



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

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-eighth session

SUMMARY RECORD OF THE 1449th MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 13 March 2001, at 3 p.m.

Chairman: Mr. SHERIFIS

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 6) (continued)

Fifteenth periodic report of Germany (CERD/C/338/Add.114; HRI/CORE/1/Add.75)

1. At the invitation of the Chairman, Mr. Lewalter, Mr. Stoltenberg, Mr. Radziwill, Mr. Blath, Mr. Haberland, Mr. Rothen, Ms. Zeitz and Mr. Dieter (Germany) took places at the Committee table.
2. Mr. LEWALTER (Germany), introducing the periodic report (CERD/C/338/Add.114), said that the far-reaching political, social and economic changes brought about by the reunification of Germany and the unprecedented increase in the number of foreigners given temporary refuge in the country had led to an alarming increase in racist and xenophobic incidents in the mid-1990s. Determined action by the authorities had for a time achieved a substantial decline in the registered number of such incidents but recent statistics again showed a sharp increase, which the Government viewed as shameful and unacceptable. The most fundamental value recognized by the German Basic Law was the dignity of all human beings: hence the constitutional prohibition of discrimination on grounds of race, ethnic origin or religious belief. High priority was given to the fight against racism and xenophobia not only by the executive, the legislature and the judiciary but also by civil society, both because of Germany's historical experience and because of its many years of coexistence with foreign residents who had become an integral part of society and had helped to build prosperity in post-war Germany. Integration could be achieved by respecting different cultural values and customs. It did not require total assimilation at the expense of cultural, religious and linguistic identity.
3. Germany acknowledged the existence of shortcomings in its defence of human rights and did not view them as an internal affair. It was grateful for all international assistance and attached the utmost importance to the human rights treaty monitoring system. In that spirit, Germany counted on the Committee's support and constructive criticism and would pay careful attention to its advice.
4. Mr. STOLtenberg (Germany) said that the Federal Government opposed any attempt to gloss over recent right-wing extremist, xenophobic, racist and anti-Semitic attacks. They were despicable criminal acts against which the law enforcement authorities were taking vigorous measures. At the same time, steps were being taken to promote understanding among all members of the population and to create a political and social climate in which people no longer turned a blind eye to events but, as democrats, spoke out against undesirable trends.
5. Germany had signed Protocol No. 12 to the European Convention on Human Rights which prohibited discrimination on a variety of grounds. The Federal Government intended to review the possibility of making the declaration under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination in response to the urgent appeal by the United Nations High Commissioner for Human Rights.

6. In the light of the United Nations principles relating to the status of national institutions for the promotion and protection of human rights (the “Paris principles”), an independent German Institute of Human Rights to monitor the internal human rights situation had been established the previous week. The Federal Parliament had set up an independent Human Rights Committee and the Federal Government’s biennial Human Rights Report to the Federal Parliament would in future focus on the internal human rights situation.

7. Germany had ratified the Council of Europe Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages, and had submitted its first reports in respect of those instruments following consultations with the minorities concerned. The Sinti and Roma now enjoyed effective protection and received financial assistance from federal funds. Those who had been subjected to forced labour during the Nazi era received compensation payments from a newly created Foundation.

8. Turning to the fight against racist propaganda, he said that 474 persons had been convicted of disseminating propaganda and 423 for using the symbols of unconstitutional organizations in 1998. Together with the Friedrich Ebert Foundation and the Simon Wiesenthal Center, the Federal Ministry of Justice had convened an international conference to combat hate and right-wing extremism on the Internet in June 2000. A Berlin Declaration called for action by States, Internet users and the business community against the global commercial exploitation of hate on the Internet.

9. The Federal Government had filed an application with the Federal Constitutional Court for a declaration of unconstitutionality of the right-wing extremist National Democratic Party of Germany (NPD), which sought to abolish the basic democratic order and was becoming increasingly aggressive. The Federal Council (the upper chamber) and the Federal Parliament also intended to file applications with the Court. In September 2000, the Federal Minister of the Interior had banned the neo-Nazi skinhead group “Blood and Honour Division in Germany” and its youth organization, which opposed the constitutional order and international understanding. Although the ban had not yet taken full effect, the propaganda activities of prominent activists had been curtailed.

