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HUMAN RIGHTS COMMITTEE

Forty-fifth session

SUMMARY RECORD OF THE 1153rd MEETING

Held at the Palais des Nations, Geneva,  
on Wednesday, 15 July 1992, at 10 a.m.

Chairman: Mr. POCAR

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The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Third periodic report of Belarus (CCPR/C/52/Add.8) (continued)

1. The CHAIRMAN invited the members of the Committee to resume consideration of the third periodic report of Belarus (CCPR/C/52/Add.8). He requested the delegation of Belarus to reply to the questions in section IV of the list of issues, which read:

"Freedom of movement and expulsion of aliens, right to be recognized as a person before the law, freedom of religion and expression (arts. 12, 13, 16, 17, 18, 19 and 20)

(a) What is the current status and content of legislation on entry and departure?

(b) Please provide information on the actual implementation of the Decree of 25 August 1987 relating to measures taken against foreign nationals for preventing infection with the AIDS virus, particularly as to required medical examinations and appropriate coercive measures (para. 49 of the report).

(c) Please provide information concerning the law and practice relating to permissible interference with the right to privacy.

(d) Please elaborate on limitations, if any, on freedom of conscience and religion (para. 60 of the report).

(e) With regard to paragraphs 62 to 65 of the report, please elaborate on the situation in Belarus of the right to seek, receive and impart information and ideas of all kinds.

(f) How is the citizenship of Belarus acquired by former citizens of the USSR and their descendants? Is there a danger that the number of stateless persons would increase?

(g) Is conscientious objection to armed service tolerated and regulated by law?"

2. Mr. DASHUK (Belarus) said, in response to question (a), that a bill on entry into and departure from Belarus had been given a first reading in Parliament. It contained progressive provisions which were in conformity with the Covenant. On the question of identity papers, in particular, he said that a new type of passport had been established in which the citizenship of the bearer would be indicated rather than the national group to which he belonged. Generally speaking, it should be noted that the rules on entry into and departure from the territory had already been amended a short time previously and the curbs on departure eliminated. During the process of preparing the bill, it had been found that there had been serious infringements of the law in that connection; in many cases, citizens wishing

to leave the territory had been required to present various documents despite the fact that the law did not oblige them to do so. The new bill provided for restrictions on the right to leave the territory only in the case of persons subject to prosecution, or who had not paid their debts, or not fulfilled their contractual obligations towards other citizens (for example, the payment of alimony). One restriction was still in force, namely the requirement that the applicant for departure should submit a certificate to the effect that he had officially vacated his dwelling. However, that requirement would seem to have lost its significance since the adoption of the law on the privatization of housing, whereby any citizen who left the national territory to settle abroad was entitled to retain the dwelling he had occupied in the Republic of Belarus for three years. Furthermore, if an exit visa was refused, an appeal could be made to the courts, which would pass judgement on the legality of the decision. In conclusion, he stressed that the bill submitted to Parliament was in accordance with the provisions of the Covenant and there was thus every reason to believe that it would be adopted as it stood.

3. In regard to paragraph (b), it should be borne in mind that, when the third periodic report of Belarus (CCPR/C/52/Add.8) had been submitted, there had been no special Belarus legislation on the matter and only the laws of the USSR had applied. They had included provisions whereby foreign nationals carrying the AIDS virus had been invited to enter hospital for treatment. In the event of refusal to do so, they had been required to leave the country. However, the Belarus authorities had not been obliged to resort to those provisions and no foreigner had been expelled from the territory as an AIDS carrier. So far, a total of 27 AIDS sufferers had been reported in Belarus, only 2 of whom had been infected by the virus through sexual relations. He further explained that there was a bill on the question of the legal status of foreign nationals and stateless persons which included provisions guaranteeing their rights and establishing the circumstances, in any case exceptional, in which the nationals of another country could be expelled.

4. In regard to paragraph (c), ample information had been provided in the initial report (CCPR/C/1/Add.27) and the situation had changed very little since then. However, some changes had been made in the legislation, particularly in regard to article 7 of the Code of Penal Procedure, whereby, henceforward, no one could be arrested save by virtue of a judicial decision or a warrant from the public prosecutor of the Republic. Furthermore, it was the latter's duty to ensure that any person illegally arrested or detained beyond the period established by law was released without delay. A new article 7.1 had been introduced, providing for the inviolability of the home. In addition, the private life of citizens, their correspondence, telephone conversations and telegraphic communications were protected by the law. Searches, seizures and the interception of correspondence must conform to the legislation in force. The Code of Penal Procedure set out in detail those cases in which a search or a seizure of documents could be carried out, under what conditions and by what authority, and those cases in which private correspondence could be subjected to surveillance. Generally speaking, such measures were taken only in exceptional cases, when the person to whom the measures were addressed was suspected of having committed a serious offence. Penalties were provided for in cases of infringement of the provisions protecting privacy. Article 135 of the Penal Code, for example, provided for a fine and other penalties in cases of violation of the provisions governing

