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QUESTION OF INTERNATIONAL LEGAL PROTECTION OF THE
HUMAN RIGHTS OF INDIVIDUALS WHO ARE NOT CITIZENS
OF THE COUNTRY IN WHICH THEY LIVE

Report of the Secretary-General

Addendum

CONTENTS

	<u>Page</u>
COMMENTS RECEIVED FROM GOVERNMENTS	2
Byelorussian SSR	2
Finland	3
German Democratic Republic	4
Liberia	6
Qatar	7

COMMENTS RECEIVED FROM GOVERNMENTS

BYELORUSSIAN SSR

[Original: Russian]

[12 December 1979]

In the comments of the Byelorussian SSR on the original draft declaration on the human rights of individuals who are not citizens of the country in which they live it was pointed out that, under the legislation in force in the Byelorussian SSR, citizens of other countries and stateless persons in the Republic's territory are granted extensive rights in various spheres of public life. Article 35 of the Constitution of the Byelorussian SSR states that: "Citizens of other countries and stateless persons in the Byelorussian SSR are guaranteed the rights and freedoms provided by law, including the right to apply to a court and other State bodies for the protection of their personal, property, family and other rights".

Important instruments of international law have been adopted in the United Nations in recent years, and in particular, the International Covenants on human rights, which cover in sufficient breadth and detail the most important aspects of the human rights of individuals who are not citizens of the country in which they live. The strict observance by all States of the provisions of instruments of international law would obviate the need to prepare a separate document on this matter.

Specific comments on the revised draft declaration may be presented by representatives of the Byelorussian SSR when the draft is examined at the thirty-sixth session of the United Nations Commission on Human Rights.

FINLAND

[Original: English]

[19 December 1979]

As first regards the definition of the term "non-citizen", contained in article 1 of the Draft Declaration, the meaning of the drafters of the text is clear. However, some confusion may be caused by the ambiguity of the term "national". Obviously, national is not a synonym to citizen. In a given country, people may belong to different nationalities and, yet, they are citizens of the country. On the other hand, a person who does not belong to any of the nationalities of a country may be its citizen. This confusion arises also in some other international instruments.

The provision of article 3 of the Draft Declaration is perhaps too far-reaching unless the concept "administrative measures" can be understood as referring to stipulations of a general nature supplementing the laws and regulations pertaining to the rights and obligations of non-citizens.

Certain restrictions to the rights enumerated in article 4 of the Draft Declaration, in addition to those mentioned in subparagraph (iii), are necessary particularly for reasons of public policy and national security. Thus, in Finland the right of a non-citizen to acquire real property is depending on a permission by the Council of State. Similarly, the right of a non-citizen to acquire shares of a Finnish corporation is restricted and depending on certain conditions provided for by law.

Furthermore, the right of a non-citizen to freedom of peaceful assembly and association is restricted by law in Finland to the effect that a public meeting can be arranged only by a Finnish citizen and that only Finnish citizens may join an association, the purpose of which is to influence on State affairs. If more than one third of the membership of an association to be founded will be non-citizens, a permission by the Council of State is required.

As for the provision contained in article 7, paragraph 2, of the Draft Declaration, the present regulation of this matter in Finland deviates to some extent from the procedure envisaged in the said paragraph. Thus, the Aliens' Bureau of the Ministry of the Interior is empowered to order a non-citizen to be deported from the country if he by his behaviour has shown that his sojourn in Finland is not desirable. Moreover, the Ministry may expel a non-citizen when the security of the State or another important reason so requires. For the time being, there is no right of appeal against such decisions. The Ministry has been considered to be a sufficiently high authority to make a final decision on these matters which often require prompt measures. However, a revision of this regulation is under preparation so as to conform with article 13 of the International Covenant on Civil and Political Rights. The new regulation would then be compatible also with article 7 of the Draft Declaration.