10. Turning to article 5 of the Convention, he said that the Bosnian Serb Dusko Tadic, who had been convicted by the International Criminal Tribunal for the former Yugoslavia, would serve his prison sentence in Germany. On 11 December 2000, Germany had ratified the Rome Statute of the International Criminal Court. It had also decided to strengthen the basis for the prosecution of international crimes, including apartheid and persecution on racist grounds, by national courts. A corresponding bill would be submitted later in the year.

11. A European Union Directive of 29 June 2000 concerning equal treatment of persons irrespective of racial or ethnic origin sought to prevent discrimination in the private sector. Current German law did not yet satisfy the requirements of the Directive. Disadvantageous treatment could be countered only by a claim to compensation, and there was also no clear regulation of the burden of proof in favour of the person who had experienced discrimination. The competent ministries were currently drafting the necessary bills for implementation of the Directive in good time.

12. The Federal Government had established an Alliance for Democracy and Tolerance and against Extremism and Violence, which had gained widespread support from voluntary associations, schools and prominent politicians, artists and sports personalities. Its work was structured by a 20-member Advisory Council representing the Federal Government and Parliament, business, trade unions, the Jewish community and social organizations. The Alliance offered advice and support for projects and publicized praiseworthy examples of civil commitment. A special event based on the slogan "Young People for Democracy and Tolerance" would be held on 23 May 2001, German Constitution Day. Anti-violence sporting events had proved particularly successful. A national poster campaign had been launched, local newspaper editors and municipal office-bearers had been given advice on addressing the issue of foreigners and extremism, and stars from the music world had made statements against xenophobia and in favour of cultural diversity.

13. The Federal Government was funding three anti-racist programmes addressed to young people. The Xenos programme focused on promoting labour-market measures to build understanding between German and foreign youth. A programme called "Measures against Violence and Right-wing Extremism" was targeted at children at various levels of education. The third programme, "Promotion of Model Projects against Right-wing Violence in the New Länder", was designed to replace extremism, xenophobia, racism and anti-Semitism by an inclusive culture involving the whole community.

14. The Federal Government was extremely concerned about the enormous increase in racist crime in 2000. There had been an increase of 58.3 per cent in right-wing extremist crimes, of 57.4 per cent in offences with a xenophobic background and of 68.7 per cent in anti-Semitic crimes. An increase of 34 per cent had been recorded in violent offences. It was a particularly shameful situation when seen against the background of German history. The Federal Government was engaged in a thoroughgoing analysis to establish the causes. In addition to the provision for victim compensation described in the periodic report, the German Federal Parliament had provided DM 10 million in compensation for victims of right-wing extremist violence in December 2000. In conclusion, he informed the Committee that Germany's periodic report had been posted on the Internet.

15. Mr. BOSSUYT (Country Rapporteur) said that Germany's size and federal structure, the number of foreigners living there and the country's historical responsibility vis-à-vis certain ethnic groups made the task of considering its reports extremely difficult. A brief review of political developments might assist in understanding the current situation. In the early 1990s liberal asylum procedures in Germany had led to an increase in support for small extremist right-wing groups and to an upsurge in acts of violence against asylum-seekers. Extremist right-wing parties had gained ground in the 1992 Länder elections. Following a constitutional amendment to the right of asylum in 1992, the number of applications for asylum had declined sharply. In 1994, the Federal Parliament had introduced more severe penalties for extremist acts of violence and for Holocaust denial, and extreme right-wing parties had received little support in the federal elections. In 1997, high unemployment had been associated with an upsurge in the activities of extremist organizations. The Deutsche Volksunion, an extremist right-wing party in Sachsen-Anhalt, an economically depressed Land in eastern Germany, had obtained almost 13 per cent of the vote. In the 1998 federal elections, which had brought to power a new coalition of Social Democrats and Greens, no extremist right-wing candidate had won a seat in

the Federal Parliament. In 1999, the Act on the Reform of the Nationality Law had been adopted and the Government had agreed to pay considerable sums in compensation to victims of forced labour or dispossession under the Nazi regime.