the protection of correspondence, telephone conversations and telegraphic communications. Since its amendment in 1988, article 124 of the Penal Code provided for a criminal penalty in cases of illegal arrest or deprivation of freedom. Lastly, article 136 of the Code provided for criminal responsibility in cases of infringement of the provisions on the inviolability of the home. Illegal searches and expulsions were subject to penalties which could range up to imprisonment.

5. Mr. OGURTSOV (Belarus) said, in connection with paragraph (d), that a bill on freedom of conscience was currently being considered by the appropriate authorities. The bill also guaranteed freedom of religion and Parliament was expected to adopt it shortly without difficulty.

6. Nearly all the property confiscated from the Church had been returned to it. At the present time, many churches and other places of worship were being restored and the population as a whole welcomed the lifting of the restrictions that had affected religious observance. There was a marked increase in the interest of young people in religion. The Supreme Council had recently adopted a decree declaring the main Catholic and Orthodox feast days (Christmas, Easter, etc.) public holidays. Members of other faiths were authorized to take time off from work to celebrate their own religious festivals. Representatives of the various creeds were to be found in the schools, the army and the prison system, where they visited prisoners on request. In conclusion, he noted that three important members of the religious community were currently serving as deputies in the Supreme Council of the Republic.

7. In regard to paragraph (e), it was clear that the dissemination of ideas could not be prevented; the right to seek, receive and impart information was practically unlimited in Belarus, save where matters of national security or professional secrecy were concerned. There was a strong trend of opinion in Belarus in favour of prohibiting pornographic literature. However, given the difficulty of distinguishing clearly between pornography and eroticism, in practice there was broad tolerance in that respect. His delegation had no knowledge of any penalties having been imposed in that connection.

8. Mr. DASHUK (Belarus) said that the delegation had replied at length to the questions in paragraph (f) on the previous day. Supplementing the information provided already, he said that Belarus citizens who had left the territory in the past as a result of repressive measures or illegal expulsion had the right to return and settle in Belarus, as did their children. They could assert their right to citizenship through a simple procedure. At the same time, the authorities feared, not without reason, that the number of stateless persons would increase. The problem of refugees from other former Republics of the former USSR was becoming serious. Thus, Belarus had recently witnessed the arrival within its territory of a number of Armenians, whom it regarded as refugees because they were being persecuted at home. However, the Armenians had not asked for political asylum in Belarus. The Republican authorities had installed them in an area near to Minsk and had also helped them to find employment. A number of North Ossetians had also found refuge in Belarus. He was sure that the authorities would shortly adopt legislative measures to allow stateless persons and refugees to settle in Belarus.

9. With regard to the implementation of article 16 of the Covenant, he said that no legislative changes had been made since the submission of the initial report (CCPR/C/1/Add.27). He added, however, that, under article 8 of the Civil Code of the Republic of Belarus, everyone was regarded as a person before the law from the moment of birth to death. Further, all citizens were entitled to own private property, to choose their place of residence freely, to bequeath personal property, etc. Also, the law provided not only for the enjoyment of civil rights from the age of majority (18 years of age), but also for obligations in that connection. Lastly, the law regulated in detail the conditions governing the legal representation of minors. He added that the law on citizenship provided that any person born in the territory of Belarus was automatically a citizen of the Republic.

10. With regard to paragraph (g), he said that current legislation did not provide for the right to refuse to perform armed service on religious grounds. However, in practice, persons who refused to carry weapons because their faith forbade them to do so did not perform armed service and were allocated to special units (for example, the engineering corps). For the previous five years, nobody had been prosecuted in Belarus for refusing military service. In the current year, nearly half of the young men of the age to do their military service had refused to do so. The authorities had begun an information campaign to explain the situation to the population, though without imposing penalties on those who refused. Moreover, there was a bill providing for the establishment of a professional army in Belarus and, if it was adopted, only those who wished to do so would engage in military service. He recalled that, in its Declaration of National Sovereignty, Belarus had indicated that it wished to become a neutral State and a nuclear-weapon-free zone. Given that orientation, the army should not in future be maintaining very large forces. In conclusion, he explained that the new bill on military service provided that those who were called up could refuse to engage in armed service on religious grounds.

