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SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 171st MEETING

held at the Palais des Nations, Geneva,
on Monday, 13 August 1979, at 3 p.m.

Chairman: Mr. MAVROMMATIS

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The meeting was called to order at 3.15 p.m.

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

Finland (CCPR/C/1/Add.32) (continued)

1. Mr. KOULISHEV thanked the Finnish Government for submitting a detailed report in conformity with the Committee's guidelines. In connexion with the first sentence, he asked what role customary law played in Finnish constitutional law, what rules were involved and whether they had any effect on the situation of human rights in Finland.
2. As to the status of the Covenant, it was his understanding that the Finnish legal system comprised two categories of rules relating to the human rights proclaimed in the Covenant. The first category consisted of the rules laid down in title II of the Constitution. The second category was that of the provisions of the Covenant which had been incorporated in domestic legislation by Act No. 107 of 1975. The question therefore arose as to what relationship existed between the Constitution and those provisions of the Covenant which had become provisions of Finnish domestic law. He assumed that, in the event of conflict, the Constitution would prevail, but he would like confirmation. Furthermore, if a law not in keeping with the Covenant had been adopted after the passing of Act No. 107 of 1975, would the new law take precedence? That question had already been asked during the consideration of Finland's first report (CCPR/C/1/Add.10; CCPR/C/SR.30) but had never been answered completely. The question was whether the principle lex posterior derogate priori applied. He had no doubt as to the value of the solution adopted in Finland to give effect to the Covenant, but simply wished to have more specific information regarding the status of the Covenant.
3. It was stated in the last paragraph on page 6 of the report that at least some of the reservations would be withdrawn in due course of time after the necessary legislative steps had been taken, and on page 12 that a government bill withdrawing the reservations on article 13 of the Covenant would be sent to Parliament in the near future. He welcomed that information, but joined Mr. Prado Vallejo in requesting more information about the Finnish Government's intentions with respect to the rather numerous reservations it had made with regard to the Covenant.
4. The Equality Council referred to on page 3 of the report appeared to be an interesting institution and further information on its powers would therefore be useful. Was it a purely advisory body or did it also have supervisory functions? How many women were members?
5. Articles 46 to 48 of the Finnish Constitution defined the status of the Chancellor of Justice (referred to in CCPR/C/1/Add.32, p. 5, second paragraph), whose functions, consisting of executive control of the judiciary, seemed to be analogous to those exercised by the Procurator General in Bulgaria. Furthermore, under article 42 of the Finnish Constitution, Parliament elected for a term of four years an eminent jurist as Ombudsman, who was its legal representative and was responsible for ensuring that the law was being observed by the courts, tribunals and administrative authorities. He would like to know more about the manner in which the Chancellor of Justice and the Ombudsman exercised their functions and the practical results of their activities.

6. The report indicated (p. 7) with respect to article 7 of the Covenant that protection of life, which was constitutionally guaranteed, was extended to cover personal integrity as a whole. Nevertheless, the right to protection of life had a definite meaning which was not completely covered by the prohibition of cruel, inhuman or degrading punishment, as referred to in article 7 of the Covenant. That was why specific legislative provisions were necessary. Did the criminal law establish penalties for cruel, inhuman or degrading treatment? Did Finnish law contain provisions prohibiting, in the words of article 7, medical or scientific experimentation without the free consent of the person concerned?
7. With respect to article 8 of the Covenant, which was referred to on page 8 of the report, he would also like to know what legal provisions prohibited forced labour.
8. One question arose with respect to article 14 of the Covenant, namely, that of the functions of the Supreme Administrative Court (CCPR/C/1/Add.32, p. 13; first paragraph). Articles 56 to 58 of the Finnish Constitution Act did not provide complete information about the powers of that Court and he would like to have more details on how Finnish administrative justice functioned.
9. With regard to article 18 of the Covenant, the report stated (p. 19, last paragraph) that a person who had reached the age of 18 years was entitled to leave or join any religious community according to his own wish subject only to the rules of the community he wished to join. What was the situation before he reached the age of eighteen, however? Did the child have the right to practise a religion or to practise no religion? It would seem that even before the age of 18 a child should be able to have personal ideas about religion. If in religious matters the child was unable to exercise any choice before that age, did that mean that the provisions of article 18, paragraph 2, of the Covenant did not apply to children under the age of 18?
10. In connexion with article 21 of the Covenant, the report indicated (p. 21, last paragraph) that the competent police chief or his deputy was entitled to attend a public meeting and to dissolve the meeting if he was prevented from attending it. Did that provision apply only to public meetings which were held in a public place outdoors? If so, there could be no objection, but if it applied to the meetings of political parties organized in a public place indoors, the provisions were not consistent with the requirements of the Covenant.
11. Lastly, he would like to know, in connexion with article 27 of the Covenant, what privileges were enjoyed by the religious communities whose religion enjoyed the status of a State religion? Were those privileges compatible with the Covenant?
12. Mr. DIEYE commended the precision and comprehensiveness of the report submitted by the Government of Finland (CCPR/C/1/Add.32). Although that Government had made reservations to certain provisions of the Covenant - a step which was certainly better than ratifying the Covenant without reservation only to find oneself unable later scrupulously to observe it, the report showed that Finland was doing its utmost to respect human rights. He would therefore ask only a few questions.
13. It was stated in the first paragraph on page 2 of the report that legislative power was exercised by Parliament in conjunction with the President of the Republic. How was the legislative role of the President performed in practice?