16. With regard to the protection of minorities, he noted that the Sinti and Roma were now recognized as national minorities and that the Jewish community had doubled since 1990 as a result of immigration from the Commonwealth of Independent States (CIS). He took it that the four ethnic groups to which the Council of Europe Framework Convention for the Protection of National Minorities was deemed to be applicable were the Danish and Sorbian minorities, the Friesians, and the Sinti and Roma. It would be interesting to learn whether that understanding of the scope of the Convention was a direct result of its provisions or reflected the German Government's interpretation.

17. The report drew a distinction between indigenous minorities in countries whose frontiers had been adjusted and who had been afforded special protection under the Peace Treaties following the First World War, and foreigners or recently naturalized Germans whose presence in the country was a matter of personal choice and who had not been affected by the redrawing of borders. According to paragraph 22 of the report, persons in the latter category enjoyed sufficient protection under ordinary law.

18. In 1997 the total population of Germany had stood at 82 million, 7.3 million of them foreigners, including 2.1 million Turks. He noted the special policy focus on the integration of foreigners living permanently and legally in Germany (report, para. 54), the substantial budget allocations for promoting the integration of foreign employees and their families (para. 55), and the improved educational situation of young Turks (para. 56). There were around 3 million Muslims in Germany, with more than 2,000 places of worship. He therefore wondered why a judgement of the Berlin Higher Administrative Court had been necessary to authorize an Islamic association in Berlin to provide religious instruction, as mentioned in paragraph 58 of the report.

19. In the past German nationality law had been based on the strict concept of ius sanguinis, which had made the naturalization of foreigners extremely difficult, although so-called ethnic Germans had been able to acquire nationality automatically and thus the right to reside in the country without restrictions. The July 1999 Act on the Reform of the Nationality Law had therefore been an important development since it had introduced the principle of ius soli, under the conditions described in paragraphs 62 and 63 of the report. He asked what impact the reform of the Nationality Law had had so far.

20. In a report produced in February 2001, Amnesty International alleged that, although there had been fewer complaints relating to ill-treatment of foreigners by the German police, such complaints were nonetheless not followed up in a satisfactory manner; it appealed for the regular publication of statistics relating to such incidents, and cited cases of ill-treatment between 1994 and 2000 against foreigners of Mediterranean and African origin.

21. According to other non-governmental organization (NGO) sources, between 1987 and 1992 the number of requests for asylum had almost doubled, reaching a record high of 438,000 in 1992. That had led to an amendment to the constitutional provision relating to asylum and since then the number of requests had declined significantly. In 2000, for the first

time in many years, Germany had no longer been the European country with the highest number of asylum applications. In 1999 the rate of approval for applications had been 3.5 per cent, with 4.5 per cent of asylum-seekers obtaining a stay on their order to leave the country. At the Committee's request, the State party had provided an updated list of "safe countries", drawing a distinction between 14 "third countries" and 6 "countries of origin". In 1998 the Committee on Economic, Social and Cultural Rights had expressed concern about the slowness of the procedures for examining asylum applications. Amnesty International had referred to excessive use of force during the repatriation of asylum-seekers whose applications had been dismissed, resulting even in the death of a Sudanese citizen in May 1999. Following a visit to Germany in May 1998, the European Committee against Torture, while recognizing the difficulty of enforcing a removal order for a foreign national determined to stay on a country's territory, had stated that no more force than was reasonably necessary should be used by law enforcement officials in such situations.