11. Mr. SADI said he took it that an exit visa was still required in Belarus. If that was indeed the position, it was a matter for concern, because a measure of that kind was obviously the expression of an undemocratic system of government. The Belarus authorities, which were making intensive efforts to introduce democracy into the country, would be well advised to take the Western countries as a model in legislating on the matter. Although some restrictions on the right to leave the territory might be acceptable, requiring an exit visa was certainly not the ideal solution. He would like to know whether the Belarus authorities had it in mind to reconsider the need to keep that requirement.

12. Regarding the acquisition of citizenship by descendants, he asked whether the new legislative provisions that were expected to be adopted shortly established any distinction between the father and the mother in regard to the transmission of nationality to children.

13. Lastly, he noted that Belarus was currently engaged in an overall reform of its legislation. The Republic of Belarus was in a fortunate position since it could take the model offered by various democratic countries as its inspiration without having to proceed by trial and error. He would like to

know whether the authorities of Belarus did in fact intend to take the standards adopted in other democratic countries as their basis in working out their own legislative system.

14. Mrs. HIGGINS associated herself with Mr. Sadi's concerns. She would like in particular to know, in connection with paragraph (a) of the list, if citizens would henceforward need only a passport in order to be able to go abroad freely. She also asked whether the possession of State secrets would still be one of the reasons for which certain persons were forbidden to leave the territory of the Republic. That would be contrary to the provisions of the Covenant, where article 12 (3) stipulated that the right to leave the territory of the State could be restricted only on grounds relating to the protection of national security. The possession of a State secret did not seem itself a threat to national security.

15. She asked whether the provisions whereby citizens of the Republic of Belarus needed to receive an invitation in order to be able to go abroad was still in force. Could the courts be seized of cases in which permission to leave the country had been refused?

16. She would like more specific information on the position of the few citizens of Belarus suffering from the AIDS virus, who were apparently forced to accept hospital treatment and deprived of their individual freedoms if they did not submit to that treatment. She emphasized that, at the current stage of research, hospitalization hardly seemed justified. She also hoped that article 119 of the Penal Code, which made homosexuality illegal and persons found guilty of homosexual practices liable to a penalty of up to five years' imprisonment, would soon be revised and that homosexuals would no longer be liable to prosecution and sentencing.

17. In regard to paragraph (f), she noted that the delegation of Belarus had provided information on the restoration of citizenship to persons who had lost their status as citizens, and on the position of their descendants. She would also like to know the position of persons simply of Russian or formerly Soviet origin who were residents of Belarus: could they acquire Belarus citizenship and, if so, under what conditions? Moreover, the delegation had said that the flow of refugees would necessarily involve an increase in the number of stateless persons in Belarus. That was obviously true, but the question was rather whether the Government's current policy in regard to citizenship did not itself risk creating a situation where there were more and more stateless persons.

18. Lastly, in connection with paragraph (g), she understood that some Jehovah's Witnesses who had been imprisoned for refusing to carry out armed military service had been released, then charged again and imprisoned after their release, on the grounds that the offence was still being committed and that those who were guilty must be punished again. In a certain sense, crimes of opinion were inevitably recommitted, and in that connection she would like a further explanation of that kind of "serial prosecution".

19. Mr. ANDO asked for additional information on freedom of expression and access to the media. He understood that information media such as television and radio were still essentially a State monopoly and he would like to know

whether steps had been taken to privatize them. He also asked whether citizens of Belarus had the opportunity to obtain foreign newspapers and periodicals.

20. Mr. WENNERGREN, referring to the replies to paragraph (e), said that he would like more specific information on the conditions governing the exercise of the right to seek information. In particular, he asked whether the Belarus authorities readily authorized Belarus or foreign journalists, or certain groups of citizens, to search freely through the archives of the administrative services for information of particular interest to them.

21. Mr. MULLERSON asked what stage the bill on the right to enter and leave the territory of Belarus had reached, and whether the Soviet law of 1990, restricting the right to leave the territory of any person possessing State secrets, was still in force. In some former Soviet Republics, the situation had developed rapidly and practice had gone ahead of the law: that was perhaps also the case in Belarus. If restrictions on persons possessing State secrets were still maintained, however, such provisions would not only be contrary to the spirit of the Covenant but unacceptable in a normal democratic State.

22. He could not see why persons suffering from AIDS should be hospitalized, since, as far as he knew, there was as yet no means of treating the disease. In connection with the law on nationality, which provided that all persons residing in Belarus were entitled to acquire Belarus nationality, he asked whether certain persons had been able to choose, for example, between the nationality of Belarus and that of such former Soviet Republics as Ukraine or Russia. Regarding permits to settle, which had been compulsory, he asked whether the system was still in force, in particular in the large cities of Belarus.

