

**INTERNATIONAL
COVENANT
ON CIVIL AND
POLITICAL RIGHTS**



Distr.
GENERAL

CCPR/C/SR.166
10 August 1979

ENGLISH
Original: FRENCH

HUMAN RIGHTS COMMITTEE

Seventh session

SUMMARY RECORD OF THE 166th MEETING

held at the Palais des Nations, Geneva,
on Wednesday, 8 August 1979, at 3 p.m.

Chairman: Sir Vincent EVANS

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GE.79-3117

The meeting was called to order at 3.20 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT: INITIAL REPORT OF STATES PARTIES DUE IN 1977 (Agenda item 5) (continued)

Report of Cyprus (CCPR/C/1/Add.28) (continued)

1. The CHAIRMAN said that, following informal consultations in which various members of the Committee had participated, it had been agreed, without prejudice to the procedure to be followed subsequently, that the representative of Cyprus would take the floor during the current meeting immediately after each member in order to reply to his questions.

2. If there were no objection, he would take it that the Committee wished to adopt that procedure.

3. It was so decided.

4. Mr. JANCA thanked the delegation and Government of Cyprus for the fruitful dialogue they had undertaken with the Committee for the second time in two years. The report submitted gave a clear and complete picture of the most important legal norms in force in the Republic of Cyprus through which it was implementing its obligations. However, it should be borne in mind that the Republic was unable in practice to ensure implementation throughout its territory, part of which was occupied by a neighbouring power, and that the Government of Cyprus had not in fact declared a state of emergency although the Constitution entitled it to do so.

5. Referring to the fact that the Covenant formed part of Cypriot municipal legislation and took precedence over any other municipal law, he said he wished to know whether that meant that the courts of the Republic of Cyprus were authorized to implement the provisions of the Covenant directly when they were incompatible with internal legislation or, when the latter did not cover the case, by recourse to an additional procedure. In that connexion, he asked whether Section 27, paragraph 2, of Chapter 154 of the Cyprus Criminal Code, which provided that the death penalty could not be passed on persons under the age of 16, was currently applicable or whether the Courts were obliged to conform to article 6, paragraph 5, of the Covenant which stated that sentence of death should not be imposed for crimes committed by persons below 18 years of age. Similarly, he wondered how article 23, paragraph 4, of the Covenant was applied when the Constitution of Cyprus guaranteed only the rights referred to in paragraphs 1, 2 and 3 of that article, if he had interpreted the report correctly (CCPR/C/1/Add.28, p. 14).

6. He was pleased to note that the Constitution of the Republic of Cyprus was more complete than the Covenant with regard to the grounds on which no discrimination could be justifiable and that the same applied to the equality of rights between men and women. In that connexion and with reference to article 40, paragraph 1 of the Covenant, he said he would be grateful if the Cypriot Government would provide some statistical data on the progress achieved in the implementation of the principle of equality between men and women in the enjoyment of their rights. For example, it would be interesting to learn how many women were members of the House of Representatives, how many women were judges in Cyprus, whether the percentage of women enrolled at the universities had increased in recent years, and what the proportion of women students was as compared to men students.

7. It was surprising that the report contained no information, in connexion with article 14 of the Covenant, on the judicial system in the Republic of Cyprus and particularly on the independence and impartiality of its courts. He would like to know how the judicial system was organized; whether judges were elected or nominated; and, if they were elected, how long their term of office was and what conditions were required; whether judges could be removed from office before their term expired and, if so, by whom and on what grounds.

8. Mr. LOUCAIDES (Cyprus), speaking at the invitation of the Chairman, said, in answer to the first question raised, that the provision in the Criminal Code to the effect that the death penalty could not be passed on persons under the age of 16 would be declared inoperative in view of the fact that the Covenant fixed the age limit at 18.

9. On the second question, he said that there was no specific legislation governing equality of rights between men and women, but that any legal provision incompatible with that principle would be declared null and void, as was evident from the decisions of the Supreme Court of the Republic of Cyprus. Any woman could be a member of the House of Representatives and of the Government. All women could be civil servants and there were in fact a large number of them. After pointing out that there was no university in the Republic of Cyprus, he stated that, in other educational institutions, the number of women was about equal to that of men.