22. German criminal law provided for penalties for incitement to racial hatred. As borne out by the information contained in the report, sentences were handed down frequently for incitement to hatred, dissemination of racist propaganda and the use of symbols of anti-constitutional organizations (paras. 33-35). Moreover, since 1992, 10 regional associations with extreme right-wing objectives had been banned (para. 38). Referring to the decision by the Federal Constitutional Court to reject Federal Government applications to deprive the right-wing extremists of their fundamental rights (para. 40), he sought clarification regarding the scope of article 18 of the Basic Law. How could it be decided that someone would continue to pose a threat to the free democratic basic order of the Republic in future? In the light of the statement that xenophobic manifestations reflected deeply rooted prejudices and latent fears *inter alia* among the unemployed (para. 78), he asked to what extent the unemployment rate was linked with xenophobic manifestations.

23. The Federal Government had adopted a wide range of measures to combat xenophobic manifestations, including the establishment of a special police service in 1991 for recording xenophobic crimes. It was therefore disappointing to hear that notwithstanding such efforts and their positive results until 1998 there had been a significant rise in anti-Semitic crimes in the previous two years. Also praiseworthy were the measures adopted to combat racism and racial discrimination in foreign policy, (paras. 41-46), cooperation with the International Criminal Tribunal for the former Yugoslavia and the International Tribunal for Rwanda and the ratification of the Statute of the International Criminal Court.

24. Mr. de GOUTTES said he had been impressed by the delegation's frank recognition of the recent rise in xenophobic acts, considered by the Federal Government to be "shameful". The Government was clearly taking steps to combat such problems by banning extreme right-wing associations and even applying to the Federal Constitutional Court in order to declare the unconstitutionality of the NPD party. What was the likelihood of that party eventually being banned? Other positive steps included the numerous sentences handed down in connection with racist propaganda; information campaigns such as "Xenos"; the establishment of a fund to compensate the victims of racial discrimination; the creation of independent human rights bodies, and greater emphasis on the national human rights situation in the Federal Government's biennial human rights reports.

25. Referring to paragraph 68 of the report he asked what progress was being made with the proposals for comprehensive anti-discrimination legislation under the Coalition Agreement of 20 October 1998. It was his understanding that the Government was somewhat hesitant, given the existence of broad-ranging constitutional, administrative and legislative provisions. Was it likely that the Committee's recommendations on the subject would be followed up?

26. Paragraphs 140 to 145 of the report explained why it was not deemed necessary to establish a special centre responsible for implementing the provisions of the Convention, given the existence of the Federal Government Commissioner for Foreigners' Affairs. Perhaps the newly-established German Institute of Human Rights might also have a role to play in that connection. He would welcome more information on its membership and terms of reference.

27. Aside from the information campaigns targeted at young people mentioned in the introductory statement, were there plans for any other programmes to disseminate the principles enshrined in the Convention, for instance, among law enforcement officials? That would seem to be necessary in view of Amnesty International's reports of the ill-treatment of foreigners by the German police. He stressed the importance of involving them in efforts to combat racial discrimination, as highlighted in the Committee's General Recommendation XIII.

28. Was there any prospect of Germany making the declaration under article 14 of the Convention? Since Germany was already a signatory to the European Convention on Human Rights and Protocol No. 12 thereto, the declaration under article 14 would provide German citizens who were victims of human rights violations with a wide range of remedies.

29. Mr. VALENCIA RODRIGUEZ, referring to positive developments relating to article 2 of the Convention, highlighted the three parliamentary seats held by the Danish minority in Schleswig Holstein, activities relating to the Jewish community, including the "Day of Remembrance for the Victims of National Socialism", the ratification of the Council of Europe Framework Convention for the Protection of National Minorities and the European Council Charter for Regional or Minority Languages, and the joint establishment by Germany and Denmark of the European Centre for Minority Issues (ECMI). Information on the impact of those initiatives would be appreciated.

30. In response to the Committee's concerns, paragraphs 13 to 22 of the report explained why Germany did not deem it necessary to grant special protection to certain population groups which were larger in number than the four small groups traditionally accorded the status of national minorities. While he understood the arguments put forward, he recommended that the matter should be kept under review.