23. Lastly, he joined Mrs. Higgins in referring to the case of the Jehovah's Witness who, according to information from Amnesty International, had been imprisoned, then released, then sentenced a second time. He asked the delegation of Belarus to provide further details on that type of serial conviction.

24. Mr. NDIAYE welcomed the presence of the delegation of Belarus. The replies given had been frank and the plans described encouraging, and it seemed to him, for the most part, that the Republic of Belarus was determined to break with a sad past marked in general by lack of respect for human rights.

25. He noted that many Belarus Jews had applied to emigrate and wondered whether there were still many who wished to leave. As for conscientious objectors, their numbers seemed so high that there were grounds for wondering if they really were conscientious objectors in the current meaning of the word. At all events, he was happy to note that the Government did not propose to take coercive measures against conscientious objectors and that it was leaning more towards the establishment of a professional army. In that connection, he would like to know whether the Government had ruled out the possibility of adopting the measures usually provided for in the legislation of most countries, for example general or partial mobilization of the population in the case of a threat to national security.

26. Mr. PRADO VALLEJO noted with satisfaction that there had been positive changes in the legislation of the Republic of Belarus and that the current trend was towards openness and greater respect for human rights. He noted that there was no serious problem in the country with regard to human rights and welcomed that fact.

27. He had only one specific question for the delegation. Given that freedom of information and expression was apparently fully guaranteed in the country, it would appear that all citizens were entitled to express personal opinions. However, knowing that some of the media were in fact owned by the State, he wondered whether a citizen whose honour or dignity had been wounded by the content of an article in a particular publication was entitled to redress, in other words to write to the chief editor of the publication in question and demand that his letter should be duly published. He believed that was a fundamental right that all citizens should be able to exercise.

28. Mr. DASHUK and Mr. OGURTSOV (Belarus) replied jointly to the questions put orally by the members of the Committee in connection with the replies previously given by the delegation to section IV of the list.

29. As far as exit visas were concerned, the requirement had been eliminated for diplomats and official delegations, but individuals leaving the national territory for private reasons still had to be provided with a visa. Those provisions should be eliminated in future, but it should be recalled that in practice it was impossible to move in a short space of time from a totalitarian to a democratic regime. In regard to the models chosen for their democratic experience, Belarus was seeking to take as its inspiration the experience of all countries with democratic traditions, especially the European countries, and not to restrict itself to the experience of a single country. In that connection, it had applied for admission to the Council of Europe, where it was expected shortly to be given the status of a special member.

30. On the rules relating to nationality, there were many texts, but the Belarus delegation would send the complete version to those members of the Committee who would like to have it. In summary, any child of parents having Belarus nationality was a citizen of Belarus, regardless of his place of birth. If one parent was a citizen of Belarus and the other stateless, or a citizen of another country, the situation differed according to the child's place of birth: if it was born on Belarus territory, it would obtain Belarus nationality; if it was not born in the territory of the Republic but both or one of the parents was a permanent resident, the child would also have Belarus nationality. If, at the time of birth, the parents were permanently resident abroad and at least one of them was a citizen of Belarus, the child's nationality would be determined by decision of the parents, communicated in writing to the appropriate authorities.

31. On the requirement of an exit visa to leave the territory of the Republic, it should be noted that there was complete freedom of movement within the Commonwealth of Independent States and that no visa was required to enter or leave any of those States. Similarly, an agreement had been concluded with Poland, whereby no visa was required to enter or leave either country. As far as other countries were concerned, the authorities had it



in mind to conclude bilateral agreements dispensing with visa requirements. In reality, obtaining an exit visa posed no problem, and it was often harder to obtain permission to enter a European country. In that connection, individuals did in fact have to have received an invitation in order to be able to travel to a foreign country, but it was the country of destination that imposed that condition, which was linked with currency matters, since the host must be able to cover the costs of the visitor's stay. The question of the prohibition from leaving imposed on those who possessed State secrets was complicated, since, in some cases, the persons concerned were not even known, or again, it might be considered that even the Minister of Justice should be prohibited from leaving the country because he possessed certain special information. The situation had, however, developed considerably, and even though the Soviet law on entry into and departure from Belarus was still in force, it was no longer strictly applied in practice and no citizen was in fact prevented from leaving Belarus for reasons of State secrecy.

32. In connection with the hospitalization of patients suffering from AIDS, it should be noted that, in Belarus, the man in the street, who was very poorly informed about the way in which the disease was transmitted, was still very much afraid of AIDS. It was unlikely that the promulgation of laws could remedy that kind of situation. Reference had been made to the forced hospitalization of patients; it was in fact a question of persons who refused to undergo a medical examination although they were suspected of carrying the virus. It would be more exact, in the case in point, to speak of forced placement in a medical establishment for purposes of examination, because it was not a question of imposing medical treatment on the persons concerned.