10. With regard to the third question, he said that Supreme Court judges were, in accordance with the Constitution, appointed jointly by the President and Vice-President of the Republic and, as things stood in the absence of a Turkish-Cypriot Vice-President, by the President alone. They could only be removed from office through the decision of the Supreme Court for professional misconduct or for medical reasons. They remained in office until the age of 68. Those conditions were also valid for the Attorney-General of the Republic and the deputy Attorney-General and no law could alter those conditions to their detriment. The members of the district courts were appointed by the Judicial Council which was made up of the Supreme Court judges, the Attorney-General of the Republic and a member of the Bar. They could be removed from office only by the Judicial Council for misconduct or on medical grounds.

11. Mr. SADI, referring to the part of the report (CCPR/C/1/Add.28) concerning article 2, paragraph 1 of the Covenant, asked whether the Constitution of Cyprus tolerated discrimination.

12. With regard to article 6 of the Covenant, he was surprised to note the absence of a reference in the report to genocide among the most serious crimes punishable by the death penalty, whereas piracy was listed. In connexion with the implementation of article 7 of the Covenant in Cyprus, he asked what measures the Cypriot Government envisaged to combat torture, since it was not sufficient merely to declare it illegal.

13. In the context of article 18 of the Covenant, he referred to article 18, paragraph 2 of the Constitution of the Republic of Cyprus as quoted in the report (page 12); and said he wondered why religions whose rites were secret could not be freely practised. Article 18, paragraph 5 of the Constitution was, in his view, incompatible with the Covenant, because it was possible in the case of some religions, such as Islam for example, to use moral compulsion to prevent a person from changing his religion.

14. He thought that the principle set forth in article 18, paragraph 7, of the Constitution was incompatible with the Covenant, or at any rate with the basic principles of the monotheistic religions, in particular.

15. On the subject of Chapter 154, Section 40, of the Cypriot Criminal Code, referred to (page 13 of the report) in connexion with article 20, paragraph 1, of the Covenant, he considered it could have dangerous implications in that it could also mean that any person who, with lawful authority, carried on, or made preparation for carrying on or aided in or advised the carrying on of, or preparation for, any war or warlike undertaking in the Republic would not be guilty of a crime. Referring to article 48 (Chapter 154) of the Cypriot Criminal Code (page 13 of the report), he said that the act of merely raising discontent could be a legitimate democratic act devoid of any seditious intention; on the other hand, in connexion with article 51 (Chapter 154) of the Code, cited on page 13 of the report under article 20, paragraph 2 of the Covenant, he commented that promotion of feelings of ill will between different classes or communities or persons was a very serious offence, particularly in a country which had suffered much from that kind of conduct, which should not be classified as a mere misdemeanour.

16. Mr. LOUCAIDES (Cyprus) said that the phrase "unless there is express provision to the contrary in this Constitution", which appeared in article 28 of the Cypriot Constitution (page 2 of the report), referred to the sharing of political rights between Turkish and Greek Cypriots provided for by the Constitution. It also applied to foreigners who did not enjoy the recognized political rights of Cypriot nationals and who, unlike nationals, could, in certain circumstances, be deported from the country.

17. In reply to Mr. Sadi's question on genocide, he pointed out that that crime came under the general category of murder. As for inhuman and degrading treatment and the measures taken to combat torture, there were several remedies available to all which were indicated in the legislation (habeus corpus, damages, etc.).

18. The case covered by Section 40 (Chapter 154) of the Cypriot Criminal Code (under article 20 of the Covenant, page 13 of the report) was one in which Cypriot citizens joined invaders of the island, thereby forcing the Cypriot army to fight against both the invader and other Cypriots. That provision did not authorize one part of the population to wage war against another part of the population, whatever the circumstances.

19. With regard to the "discontent" referred to in article 48 (Chapter 154) of the Cypriot Criminal Code (mentioned on page 13 of the report under article 20, paragraph 2, of the Covenant), it should be noted that discontent provoked for genuinely democratic reasons was not covered by the article. In fact, article 48 (Chapter 154) of the Criminal Code made it quite clear that it was lawful to draw attention to errors by the authorities or to lacunae in the Constitution, legislation, administration of justice, etc., if the aim was to correct those shortcomings by legal means or to bring about the necessary changes. Article 48 (Chapter 154) of the Code covered only those cases where the discontent or disaffection was raised with seditious intention for destructive purposes.