31. With regard to the implementation of article 3 of the Convention, he agreed that, for a number of reasons, foreign workers preferred to live near their compatriots. It would therefore not be appropriate to force them to leave such districts for others assigned by the authorities. What was required, however, were appropriate measures to promote the integration of foreigners in German society, through employment programmes or cultural events.

32. Among the positive developments with respect to article 4, he cited the steps taken to combat racist organizations and the dissemination of racist propaganda and the successful extradition and sentencing of a United States citizen for inciting to racial hatred, disseminating propaganda and using the symbols of anti-constitutional organizations (para. 31). Although the relevant provisions of the Penal Code were being properly applied, racist manifestations must be even more closely monitored. The consideration given to the possibility of suspending certain basic rights such as freedom of the press, assembly and of association in the event of their abuse (para. 39) showed that the German Government had struck the right balance between the exercise of such rights and its obligations under article 4 of the Convention. However it was also important to coordinate national efforts with those at international and, especially, European levels.

33. Referring to information provided on article 5 of the Convention, he highlighted Germany's cooperation with the international tribunals for the former Yugoslavia and Rwanda. As to legislation relating to foreigners and asylum procedures, while he understood the reasons for drawing up a list of "safe countries" he stressed that it was a very sensitive matter requiring a cautious approach, and that the list must be based on objective criteria. Clearly considerable progress had been made with regard to the integration of foreigners, in guaranteeing them equal opportunities, including access to the courts of law, and ensuring their full participation in society. The Committee should be kept informed of further developments.

34. He appreciated the Federal Government's efforts to consider the Committee's proposal to adopt comprehensive anti-discrimination legislation. In that connection he sought more information on provisions improving access to the labour market for foreigners by removing the obligation for them to have a work permit.

35. With respect to article 6, he understood the Government's serious concern about manifestations of xenophobia and racial discrimination. He noted that there had been an increase in anti-Semitic crimes which called for continued education and training as well as the application of the law where necessary. He applauded the extensive research done on the causes of such crimes, whose results should form the basis for action by the authorities. Advantage should also be taken of the general rejection of such discriminatory and xenophobic attitudes by the majority of the German population. More training courses should be organized for police officers in view of complaints about their unreasonable use of force against groups of foreigners. Referring to the information provided in paragraphs 116 and 117, he asked whether a tourist staying in Germany for a short time who was the victim of an act of violence would also be eligible for compensation. In the affirmative, what type of compensation would he or she receive?

36. Mr. ABOUL-NASR said that he appreciated the German delegation's recognition of the contribution of foreign workers to Germany's prosperity. In view of the urgent need for manpower in Europe in coming years, he asked how many foreigners were required to keep economic growth on track. Foreigners did not come solely for political asylum or for charity, but were needed and should be thanked for their contribution and treated accordingly.

37. He asked whether the human rights report referred to in the delegation's introductory remarks was available. He had heard that it did not contain any criticism of Israel and the events in the occupied territories, which he found difficult to believe.

38. Mr. STOLTENBERG (Germany) said that the report was available on the Internet.

39. Mr. ABOUL-NASR said that, as an African, he was unfamiliar with the Internet. Turning to Germany's fifteenth periodic report, he said that the relevance of many of the references to European conventions, treaties and standards was unclear to him. He also questioned the use of the term "extreme right", which was not necessarily tantamount to racist. Rather than refer to the extreme right and skinheads, it would be preferable to talk about racist organizations or parties. He asked if it was true that the major European pharmaceutical companies refused to lower their prices for medication for AIDS sufferers, and, if so, whether anything could be done about that situation. He then raised the problem of landmines in Egypt dating from the Second World War, still buried in the desert and claiming casualties every day. Germany had done much work cleaning mines from parts of Europe. Those who had laid the mines in his part of the world might well show an interest in saving the lives of non-Europeans, who were the victims of someone else's war.

40. Mr. RECHETOV, commending the regularity of Germany's contacts with the Committee, the high quality of its report and the frank discussion of the country's problems, noted first that the periodic report referred to the protection and assistance given to Muslim groups, but said nothing about how the rights of Germany's traditional ethnic groups were protected. More information was needed to have a full picture of the situation.