33. The penalties provided for in the former articles 118 and 119 of the Penal Code for immoral behaviour towards minors still applied.

34. A bill on homosexuality was being considered and, if it was approved, criminal penalties would continue to apply only in the case of acts accompanied by violence involving minors or persons in a situation of dependence. In cases of consent, there would be no criminal responsibility.

35. As far as the nationality of persons of Russian or other origin living in the Republic was concerned, all had become citizens of Belarus at the time of the adoption of the law on nationality (citizenship). Those now arriving in the country must fulfil four conditions in order to acquire Belarus nationality: first, they must undertake to respect the Constitution and laws of the Republic; second, they must master the language sufficiently well to be able to communicate (that is to say, they must know Belarusian, Ukrainian or Polish); third, they must prove the possession of adequate means of subsistence, such as a job; fourth, they must have lived in Belarus for seven years. Those conditions were not too severe and would enable persons who genuinely wished to do so to obtain Belarus nationality.

36. It had been asked whether there were people who had refused to take Belarus nationality. That was impossible, since its adoption was not compulsory, and anyone who did not want it approached some other State to request the corresponding nationality. It was possible, on the other hand, that some persons had wished to take Ukrainian, Latvian or Estonian nationality.

37. Questions had been asked about freedom of expression and the dissemination of foreign newspapers in Belarus. The television service was a State service, but there was also a private cable television network, financed by advertising, which had three or four hours' programming daily and was very popular. State television could not, therefore, be said to have a monopoly. It was difficult to privatize television, but new networks would gradually appear. There was no restriction on the circulation of foreign newspapers, which could be found in kiosks near hotels where foreigners stayed and sometimes in others as well. Despite a paper shortage, Belarus possessed many newspapers, a press for young people, a political press and a trade press, as well as publications by private organizations.

38. In general, information was accessible to all. Those who wished to consult the archives for information on the persecution of a relative could obtain all the related information provided they were close relatives, but foreign journalists could not do so. Lastly, the press did not hesitate to publish criticism of the public authorities, including the Ministry of Justice.

39. As far as the legislation on entry to and departure from the territory was concerned, the former Soviet law remained in force. The new law would come into force in July 1993, and the intention of the legislature was to abolish all the restrictions in the Soviet law. Belarus had had to use the Soviet law pending the drafting of its own legislation. However, practice had moved ahead of the legislation being prepared.

40. The requirement of a permit to settle still existed, but only for the city of Minsk. The city had 2 million inhabitants and many people wished to go there to live but the authorities had no housing to offer them. It was impossible to abolish the regulation completely for the time being, because of the housing shortage, but it was hoped to do so by about mid-1993.

41. In connection with the Jehovah's Witness who had been mentioned, the Ministry of Justice had learned, about a year and a half previously that he was in detention after a third conviction for refusing to serve in the army, but also for hooliganism. The Ministry had asked the Supreme Court for information; the Court had examined the case and the person in question had been released despite the convictions. His delegation was not aware of any Jehovah's Witnesses being prosecuted for their beliefs, and those professing a particular faith were not prosecuted provided their creed did not include incitement to overthrow the Government. The delegation possessed no statistics on the number of conscientious objectors but it could say that religious grounds were very often put forward by conscientious objectors.

42. According to the information available to the Ministry of the Interior, about 13,000 applications had been received from Jews who wished to emigrate. The number had now been considerably reduced and there was no obstacle to Jewish emigration. When people whose applications had been refused brought their cases before the Ministry of Justice, the Ministry often found, on consideration, that alimony had not been paid, for example, that documents had not been properly completed, or that there was a child for whom no provision had been made. In each particular case, therefore, it was necessary to verify whether the refusal of the application to emigrate was justified or not.

43. Mr. Prado Vallejo had asked questions about freedom of the press, information media belonging to the State and, especially, the right of persons who were victims of lies or slander to demand rectification.

44. It did sometimes happen that the media, which had for a long time not been free, exaggerated and published reports that did not tally with the facts. The Ministry of Justice itself had been the target of unjustified criticism, although it had not taken the matter to court. Belarus legislation on the topic was precise: if someone was slandered or libelled, he could go to court and demand rectification of the information. The injured party was entitled to apologies and a published correction.

45. Lastly, the requests for the accreditation of journalists received at the Ministry of Foreign Affairs of Belarus were all given consideration, and Radio Liberty had already been accredited.