20. He went on to explain that the limitations imposed on freedom of religion in article 18, paragraph 2 of the Cypriot Constitution, (page 12 of the report) came within the framework of article 18, paragraph 3, of the Covenant: they were in fact limitations needed to protect public safety and order. Thus, for example, associations pursuing unlawful objectives could, under cover of secret religious rites, engage in activities contrary to public order.

21. Turning to the next question asked by Mr. Sadi on the subject of the use of compulsion referred to in paragraph 5 of the same article of the Constitution, he explained that the restriction was a necessary one to safeguard the morals and basic rights of citizens, because the use of compulsion was incompatible with the right to profess a religion and to choose it freely. Moreover it was perfectly reasonable to think that, up to a certain age, a child was not able freely to choose the religion he wished to profess. The selection of 16 years of age was not an arbitrary one in the social context in Cyprus. Incidentally, that age, had also been selected by numerous other countries. In any case, at the age of 16, the adolescent could renounce the religion that had been chosen for him.

22. With regard to the penalties provided under article 51 (chapter 154) of the Criminal Code for any person who promoted "feelings of ill will between different classes or communities or persons in Cyprus" (page 13 of the report) there were also certain other articles of the Criminal Code which made it plain that the penalty provided for in article 51 was proportionate to the offence. In any case, the question of proportionality of penalties was not covered by the Covenant.

23. Mr. DIEYE said, with reference to the information given in the report in connexion with article 2, paragraph 3, of the Covenant (end of page 2 and beginning of page 3 of the report), that he would like to know whether the Supreme Court had exclusive competence - as the passage of the report in question seemed to imply - to rule that a legislative provision was contrary to a constitutional provision, or whether that plea could be put forward in any court and, in particular, during an actual case, in the one hearing the case and competent ratione materiae? He wondered whether such a court could give an immediate ruling or whether the plea would cause the hearing to be suspended. If only the Supreme Court had competence, it would be useful to know whether the case could be submitted to it directly by an individual or only by the executive authority?

24. Moreover, the meaning of the order of "prohibition" (certiorari), referred to in the second paragraph on page 3 of the report, was not entirely clear, and he feared lest it might hamper the course of justice and frustrate the appeals procedure.

25. A subsequent paragraph on the same page referred to the enforcement of legal remedies. He wondered whether such enforcement was free of charge or whether it had to be carried out through a ministerial official, thus implying the payment of fees.

26. Before the events which had shaken the Cypriot institutions, the exercise of the prerogative of mercy had rested jointly with the President and the Vice-President of the Republic in the case of a person sentenced to death and with the President or Vice-President jointly with the District Attorney and the Deputy District Attorney in the case of a lesser sentence. It would be useful to know whether those provisions had been modified in view of the current situation.

27. On page 7 of the report (under article 9 of the Covenant), it was stated in paragraph 6 that the total period of remand in custody should not exceed three months from the date of arrest. He wondered whether it was to be deduced from that statement that the investigation could not continue beyond a period of three months. If so, it was a provision that could not but be welcomed.

28. To ensure that the prison administration operated in satisfactory conditions and that sentences were served in normal circumstances, it was necessary for the judge who had imposed the sentence to have the right to inspect the prison administration. He would like to know whether the Cypriot prison administration came under the executive authority or the judiciary and whether a judge had a say regarding the manner in which sentences were served.

29. Article 13, paragraph 2, of the Constitution of Cyprus (quoted in connexion with article 12 of the Covenant, on page 8 of the report) referred to "reasonable restrictions" which could be imposed by law on the right of every person to leave the territory of the Cypriot Republic. He asked what was meant by "reasonable restrictions" and in what circumstances they could be imposed.

30. On the subject of the deportation orders referred to on page 8 of the report, (under article 13 of the Convention), he asked whether they might not include a provisional enforcement clause notwithstanding any appeal that might have been submitted by the person concerned. If so, the recourse appeared to be of little value since the alien had to leave the country.

31. Lastly, page 16 of the report dealt (in connexion with article 25 of the Covenant) with the qualifications required of a candidate for election to the Chamber of Representatives. One of the qualifications was that the candidate had not been convicted of an offence involving "moral turpitude" (article 64 (c) of the Constitution of Cyprus). He would like to know the legal significance of that expression and what offences could be regarded as involving "moral turpitude".