41. Referring specifically to paragraph 9, he said that Germany had recently announced with great pomp that it was setting up a fund to give compensation to persons, primarily from Eastern Europe, who had been used for forced labour. Of course, there was no way to compensate those persons fully for their suffering; the initiative was meant as a symbolic gesture. His own country, too, had a debt towards the Poles and other peoples. That being said, he had recently learnt from the German media that major German companies did not intend to make any further contributions to the fund. Could the German delegation comment?

42. Mr. TANG Chengyuan said that article 7 of the Convention stressed the importance of education in combating the root causes of racial discrimination. The media had a role to play in that regard, an aspect which was touched upon in Germany's report. Schools must teach equality and promote human dignity. He was pleased to note that centres had been set up to promote understanding of foreigners among young people. Efforts to combat racial discrimination must focus on the primary and secondary school level so as to make Germans aware of their historical responsibility. The report had failed to give sufficient emphasis to that goal, which was a long-term task.

43. There had been many complaints by foreigners from third world countries about the excessive use of force by the German police. Although there had been some improvement in the situation, measures must be taken to combat that trend and give it greater attention in the media.

44. Mr. DIACONU said that, for historical reasons, Germany had focused above all on what today were small minority groups, while failing to recognize as such the much larger minority groups that had arrived more recently. Millions of persons belonged to those groups; many had taken German nationality and were there to stay. The point in recognizing such groups was to help them preserve their linguistic and cultural identity, and Germany had made efforts in that regard. Why not go further in that direction? The explanation given in paragraphs 20 and 21 of the report that such persons had come to Germany by choice was not convincing. Germany had encouraged them to come and had even granted many of them German citizenship. In that connection, he asked whether the Turk, Yugoslav and Moroccan communities had their own cultural associations, and whether any schools offered classes for such groups in their mother tongue or bilingual education.

45. He welcomed the progress made with regard to dual nationality. He noted that in the 1980s, persons from one particular group living in Germany had been required to give up their nationality as a condition for applying for German nationality, but their applications had then been rejected, and they had become stateless; they had thus been unable to return to their country of origin or even make use of their property there.

46. Racially motivated acts of violence by the police persisted. Hence the need to educate the police about the need for tolerance of others. In that context, he welcomed the more severe punishment recently adopted for acts of racist violence. The most important problem in Germany was the resurgence of manifestations of xenophobia, racial discrimination and prejudices. If politicians had the courage to make it clear that Turks, Yugoslavs and other ethnic groups were in Germany to stay and that they should no longer be considered foreigners, it might change mentalities and accustom people to that reality. The German Government acknowledged that national awareness was not inconsistent with an “intercultural opening-up” (para. 146). That was a good starting point.

47. Mr. THORNBERRY drew attention to the statement in paragraph 6 that German Sinti and Romanies “will also be termed a national minority”. Was that a concession, or did it stem from the German understanding of the words “national minority”? In other words, did that terminology acknowledge a right or a privilege granted by the State? Regarding the statement in paragraph 14 that each ethnic group had the right to keep its own language, did that mean that positive measures might be appropriate in order to ensure that right? Once again, it looked like a concession.

48. He had read with interest (para. 13 *et seq.*) about the historical development of Germany’s view of minorities and importance of the redrawing of borders. But minority rights were not confined to persons affected by border changes, and he drew attention to General Comment No. 23 of the Human Rights Committee, from which it emerged that recognition of minorities could not be entirely dominated by historical considerations and that there was always room for the emergence of new groups, including those arising through contemporary processes of globalization. Was Germany’s understanding of nationality consistent with that position?

49. In the section relating to article 3 of the Convention (para. 23 *et seq.*), there seemed to be some question of de facto residential segregation; he drew attention to the Committee's General Recommendation XIX in that connection. Paragraph 26 referred to the element of choice when people decided to live in a given neighbourhood. That called for consideration of the extent to which such choices were voluntary: it might require more than market forces if certain groups were to have more choices. Regarding paragraph 86, he welcomed the study on the profile of xenophobic offenders, which was very important for backing up national policy. It was to be hoped that the references in the draft declaration of the World Conference against Racism to the need for research into the causes of racism would be retained and strengthened.