46. The CHAIRMAN invited the delegation of Belarus to reply to the questions in section V of the list, which read:

"Freedom of assembly and association and right to participate in the conduct of public affairs (arts. 21, 22 and 25)

(a) What have been the results of the discussion on 'improving the legal regulation of conditions and procedures for holding peaceful assemblies, processions and demonstrations' and what further steps have been taken (para. 69 of the report)?

(b) Please provide information on the laws and regulations governing the right to strike. What is the practice in this regard?

(c) Please provide information on the laws and regulations governing the founding, registration and financing of political parties. Are there any parties active and when are multi-party elections at the State and local level to be expected?"

47. Mr. DASHUK (Belarus), replying to the first question, said that his country had adopted provisions on procedures for holding demonstrations in 1988, in the course of the electoral campaign. To organize such assemblies, a permit was needed which in 99 per cent of cases was granted. In the case of a refusal, the decision could be appealed against. In practice, there were very many assemblies, processions and demonstrations in the Republic of Belarus, organized with or without a permit. Thus, in April 1991, when there had been a sharp rise in prices, all workers had participated in assemblies and demonstrations organized without a permit and no one had been charged. That was normal, since the workers had been furious over the rise in prices, which had not been accompanied by any pay increases, and they had wished to force Parliament to take steps.

48. On the second question, concerning the laws and regulations applicable to the right to strike, it should be explained that the Soviet law was still in force. The new law just drafted by the Ministry of Justice did not provide

for any restrictions on persons participating in strikes. The miners of Soligorsk had launched an action in 1991 which in fact constituted a pre-strike situation - it had not been necessary to call the strike because the dispute had been settled. Similarly, the lawyers had put themselves in a pre-strike position to protest against unduly high taxes. They had succeeded in having the taxes abolished through the Ministry of Justice, and there had been no strike as such.

49. According to the law, the procedures were the following: negotiations were followed by a pre-strike situation, which, if no agreement was possible, resulted in the calling of a strike. That was a new departure, since strikes had previously been prohibited. Striking was a means whereby the rights of groups of citizens could be protected. The new law now in preparation took into account the gaps in the Soviet law and sought to provide better guarantees for the rights of citizens.

50. In regard to the third question, about political parties, provisional arrangements had been adopted by Parliament at the end of 1990 in regard to the registration of social and political organizations and associations, pending the adoption of the relevant legislation in second reading. The text was a very lengthy one which had been prepared by the Ministry of Justice. So far, 8 political parties, 8 socio-political movements and 400 other socially oriented associations had been registered. There had been no refusals in the current year except in the case of the Communist Party of Belarus because of errors in the application. The Party had appealed against the refusal of registration to the Supreme Court, which had ordered the Ministry of Justice to register it as the Party of Communists of Belarus. It was the task of the Ministry of Justice to deal with all such associations, save for religious associations which came under the Council for Religious Affairs. Nearly all organizations, sports associations, religious or trade union associations or others had been registered because there was virtually no obstacle. A small charge of 700 roubles, the price of a carton of cigarettes, was made to register a political party.

51. Mr. SADI asked for further details regarding the grounds for refusing to register the Communist Party. He would like to have an idea of the Party's influence and importance, as well as its future in the Republic of Belarus.

52. Mr. PRADO VALLEJO, referring to article 25 of the Covenant, wondered what the arrangements were for organizing the "nationwide discussion" referred to in paragraph 83 of the report. He asked whether it was a referendum. Lastly, in connection with the new laws on the election of the peoples' deputies, which strengthened the new system of people's power, referred to in paragraph 84, he would like to know the plans of the Belarus authorities in that connection.

53. Mr. DASHUK (Belarus) replied to Mr. Sadi that the Party of Communists of Belarus has been refused registration not for political reasons but because of omissions and technical defects in the documents accompanying the application. The candidates for registration had claimed to be the successors of the former

Communist Party, but had submitted documents as though it was a question of establishing a new party, and, when the documents handed to the Ministry of Justice had been examined, it had been found that the information in them did not correspond to reality: for example, in some localities, the meetings referred to had not taken place and, in other cases, the documents had failed to specify the number of persons participating in the meetings. However, the Supreme Court had decided that the Party of Communists of Belarus must be registered, and that had been done quite recently, in June 1992, the Ministry having requested the resubmission of the defective documents. The reasons for which an application for the registration of a party could be refused were very specifically defined in the law: for example, if a party's aim was to overthrow the constitutional authorities by force, or if it called for a change of frontiers. When the documents submitted were not complete, the Ministry indicated what gaps should be filled in and requested resubmission of the dossier.