32. Mr. LOUCAIDES (Cyprus) said that the question of the illegality or unconstitutionality of legislation could be raised at any stage in a trial and by any one of the parties, but that it had to be relevant to the trial. The court would then give a ruling and its decision could be appealed. If it was a question of the illegality of an administrative act, the only possible procedure was to have recourse to the Supreme Court, under article 146 of the Constitution. As for the possibility given to the Supreme Court to issue an order of "certiorari", that was an auxiliary and complementary procedure to which recourse could be had in conjunction with an appeal. It made it possible to prevent a court that was incompetent to hear a case from remaining seized of it and was thus a procedure that might prove faster and more effective than an appeal in certain cases.

33. Civil judgments were enforced by the court which had handed down the judgment and which was empowered to take various steps. The enforcement of judicial decisions was free of charge and did not require action by a ministerial official.

34. Since the abandonment by the Vice-President of his post, the prerogative of mercy was exercised by the President of the Republic, whatever the origin of the applicant. There had already been several cases.

35. With regard to the maximum period of three months provided in article 11, paragraph 6, of the Constitution of Cyprus (page 7 of the report) for the remand in custody of the person arrested, he said that once that time-limit had been reached, the police had to release the detainee immediately but could continue the investigation.

36. The judge had no say in the manner in which sentences were served, but there were regulations governing the conditions of detention, which were adapted to the gravity of the crime. The Government of Cyprus had recently decided to adopt some liberal and humanitarian measures such as conditional release, and to allow prisoners to be visited by members of their families under certain conditions. If prisoners were subjected to treatment contrary to the law, there was a right of appeal against the prison authorities for redress and for respect of the rights of the convicted person.

37. Among the restrictions on the right to leave the territory of Cyprus, mention should be made of those which concerned young men who had to perform military service. To be authorized to leave the territory of Cyprus, they had to be released from their military obligations.

38. Expulsion orders could form the subject of a suspension procedure which was the same as in the case of other administrative acts. The Supreme Court had in fact the power to issue a provisional order suspending the execution of an administrative act. The record of the decision was communicated to the person concerned. On another point, he said that no case had yet occurred which would make it possible to determine the exact meaning of the expression "moral turpitude". It would seem, however, that it related to immoral acts such as rape.

39. Mr. BOUZIRI, after referring to the first two paragraphs of the report of Cyprus (CCPR/C/1/Add.28) and article 169, paragraph 3, of the Constitution of Cyprus, said he wondered what was actually the status of the Convention in Cyprus. He also wondered why the report indicated (page 1) that the Republic of Cyprus had adopted a number of legislative measures to give effect to certain provisions of the Covenant, when the second paragraph of the same report stated that the Covenant formed part of the municipal law of Cyprus and had superior force to any other municipal law. He asked whether certain provisions of the Covenant which had not been the subject of legislative measures were not applicable in the territory of Cyprus and whether the Covenant had superior force to the Constitution of Cyprus.

40. Furthermore, with regard to article 3 of the Covenant, the report stated (page 5) that under the Cypriot Criminal Code (chapter 154, section 27), the death sentence could not be passed on persons under the age of 16. However, the age stipulated in article 6, paragraph 5, of the Covenant was 18 years. He would like to know whether or not the provision in the Criminal Code was operative.

41. Article 11, paragraph 2 (e), of the Constitution of Cyprus (quoted on page 6 of the report) provided for the detention of persons of unsound mind. He asked whether a person so detained could be visited by friends or members of his family and what recourse was available to such a person or the members of his family in the event that he had been wrongly detained.

42. With regard to article 14, paragraph 3 (d) of the Covenant, it was stated in the report (page 10) that in practice, the absence of a general scheme of legal aid had not been a source of injustice in criminal cases. He would like to know what was the basis for that statement.

43. Article 22, paragraph 1, of the Constitution of Cyprus concerned marriage legislation but it was unclear whether that legislation specified the minimum age at which men and women could enter into a contract of marriage.