50. Mr. SHAHI noted that there was considerable disquiet about the resurgence of far-right extremist violence in Germany, particularly in the eastern Länder. He welcomed the spirit of the German delegation's statement, which reassured him that Germany was fully aware of its responsibilities under the Convention. He was particularly impressed that the German Chancellor had recently travelled by bus throughout the eastern Länder to bring home how seriously he regarded the upsurge of far-right extremism. Civil society had also been mobilized to combat the phenomenon. There had also been reports that Germany was experiencing problems with racist propaganda on the Internet and had been unable to take effective action against service providers, particularly in connection with racist speeches from Web sites located outside the country. To what extent did the German Government consider it possible to punish persons who disseminated hate propaganda in Germany from abroad?

51. Mr. YUTZIS asked whether the German Government knew the reason for the recent resurgence of racist incidents. Could it confirm the figure of 1,084 anti-Semitic crimes reported in 2000? Paragraph 82 referred to the increase in "propaganda crimes". What was the percentage of propaganda crimes in overall figures on xenophobic crimes committed in 2000? Such data would give an idea of the importance of the role played by racist groups or organizations in providing logistical support for such offences. With regard to the hiring of foreigners by the police (para. 103), he asked what percentage they represented in the police force and what was being done in the police force to change attitudes.

52. He commended the initiative to offer Islamic religious instruction in schools (para. 59) and urged the German Government to try to find the best approach to resolving the dispute over the form such instruction should take so as to be able to carry through that useful initiative. He welcomed the reform of the nationality law (para. 62) which was crucial to resolving the problems of immigrants and foreigners. He asked the German delegation to expand upon the reference in paragraph 92 to the impact of pluralism, individualization - which presumably should read "individualism" - and globalization. Agreeing with the strong statement contained in paragraph 146 of the report, he said that the emphasis should not be on identity alone. Much more important was recognition of and respect for that identity, along with the eradication of differences in treatment. He noted from the State party's report the substantial measures taken to combat racism, racial discrimination and xenophobia.

53. The delegation of Germany withdrew.

THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION; THIRD WORLD CONFERENCE AGAINST RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE (Draft declaration and programme of action of the World Conference, as amended by the Committee on the Elimination of Racial Discrimination, document without a symbol, in English only)

54. Ms. McDougall introducing the latest version of the amended text, said that, using the document containing the Committee's contribution (A/CONF.189/PC.1/12) as a basis, she had inserted additions to the draft declaration and programme of action in bold italics. In paragraph 102 of the programme of action she had added an entire section concerning the Convention. She drew members' attention in particular to paragraph 126, subparagraph (b) - not one of her additions - containing a recommendation to establish a new monitoring mechanism. The Committee should decide whether it supported that idea. The draft before the Committee contained a great many proposed amendments, although nothing controversial had been added. She asked members to confine their questions to the additional points. The amended paragraphs did not cover points raised at the inter-sessional meeting.

55. Mr. ABOUL-NASR, referring to paragraph 126, sought support for his suggestion that the Committee should be entrusted with follow-up to the Conference, rather than agree to the establishment of a new monitoring mechanism.

56. Mr. BOSSUYT, supported by Mr. SHAHI, suggested that the phrase "As amended by the Committee on the Elimination of Racial Discrimination" should read "As suggested by the Committee on the Elimination of Racial Discrimination" in the title on page 1, since the Committee was not empowered to amend a text not its own. He supported Mr. Aboul-Nasr's suggestion, on the grounds that paragraph 126, subparagraph (b) would involve the creation of yet another monitoring body for racially discriminatory acts, when that was precisely the Committee's remit.