14. As to the functions of the Ombudsman (CCPR/C/1/Add.32, p. 5, third paragraph), he would like to know what safeguards ensured the Ombudsman's complete independence. Was he chosen from the ranks of a political party? Information about his origin and the procedure for his appointment would be useful.

15. The report indicated on page 11 that a passport could be denied to a person why by taking advantage of his passport might on reasonable grounds be expected to carry out criminal activities abroad. What criteria did the Finnish authorities use to decide whether a person would engage in such activities?

16. On page 13 (second paragraph) the report stated that in accordance with article 60, paragraph 2, of the Constitution Act, no irregular tribunal might be established. In the last paragraph on that page, however, reference was made to the further development of the system of free trial and the extension of its application also to military and "other special courts". How did that accord with article 60 of the Constitution?

17. According to the second paragraph on page 19 of the report, the Minister of the Interior and the Chancellor of Justice were authorized to entrust a person ordered by them to investigate certain criminal cases to make a visit and search. He wondered whether those high-ranking personalities presented all the guarantees necessary for safeguarding and protecting individual freedoms. Was it really advisable to confer on them the power to authorize a visit and search? Was it an ad hoc power or a standing power enabling them to assume the role of judges?

18. In connexion with article 22 of the Covenant, the report stated (p. 23, first paragraph) that if the purpose of an association was to influence the political affairs of the country, only Finnish citizens might join. To what extent could it be determined that an association engaged in activities likely to influence the political affairs of the country? The border-line between an association stricto sensu and a political association was extremely unclear. Would not that provision make it possible to prevent a foreigner from taking part in the activities of any association?

19. The report provided ample and precise information regarding marriage, but he would also like to know whether a common-law régime existed for spouses who had not concluded a specific contract.

20. Under article 14 of the Parliamentary Act, in the course of a session of Parliament no Member of Parliament could be arrested, without the consent of Parliament, for a criminal offence, unless a tribunal had ordered his arrest (CCPR/C/1/Add.32, p. 32, ninth sub-paragraph). That provision involved a procedure which was normally prohibited, since the arrest of a Member of Parliament could not take place except by prior authorization of the assembly or its officers. It therefore required clarification.

21. Sir Vincent EVANS thanked the delegation of Finland for its excellent report (CCPR/C/1/Add.32).

22. He would like to have some details on the way in which the Equality Council functioned (CCPR/C/1/Add.32, p.3). Did the existence of that body mean that equality of rights, and in particular civil and political rights, between men and women was still encountering difficulties in Finland? If so, what were those difficulties? Did that Council keep under review the situation with regard to the equality of rights between men and women and did it issue periodic reports on the subject? Did it seek to promote such equality otherwise than by legislative means? Did it have any jurisdiction to adjudicate on complaints by individuals of discrimination on the grounds of sex?

23. He would like to know whether the Chancellor of Justice and the Ombudsman (p. 5, third paragraph) could hear complaints by an individual alleging that laws or practices were contrary to the provisions of the Covenant? If that was not the case, had any consideration been given to the possibility of extending their jurisdiction to that domain? That would be a good means of giving effect to the provisions of article 2 of the Covenant, which sought to ensure effective remedies for individuals.

24. With regard to article 8 of the Covenant, he would like to know whether there were any cases in Finland in which a person could be required to perform forced or compulsory labour and whether such cases came within the category of permissible exceptions under article 8, paragraph 3, of the Covenant.

25. Referring to the first and second complete paragraphs on page 9 of the report, he expressed surprise at the existence of circumstances in which a person sentenced to imprisonment might not be imprisoned.

26. He also wondered why Finnish law made no provision for release on bail (p.9, third complete paragraph). Article 9, paragraph 3, of the Covenant in fact provided that "it shall not be the general rule that persons awaiting trial shall be detained in custody". Bail was precisely the means which enabled an accused person to remain free while guaranteeing his appearance for trial.

27. The Covenant also provided in the same paragraph that "anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power ...". On that point, the report referred to the initial report of Finland. However, the latter report explained (CCPR/C/1/Add.10, p.2, first paragraph) that in Finland the County Government, certain police authorities and public prosecutors had been empowered by law to issue, at the pre-trial stage, warrants for arrest or detention pending the trial before the Court and that, consequently, the Finnish system did not fully satisfy the requirements of the Covenant. However, the Government had prepared a bill to bring the matter into better harmony with the Covenant. He would like to know what stage had been reached with regard to the bill in question.