GERMAN DEMOCRATIC REPUBLIC

[Original: English]

[19 December 1979]

1. The German Democratic Republic already informed the Secretary-General of the United Nations about its fundamental position concerning the draft declaration on the human rights of individuals who are not citizens of the country in which they live. ^{1/} The German Democratic Republic still adheres to this position and reconfirms it. In this connexion, it emphasizes again that the German Democratic Republic, as a party to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, grants individuals who are not citizens of the GDR more extensive rights under its legislation and in societal life than the above Covenants provide for.

The German Democratic Republic affirms its view that numerous international conventions in force on human rights issues, in particular the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Political Rights of Women, contain the relevant provisions for the protection of the legal status of individuals who are not citizens of the country in which they live.

With this being so, the present draft declaration contains less than the minimum standards set by the provisions of international legal documents already in force. It does not cover, for instance, the right to work, the promotion of the equality of men and women, the right to education, and the right to the protection of the family, of motherhood, children and young people.

This, again, raises the question as to the usefulness and necessity of such a document, the more so since compared with the international conventions, it would be non-binding. The intention to draw up such a declaration should, therefore, be reconsidered.

In the interest of achieving the desired purpose, i.e., the protection against discrimination of individuals who are not citizens of the country in which they live, the German Democratic Republic suggests that the United Nations concentrate its efforts on getting more countries to accede to or ratify the above conventions and to apply their provisions in practical life. In so doing, they would make an effective contribution to safeguarding the human rights of aliens and stateless persons.

2. Should work on the draft declaration be continued, the German Democratic Republic believes, on the basis of its fundamental position on the present document, that further thorough revision is essential.

The principle of the sovereign equality of States as a basic principle of international law laid down in the United Nations Charter, which is presently included at the end of the fifth paragraph, should be moved to the first paragraph of the preamble.

The preamble should refer above all to the Covenants mentioned as exemplary under 1. of these comments, because they are international legal documents which already contain explicit and concrete provisions on the rights of non-citizens and, consequently, are of importance to the purpose of this Declaration as well. The last paragraph but one of the preamble should be deleted, since the way in which sovereign

States organize their legal systems is their internal affair so that any enunciation of possible exceptions in connexion with the granting of certain rights is unnecessary. As has been said above, the Convention on the Elimination of All Forms of Racial Discrimination should be referred to in a different place, in connexion with other fundamental conventions. In accordance with the opinion set out at the beginning of this paper, that the regulations for non-citizens laid down in relevant international documents are viewed as sufficient, it is suggested that the last preambular paragraph be deleted and States be called upon instead to accede to the conventions mentioned.

Article 4 should unmistakably state that the listed rights of non-citizens shall be granted under the laws of the State in which they live and that such rights may be restricted if this is necessary in the interest of national security, public order and security, the health, morals or rights for other persons.

Article 4.1 should lay down that also non-citizens have the right to have the dignity and freedom of their personality and their security respected and their rights protected by the State.

Paragraph 3 should be worded in such a way that any entry, stay and exit have to be in accordance with the laws of the State in which non-citizens live. This is what is said under paragraph 4 which can be deleted therefore.

If that is not done Article 4 should make it clear that this right shall be granted in agreement with the legislation of the country of residence.

In the view of the German Democratic Republic Article 8 needs further work, especially to the effect that the right to work should be added as a basic human right and that the inclusion of other related rights appears necessary, e.g. those contained in Articles 6 and 7 of the International Covenant on Economic, Social and Cultural Rights.

Article 9 should clearly state that any seizure of a non-citizen's property and any payment of compensation for expropriated property should be carried out in accordance with national laws in force.

LIBERIA

[Original: English]

[12 November 1979]

The Government of Liberia has thoroughly studied and scrutinized the document, and has found it to be legally appropriate and acceptable, except for paragraph 4 of the Preamble, where Government would recommend that the word "creed" be inserted after the word "sex".

QATAR

[Original: English]

[4 December 1979]

After consideration of the draft declaration by the competent authorities, the Government of the State of Qatar has no comments to submit on the subject-matter.