57. The CHAIRPERSON pointed out that subparagraph (a) was just as relevant to the issue as subparagraph (b).

58. Mr. de GOUTTES commended the work done on the draft, especially on paragraphs 103 to 111, which contained some very important points, most particularly paragraph 109 concerning early warning measures. Supporting Mr. Aboul-Nasr's proposal, he suggested that the Committee might at least offer its services as the monitoring mechanism for the declaration. He also proposed that national human rights commissions or institutions should be added to the list in parentheses in paragraph 5, line 2, of the programme of action.

59. Mr. SHAHI disagreed with Mr. Aboul-Nasr's proposal on the grounds that it might not be acceptable to the States parties that the Committee should serve as the monitoring mechanism. Also, he recommended caution before the Committee assumed another mandate, which would add a significant burden to its already onerous schedule.

60. Mr. DIACONU commended the inclusion of the references to the Committee and the Convention in paragraphs 102 to 111 of the programme of action, but felt that the Convention should also be mentioned in the declaration. Moreover, it was vital that mention of the implementation of economic, social and cultural rights in paragraph 8 of the declaration should be preceded by a reference to the implementation of the Convention. Turning to the programme of action, he proposed that the phrase “in accordance with the International Convention on the Elimination of All Forms of Racial Discrimination” should be added at the end of paragraph 1, subparagraph (a). Regarding Mr. Aboul-Nasr’s proposal, the Committee already had a mandate. However, it could offer to take account of the declaration and programme of action in its consideration of States parties’ reports. Since some of the tasks enumerated in paragraph 126, subparagraph (b), for the proposed new monitoring mechanism duplicated the work of the secretariat, he proposed that it should be replaced by a subparagraph to the effect that the secretariat of the Office of the United Nations High Commissioner for Human Rights would perform those tasks. He would submit his proposals in writing to Ms. McDougall.

61. Mr. TANG Chengyuan said he wondered whether the proposal contained in paragraph 108 of the programme of action differed in any way from the Committee’s current function. He advocated prudence with regard to the proposal contained in paragraph 109, which would increase the Committee’s workload. Any such proposal would need to be submitted to the President of the World Conference.

62. Mr. FALL disagreed with Mr. Aboul-Nasr’s proposal on the grounds that it was normal for world conferences to establish follow-up mechanisms without encroaching on the Committee’s territory. Those were political issues and should be dealt with at the political level.

63. Mr. ABOUL-NASR withdrew his proposal.

64. Ms. JANUARY-BARDILL drew attention to an apparent duplication in paragraphs 101 and 126 with regard to studies, research and the compilation of data by regional centres and by the proposed international monitoring mechanism.

65. Mr. PILLAI asked in what form the Committee wished to see its own centrality and that of the Convention expressed in the document. Section XIX could be worded in such a way as to place the focus on both. Paragraph 109 dealt with early warning procedures, while paragraph 18 (a) also dealt with capacity-building for early warning. Section I was entitled “Measures at the National Level”, and section XIX “Measures at the International Level”, but which type of measures did the intervening sections cover? It was important that there should be no repetition or overlapping.

66. Mr. THORNBERRY said that as the new draft stood there was a huge overlap between paragraphs 84 and 85 of the draft programme of action. He would also submit to Ms. McDougall some proposals regarding minorities for section XIII.

67. Mr. SHAHI said that emphasis should be placed on early action as well as on early warning.

68. Ms. McDougall, supported by the CHAIRMAN, urged members to refrain from proposing structural changes, since any proposed amendments from the Committee would be subject to a tolerance level it would do well not to exceed. In response to Mr. Pillai, she explained that some degree of overlapping was unavoidable. Early warning, to take one example, was germane to prevention activities, but also to the section on the Convention and the work of the Committee. It might also be a positive gesture to present the text containing the Committee's suggested amendments to the High Commissioner for Human Rights when she addressed the Committee on the following day.

69. The CHAIRMAN said that it would be premature to do so before the revised text submitted by the Committee had been finalized, at which stage it would be submitted to all bodies concerned, including the Preparatory Committee.

The meeting rose at 6.15 p.m.