44. The Births Law required that all births should be registered. He asked whether, if that provision were not respected, offenders were liable to prosecution.
45. Lastly, with regard to article 25 of the Covenant, he would like to know whether when the situation had been normal in Cyprus, civil service recruitment had taken account of the existence of two different communities or whether it had been based solely on considerations of personal competence.
46. Mr. LOUCAIDES (Cyprus) said, with respect to the death penalty, that if there was a conflict between article 6 of the Covenant and the provisions of article 27 of chapter 154 of the Criminal Code, the Covenant prevailed because it had superior force to all municipal laws other than the Constitution, which was the supreme law of the Republic as established in constitutional article 179. When ratifying the Covenant, the Cypriot Government had acted in the belief that the Constitution and legal order of Cyprus were in accordance with its provisions. The legislative measures adopted to give effect to certain provisions of the Covenant concerned only those which could not be regarded as automatically applicable. That in no way contradicted the statement that the Covenant, once ratified had become part of the municipal legislation of Cyprus.
47. With regard to the detention of mentally disturbed persons, such persons could be detained only in the manner prescribed by law, which meant that the detention was conditioned by numerous guarantees designed as a protection against arbitrary arrest.
48. For the time being, there was no universally applicable system of legal assistance in force in Cyprus. Legislative provision had been made for an advocate to be assigned to defend accused persons but only in certain cases relating to judgements of an Assize Court. However, the Supreme Court of Cyprus had interpreted that provision in such a way as to extend it to all criminal proceedings. All defendants in criminal cases were therefore entitled to legal assistance. Appeals to the Supreme Court did not seem to have given rise to any difficulties so far, because the costs were moderate. In the case of civil proceedings, he could not recall a case in which a person had been in difficulty for want of legal assistance.
49. The marriageable age was fixed by ecclesiastical law. In the case of Christians of the Orthodox Greek Church, it was set at 16 years of age for women and 18 years of age for men. In the case of Moslems, the age was the same for men and women, namely, 18 years.
50. Failure to register a birth was a punishable act, but he was unable to say what the penalty was as he had no information on the subject.
51. With regard to the appointment of civil servants, the proportions up to 1963 had been seven Greek Cypriots for every three Turkish Cypriots. The proportion had been the same in the Government, but in the Army it had been six Greek Cypriots for every four Turkish Cypriots. It should, perhaps, be explained in that connexion that the Turkish population of Cyprus represented approximately 20 per cent of the total. Since 1963, following the adoption of Act No. 33/67, all Cypriot citizens were entitled to apply for posts in the civil service irrespective of their ethnic origin or religion. Their appointment depended solely on their qualifications and abilities. Between 1963 and 1974, there had been Turkish Cypriots in the

civil service and diplomatic services of Cyprus. At one time, the Cypriot Government had proposed to the Turks of Cyprus that the discriminatory provisions in the Cypriot Constitution should be abolished. The reply, a categorical refusal, had come not from the Turkish Cypriots but from Ankara.

52. Mr. PRADO VALLEJO said he would like to know the size of the population of the military Base Areas in Cyprus, which were under the sovereignty of a foreign power, and asked how the Government of Cyprus was able to ensure the promotion of human rights in the Base Areas.

53. In article 11, paragraph 6, of the Cypriot Constitution, quoted in the report of Cyprus (CCPR/C/1/Add.28) under article 9 of the Covenant, it was stated that the judge before whom the person arrested was brought should promptly proceed to inquire into the grounds of the arrest. He wondered what precisely that meant and whether provisional detention extended until the substantive inquiries had been completed and depended on the length of the inquiries, as the paragraph seemed to indicate. The meaning of the phrase "remand . . . in custody . . . for a period not exceeding eight days at any one time" was not entirely clear and he asked how those provisions were interpreted and enforced.

54. It was stated in the report of Cyprus, under article 13 of the Covenant, that deportation orders could be made with respect to aliens, mostly on the grounds of public interest such as good government, or according to the Spanish text la integridad del gobierno. He wondered what that expression was supposed to mean.

55. With respect to article 19 of the Covenant, the report stated that the Constitution of Cyprus stipulated that freedom of expression could be restricted in order to maintain the authority and impartiality of the judiciary. He asked in what way freedom of expression was connected with the maintenance of the authority and impartiality of the judiciary.

56. It appeared from the report (page 18, C) that the Turkish invasion and unlawful occupation of 40 per cent of the territory had brought about the collective denial of all human rights and fundamental freedoms. Respect for human rights in the area of Cyprus occupied by Turkey, did not depend on the Cypriot Government, but he would like to know the grounds for its statement that there was a collective denial of all human rights and fundamental freedoms in the occupied area.