28. Referring to article 10 of the Covenant, he inquired whether Finland had a system for the supervision of penal establishments designed to ensure that prisoners were treated "with humanity and with respect for the inherent dignity of the human person", as stipulated in paragraph 1 of that article.

29. The report made no mention of the legislative measures that had been taken to implement the provisions of article 14, paragraph 3 (c), of the Covenant, under which anyone charged with a criminal offence had the right to be tried without undue delay. He would like to have some information on that point and to know, in particular, what was the maximum period during which a person might be held in custody pending trial.

30. The report indicated that in Finland a Church tax was levied on members of the Lutheran Church but not on the members of other religious communities. He wondered whether that tax did not constitute a discriminatory measure contrary to the provisions of article 2, paragraph 1, of the Covenant. What happened if a person did not wish, or could not afford, to pay the tax?

31. Mr. JANCA said that the new Finnish report (CCPR/C/1/Add.32) was in full conformity with the Committee's guidelines and gave a general picture of Finnish legislation in relation to the promotion and protection of human rights in that country. For the sake of brevity, however, the report did not furnish on certain points all the information that might be of interest to the members of the Committee (certain important laws were not quoted and only their substance was summarized in the report).

32. With regard to the status of the Covenant in the internal legal system of Finland, he understood that the provisions of the Covenant formed part of the internal law of Finland and, as such, served as interpretative standards for the implementation of the legal rules of internal law. Did that mean that the judicial and other State bodies were authorized to give such interpretations directly or was it necessary to institute a special procedure for that purpose before the legislative or other bodies?

33. He would like to know whether the provisions of the Act on the self-government of the Åland Islands (CCPR/C/1/Add.32, p. 2) - an Act which had the status of a fundamental law, and in particular the granting of a large measure of autonomy to those islands, had posed problems for the Finnish Government in relation to the fulfilment of its obligations under the Covenant.

34. He would also welcome further information on the penitentiary system in Finland, in particular on the means used to ensure the "reformation and social rehabilitation" of prisoners, which was an essential aim of the treatment of prisoners, as stated in article 10, paragraph 3, of the Covenant.

35. With regard to article 14 of the Covenant, he would like to know how long a person could be deprived of liberty during the pre-trial stage, who was competent to give an order for a person to be arrested at that stage of the proceedings, and lastly, what was the longest period of time allowed between the accusation and the trial.

36. He asked in what circumstances a judge could be deprived of his office by a lawful trial and judgement (p.13, third paragraph). He would also like details on the organization of the judiciary. The report stated, on the one hand (p.13, second paragraph), that according to article 60, paragraph 2, of the Constitution Act, no irregular tribunal might be established, while at the

foot of the page it referred to "military and other special courts". What were those special courts, did they belong to the regular judicial bodies and what were the guarantees of their independence and impartiality?

37. With regard to the freedom of association referred to in article 22 of the Covenant, the report stated (p.23, first paragraph) that if the purpose of an association was to influence political affairs, only Finnish citizens might join it. Did that mean that citizens of Denmark, Iceland, Norway and Sweden, who nevertheless had the right to participate in municipal elections if they had been registered as inhabitants of Finland for two years preceding the election year (p.33, fourth paragraph), could not belong to political parties in Finland? He would like to know what type of association was referred to in the sentence (p.23, first paragraph) "A similar permit is required if more than one third of the membership of the association will be foreigners".

38. Lastly, he drew attention to a contradiction on page 34 of the report. It was stated on the one hand that all political parties should be treated equally by the State and its organs and institutions, and equal grounds should be applied to them in all respects, whereas the preceding paragraph stated "In the framework of the State budget, political parties represented in Parliament may be granted a subsidy in order to support their public function as defined in their statutes and general programme" (p.34, third and second paragraphs). Was that not a discriminatory measure against the political parties which at a particular time might have no representatives in Parliament even though they had more than 5,000 members - the requirement for a party to be registered with the competent authorities in Finland?

39. Mr. MOVCHAN noted with satisfaction that the report on Finland (CCPR/C/1/Add.32) had been prepared in accordance with the Committee's guidelines.

40. With regard to the provisions of article 20, paragraph 1, of the Covenant, under which any propaganda for war was prohibited by law, the report referred to the initial report. He remained unconvinced by the arguments put forward in the first report (CCPR/C/1/Add.10, p.4) and continued to believe that propaganda for war should be prohibited by law. In his opinion, such a prohibition was not an infringement of the freedom of expression referred to in article 19 of the Covenant. Moreover, Finland had adopted legislative measures to give effect to the International Convention on the Elimination of All Forms of Racial Discrimination and it should do likewise in order to prohibit propaganda for war, particularly since war constituted the negation of all rights and freedoms, including the freedom of expression.

The public meeting rose at 4.25 p.m.