54. As far as the Communist Party's popularity was concerned, he said that it currently had more than 60,000 members and that new members were joining. As far as the future was concerned, everything would depend on the economic situation: if it improved, the Communist Party would lose ground; if it grew worse, the Party would serve as a haven for the discontented.

55. Regarding the arrangements for the organization of the nationwide discussion (a question raised by Mr. Prado Vallejo) and the conditions for holding a referendum, he said that, by virtue of a law adopted by the Supreme Council, nearly all bills were published in the information media and were the object of consultations in workers' collectives. Citizens made known their criticisms and observations. The machinery for a referendum was governed by law, and Parliament merely determined the date without pronouncing on the need to hold such a consultation. If 50,000 citizens requested it, the Supreme Council must hold a referendum. Since 1990, there had been only one referendum, aimed at determining whether the population of Belarus was in favour of retaining the Union of Soviet Socialist Republics. Although the vote had been in favour, the USSR had nevertheless disappeared.

56. The new law on self-management recently promulgated was very important because it eliminated certain superfluous bureaucratic structures and allowed the people to express themselves increasingly directly. Some of its provisions had been criticized and would therefore be amended. Generally speaking, there might be an impression that the current legislative system had gaps in it, but it must be realized that the law was in the process of taking shape. It was a long and complicated procedure and it would be a mistake to try and hurry it. There were many questions to be resolved and, for the time being, the Supreme Council was giving priority to the economic protection of the people, admittedly at the expense of such matters as entry and exit visas and passports. Thus, priority was being given to the legislation on privatization, land ownership, etc. Therefore, in some areas, the Republic of Belarus still had to apply the Soviet texts, but it had given itself two years in which to adopt the most essential legislation and it would then engage in the careful preparation of legislation on other matters.

57. His delegation had taken note of all the Committee's questions and comments and would convey them to the Government so that they could be taken into consideration during the drafting of the new Constitution and the new legislation.

58. The CHAIRMAN invited the members of the Committee to make their final observations on the consideration of the report of the Republic of Belarus just completed.

59. Mr. HERNDL said he was gratified by the skill with which the delegation of the Republic of Belarus had presented the situation and thanked it for the explanations it had provided, although not all the questions had been answered. The two years which had elapsed since the submission of the third periodic report had seen unprecedented changes and the Republic of Belarus was currently at a major turning-point. The dialogue which had just taken place had brought out the gaps in the existing legislation, which were explained by the fact that it was still essentially based on the laws of the former USSR. It was to be hoped that the new laws, and above all the new Constitution now being drafted, would take into account not only the provisions of the Covenant and other international instruments on human rights but also the Committee's observations. The whole juridical system was being revised and it was very encouraging to hear the delegation say that the experience of all countries would be studied. Such an undertaking boded well for the future and it could be hoped that when the delegation of the Republic of Belarus next appeared before the Committee, it would be in a position to describe a new system based on respect for human rights.

60. Mr. MULLERSON stressed the sincerity and frankness with which the delegation had described the situation in Belarus. The replies had been specific, referring not just to the law but also to practice. Undeniable progress had been made towards effective guarantees for civil and political rights, and he had no doubt that those positive developments would continue. The Government of Belarus seemed to be showing the creativity that was essential for progressing from one system to another. It was important to avoid trying to imitate other States but, rather, to take into account the situation of each republic. In the Republic of Belarus, the actual situation had come before the preparation of the law and it was therefore the more necessary to be careful not to move backwards. Although there might still be some incompatibility between its practice and the requirements of the Covenant, Belarus was nevertheless on the right track, and the way it had chosen to deal with the problems of nationalities, for example, or the creation of new State structures, was the right one.

61. Mr. EL SHAFEI said that the detailed introduction and in-depth replies of the Belarus delegation had given the Committee a more balanced picture of the situation. At a crucial time of transition, the Republic of Belarus could not only benefit considerably from the experience of other States but could also itself serve as an example to the other members of the Commonwealth of Independent States since it possessed all the necessary potential and skills.

62. For the time being, the Committee needed to be assured that the Government would proceed to erect a legislative system that took into account the provisions of the Covenant. He hoped that the fourth periodic report would describe law and practice that were in every respect compatible with human rights.

63. Mr. PRADO VALLEJO said that the general atmosphere in which the discussion had taken place demonstrated a genuine will to cooperate on the part of the Belarus delegation which should be welcomed. Everyone was aware of the considerable effort being made to restructure the system as a whole and it was recognized that the process took time. It merely remained to hope that the restructuring would culminate in a situation in which human rights were fully guaranteed.

64. Mr. SADI emphasized the sincerity and honesty with which the delegation of the Republic of Belarus had replied to the Committee's many questions. It was encouraging to hear that the Committee's comments would be duly taken into account; in the current period of transition, that was all that could be hoped for.

