the Philippine Government must be congratulated on its efforts to achieve that aim. More information was, however, needed on the measures taken under articles 4 and 7 of the Convention. With regard to article 7, his understanding was that primary education was compulsory in the Philippines and accounted for some 20 per cent of the national budget - a situation on which the Government should be congratulated. It was to be hoped that future reports would provide information of further progress in the educational sphere. The submission of a draft decree to implement article 4 of the Convention was also praiseworthy.

63. Mr. HOLLIST congratulated the Philippine Government on its continuing co-operation with the Committee. He agreed with earlier speakers that more information was needed on the new Constitution adopted in 1973. Where racial discrimination was prohibited by a Constitution, there should be no need to request specific legislation under article 4 of the Convention, since constitutional provisions were often broader than those of specific legislative acts.

64. While it was true that article 1 of the Convention did not cover religious discrimination, there was a reference to religion in article 5, and he therefore wondered whether the Convention was not by implication applicable to religious discrimination.

65. In a country such as the Philippines, the Government could be expected to be actively engaged in administrative or other action to promote national unity, and he would therefore welcome further information on specific instances of such action in future reports submitted by the Philippine Government. It would also be interesting to know whether the draft decree to implement article 4 had been approved.

66. Mr. NETTEL thanked the Philippine Government for its report. He asked whether the breakdown of the population given in the annex had been established on the basis of a census.

67. Mr. SIAZON (Philippines) thanked the members of the Committee for their comments and questions, which he would convey to his Government so that they could be taken into account in its next report. Co-operation between his Government and the Committee was a continuing process, and the Philippines hoped to effect further improvements in subsequent reports.

68. Many members of the Committee had referred to the population breakdown given in the annex. The Philippine Government had no statistics on the ethnic origins of the population, but data on the various mother tongues spoken in the Philippines had been gathered in the 1970 census. The term "mother tongue" meant the tongue which was normally spoken in the family and was considered to be the one with which the person concerned was most familiar; it did not indicate ethnic origin. A great many different dialects were spoken in the Philippines; the three official languages were Tagalog, English and Spanish, Tagalog being the national language.

69. The text of the draft decree to implement article 4 of the Convention would be made available to the Committee once it had become law. His Government would also submit further information concerning the administrative and other measures taken to comply with article 7 of the Convention, but he could already cite one example: the educational curriculum in the Philippines required a study of the United Nations Charter in secondary schools.

70. With regard to the implementation of article 5 of the Convention, it had been pointed out that the anti-discrimination provision in article II, section 9, of the Philippine Constitution related only to labour relations. That was because section 9 dealt exclusively with labour relations; however, implementation of article 5 of the Convention was also provided for in the Bill of Rights.

71. The text of the 1973 Constitution had been circulated to members of the Committee: it remained in force except for some amendments which had been approved by referendum in 1975. Martial law was still in force in the Philippines.

72. The CHAIRMAN thanked the representative of the Philippines for his statement and noted that the comments and questions of members of the Committee would be conveyed to the Philippine Government. He looked forward to that Government's next report and expressed his appreciation for its continuing co-operation with the Committee.

73. Mr. Siazon withdrew.

#### ATTENDANCE OF MR. SAMPAY AT THE COMMITTEE'S SESSION

74. Mr. SAYEGH recalled that it was the custom at the beginning of every session for the representative of the Secretary-General to inform the Committee of the intention or otherwise of members to attend the Committee's session. Mr. Sampay was the only member absent from the present session. He had first joined the Committee at the beginning of its thirteenth session but had been absent from part of that session and for the whole of the fourteenth session. He would be interested to know whether the secretariat had received any information concerning Mr. Sampay's intentions. If he was absent for health reasons, the Chairman might convey to him the Committee's wishes for a speedy recovery. If Mr. Sampay was absent for other reasons, the Committee should consider what action to take in connexion with his absence.

75. The CHAIRMAN said that he had received a letter from Mr. Sampay in January 1977 explaining that he had been unable to attend the fourteenth session because of a heart attack which he had sustained on his arrival in Buenos Aires after leaving the Committee's thirteenth session. He had added that he hoped to attend the present session.

76. In reply to a question by the CHAIRMAN, Mr. HOUSHMAND (Secretary of the Committee) said that no reply had been received from Mr. Sampay to the letter that had been sent to all members concerning their travel arrangements. The secretariat had nevertheless instructed the travel agency to contact him at his private address and provide him with travel tickets to Vienna. If the Committee so wished, the Secretariat could ask the travel agency whether it had contacted Mr. Sampay, or it could alternatively inquire about Mr. Sampay's health from the Permanent Mission of Argentina.

77. Mr. SAYEGH said that, since Mr. Sampay was a member of the Committee in his personal capacity, it would be inappropriate for the Committee to make inquiries through the Permanent Mission. The representative of the Secretary-General, or the Chairman, might communicate with Mr. Sampay direct by telephone.

78. The CHAIRMAN agreed with that suggestion. The Committee might revert to the matter during the following week.

79. Mr. BRIN MARTINEZ said that, before leaving for Vienna, he had had discussions with the Argentine Ambassador in Panama, who had told him that Mr. Sampay's state of health might make it difficult for him to attend the Committee's session. Mr. Sampay could be contacted at his home if it was decided that the Chairman or a member of the Secretariat should communicate with him by telephone.

80. The CHAIRMAN said that an effort would be made to contact Mr. Sampay in the manner proposed.

The meeting rose at 1.10 p.m.