57. Mr. LOUGAIDES (Cyprus) began by stating that, while he did not know the exact number of inhabitants of the Sovereign Base Areas, he estimated it at between 2,000 and 4,000 persons. The Cypriot Government did not of course have any jurisdiction over those Areas. The Declaration by the United Kingdom Government regarding the administration of the Sovereign Base Areas stated: "The laws applicable to the Cypriot population of the Sovereign Base Areas will be, as far as possible, the same as the laws of the Republic". However, the restrictive clause in that provision opened the way to derogations from the laws of Cyprus. In the event of an arbitrary decision, for instance, there was no remedy in those Areas similar to that provided for in article 146 of the Cypriot Constitution.

58. Obviously, in the event of a violation of human rights in those Areas, there was nothing the Cypriot Government could do except make representations. If the United Kingdom Government had recognized the jurisdiction of the European Court of Human Rights for those Areas, any such violations could also be taken to the Court.

59. With regard to article 11, paragraph 6 of the Constitution of Cyprus, where it was stated (CCPR/C/1/Add.20, page 7) that "The judge before whom the person arrested is brought shall promptly proceed to inquire into the grounds of the arrest", he explained that that provision was a guarantee for the person arrested. It gave the court an opportunity to scrutinize the reasons for the arrest, and it obliged the police officers who had made the arrest to give evidence and to be cross-examined.

60. In the same paragraph, the rule that a person might not be remanded in custody for a period exceeding eight days at any one time was a further guarantee for the accused since it prevented provisional detention from being unduly prolonged. There were many cases in which detention was necessary, as for instance, when a serious crime (such as murder) had been committed and the accused person was liable to abscond, or to influence potential witnesses.

61. With regard to the restrictions on freedom of expression with a view to "maintaining the authority and impartiality of the judiciary", which were referred to in article 19, paragraph 3, of the Constitution of Cyprus (CCPR/C/1/Add.20, page 12), he explained that the provision in question was directed at publications and views which tended to undermine the prestige of the judiciary and to influence the judges, pending the hearing of a case for instance.

62. With respect to the power of the Attorney-General of the Republic to authorize the seizure of newspapers or other printed matter under paragraph 4 of the same article, the Attorney-General had never actually used those powers. Although many offending publications had been printed, their authors had not been prosecuted and, in one case, the Supreme Court had even declared that the fact of having to obtain a licence to publish a newspaper was unconstitutional.

63. It was no exaggeration to describe the Turkish invasion and Turkey's unlawful occupation of part of the territory of Cyprus as a "collective denial of all human rights and fundamental freedoms" (CCPR/C/1/Add.20, page 18, C), since there had been systematic, constant and massive violations of such human rights as the right to life (massacre of thousands of persons) to liberty (innumerable detentions), to ownership of property (mass confiscations), and to liberty of movement, to quote but a few.

64. Mr. HANGA said that, as he understood it, the four fundamental sources in matters of civil and political rights in Cyprus were the Constitution, the ordinary laws, the Covenant and the European Convention on Human Rights, namely, two domestic sources and two international instruments. He asked what would happen in the event of a conflict between the first and the second.

65. It was stipulated in article 28, paragraph 2, of the Constitution that "every person shall enjoy all the rights and liberties provided for in this Constitution unless there is express provision to the contrary in this Constitution" (CCPR/C/1/Add.20, page 2).

66. The report also stated (page 1) that the "Covenant which has been approved by law 14 of 1969 of the Republic of Cyprus forms part of the municipal law of Cyprus and with superior force to any other municipal law (article 169 (3) of the Constitution)". In fact, paragraph 3 of article 169 provided that "treaties, conventions and agreements concluded in accordance with the foregoing provisions of this Article shall have, as from their publication in the official Gazette of the Republic, superior force to any municipal law on condition that such treaties, conventions and agreements are applied by the other party thereto". It was applicable therefore to bilateral treaties and not to multilateral ones. As those provisions seemed somewhat contradictory, he would like to have further information on the relative force of the different instruments concerned.

67. Mr. LOUCAIDES (Cyprus) said that the Constitution was the supreme law of the Republic by virtue of article 179, and consequently took precedence over the Covenant. However, no conflict with the Covenant had so far arisen.