65. Mr. DIMITRIJEVIC thanked the delegation of Belarus for providing, with such frankness, particularly specific information on the current situation. Belarus perhaps enjoyed an advantage over other countries in a comparable situation in that the transition had been gradual and therefore reform could be systematic. The country had experienced no tragic events, and the Government and State institutions had therefore been able to start on the necessary fundamental changes. Although the laws described by the delegation were not all directly related to the protection of human rights, there was no doubt that such matters as private property, privatization and the regulation of foreign investment touched on fields that were important for the exercise of human rights.

66. Obviously, for the time being, the Committee could do no more than await the outcome of the process of drafting and revising the laws and Constitution and, although it was assured that those in charge were fully aware of the importance of human rights, it must still wait to see the attitude of the Government and the results of the pluralist elections. In any event, the members of the delegation had certainly given the impression that they wished to steer matters in the right direction. There was therefore every reason to believe that the Committee's message, namely, that the enjoyment of human rights was an essential element of any democracy, would be transmitted to the authorities. He asked the delegation to convey the Committee's good wishes for success in that enterprise.

67. Miss CHANET thanked the delegation of Belarus for its very detailed replies to the Committee's questions, the number and diversity of which was due to the transitional period through which the State party was passing. Such a major upheaval demanded a complete change of institutions and legislation and, perhaps most difficult of all, in modes of thought.

68. She had noted with satisfaction the lucidity and frankness with which the delegation had identified the problems that still remained. A large number of basic reforms had been announced and the Committee could only take note of them expectantly. For the time being, it must welcome the demonstrated intent, which gave grounds for hope of progress in such important areas as the reform of the Penal Code and the Code of Penal Procedure, the magistracy, the judiciary and the police. She hoped that the Government would succeed in completing the work it had begun and would bring the reforms announced to a successful conclusion.

69. Mrs. HIGGINS associated herself with the comments of the other members of the Committee. She wished to revert, however, to a particular point about which she still felt some concern. It was worrying that the former countries of the Union of Soviet Socialist Republics continued to resist making the law on freedom of movement consistent with the Covenant. In particular, she did not understand why people continued to be denied the right to leave the country on the grounds that they possessed State secrets. The delegation of Belarus had indicated that that criterion would be kept in the new law, even though, in reality, the provision was hardly ever applied. If that was the case, the criterion set forth in article 12, paragraph 3, of the Covenant ("necessary to protect national security") should be amply sufficient. She urged, therefore, that the provision concerning persons possessing State secrets should not be retained in the new legislation, because, while current practice might be liberal, nobody knew what the future might bring. It would be better to have immediately a law guaranteeing freedom of movement.

70. She was sure that great progress had been made, or was being made, in Belarus and thanked the delegation for its replies and the excellent spirit of cooperation it had demonstrated.

71. Mr. AGUILAR URBINA associated himself with those other members of the Committee who had stressed the excellent spirit in which the dialogue with the Belarus delegation had taken place. For his own part, he was still very concerned about the number of offences carrying the death penalty and he found it hard to understand why it should be impossible, as the delegation had indicated, to reduce the number because of public opposition to the abolition of the death penalty and because of the increase in crime. Moreover, in a society which was becoming more open from the economic point of view, it was not acceptable for the death penalty to be imposed for so large a number of offences of a purely economic character. He hoped that the number of offences subject to the death penalty would be reduced to four, as the Minister of Justice had said was his wish.

72. He remained sanguine, however, and believed that the new legal system about to be introduced would make possible greater respect for human rights.

73. The CHAIRMAN thanked the delegation of Belarus for the frankness with which it had expanded upon and updated a report which already contained a great deal of information, a task made more difficult by the fact that the period which had elapsed since the submission of the report had been a time of



great upheaval. The very constructive dialogue with the Committee had shed light on the positive aspects as well as on the grounds for concern which would, it was to be hoped, be taken into consideration during the legislative and constitutional review.

74. He asked the Belarus delegation to convey to its Government the Committee's hopes for its success in the reform exercise.

75. Mr. DASHUK (Belarus) thanked the members of the Committee for their understanding of the situation in Belarus. The delegation, for its part, understood all the possible criticism and assured the Committee that it would do everything in its power to ensure that the new laws would be such as to satisfy its requirements. In any event, it would pass on to the Government all the constructive comments that had been made.

76. The CHAIRMAN said that the fourth periodic report of the Republic of Belarus was due on 4 November 1993, and announced that the Committee had completed its consideration of the third periodic report.

77. The delegation of the Republic of Belarus withdrew.

The meeting rose at 1 p.m.