68. Mr. TARNOPOLSKY said he thought it remarkable that, despite the difficulties which the country was experiencing, the Government of Cyprus had refrained from proclaiming a state of emergency or resorting to the derogations provided for in article 4 of the Covenant.

69. He emphasized the extent to which the part of the Constitution of Cyprus that dealt with human rights and fundamental freedoms accorded with the Covenant. Nevertheless, he would once again ask, as he had done when the first report of Cyprus was under consideration (CCPR/C/SR.27, para. 15), what restrictions could be imposed on the exercise of the fundamental rights established in articles 18-22.

70. Articles 47 and 48 (Chapter 154) of the Criminal Code of Cyprus referred to "seditious intention" (CCPR/C/1/Add.28, page 13, under article 20 of the Covenant). He asked if there had recently been any cases of persons found guilty of sedition or treason and, if so, how many such cases there had been, what sentences had been passed and how the concept of seditious intention had been interpreted.

71. He also asked what legal interpretation had been given to the concept of "constitutional order" referred to in article 21, paragraphs 3 and 4 of the Constitution (CCPR/C/1/Add.28, page 14).

72. Paragraph 3 of article 12 of the Constitution specified that "No law shall provide for a punishment which is disproportionate to the gravity of the offence" (CCPR/C/1/Add.28, page 8). That principle was subsumed under article 7 of the Covenant and under article 8 of the Constitution of Cyprus. He asked whether there had been any recent judicial decisions based on that provision.

73. With respect to remedies, articles 29 and 146 of the Constitution of Cyprus gave the Supreme Court broad powers to ensure that fundamental rights were respected. He would like to have some details of the actual application of those articles. Let it be supposed, for instance, that, in violation of article 11, paragraphs 3 and 4 of the Constitution, and of article 14, paragraph 3, of the Covenant, a person was arrested, taken to the police station, prevented from contacting his lawyer and held in custody for 72 hours - instead of the 24 hours allowed by law - during

which time he confessed to a serious offence for which he was given a heavy prison sentence. In such a case, he would like to know how that violation of the rights laid down in the Constitution could be compensated and how the damage would be assessed.

74. Mr. TOMUSCHAT said he was afraid that the provisions of article 47 (Chapter 154) of the Criminal Code restricting freedom of expression in the case of "seditious intention" (CCPR/C/1/Add.28, page 13, under article 20 of the Covenant) might be liable to abuse. Provisions of that kind could be used by a Government to clamp down on political opposition. It was desirable therefore for the wording of articles 47 and 48 (Chapter 154) of the Criminal Code to be reviewed. He would like to know whether there had been any convictions on the basis of those articles and whether a person who advocated the establishment of a federal government in Cyprus would be subject to sanctions under them.

75. Mr. LOUCAIDES (Cyprus) said, with respect to article 21 of the Constitution, that there had not yet been any judicial interpretation of the notion of constitutional order. If the matter did arise, it would undoubtedly be interpreted in a very strict sense because it has been established in the jurisprudence that any restriction on human rights had to be construed as strictly as possible.

76. The provisions relating to "seditious intention" in articles 47 and 48 (Chapter 154) of the Criminal Code had been introduced under colonial rule but had never been applied.

77. The fact of advocating the establishment of a federal government in Cyprus was not a breach of the law. In fact the law authorized all citizens to point out in good faith errors and defects in the Government, the Constitution or the administration of justice, and to persuade citizens in good faith to attempt to procure changes by lawful means, through popular consensus.

78. The principle of proportionality laid down in article 12, paragraph 3, of the Constitution had often been applied. The Supreme Court had, for instance, ruled that the following penalties were disproportionate - the demolition of illegally constructed buildings, and the confiscation of goods held illegally (antiques).

79. On the subject of remedies, he said that a confession obtained in the circumstances described by Mr. Tarnopolsky would not be accepted by the court. Confessions extorted under influence were not admissible and the courts were very strict on that point. The mere fact that a statement by the accused was very long was considered to be indicative of undue influence.

80. In conclusion, he said that the jurisprudence had made the Covenant into a reality in Cyprus.

81. The CHAIRMAN thanked the delegation of Cyprus warmly on behalf of the Committee. If the Government of Cyprus had any additional information to communicate, the Committee would be glad to be kept informed of developments.

The meeting rose at 6.20 p.m.