

505th meeting

Thursday, 26 March 1981
at 10.45 a.m.

Chairman: Mr. BAHNEV

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Fourth periodic report of the German Democratic Republic (CERD/C/64/64/Add.1)

At the invitation of the Chairman, Mr. Zenker (German Democratic Republic)
took a place at the Committee table.

1. Mr. GHONEIM, speaking on a point of order, said that in his opinion the press release on the meeting at which the report of Israel had been considered did not accurately reflect the deliberations of the Committee. He hoped that the summary record would reflect them faithfully.
2. The CHAIRMAN pointed out that the members of the Committee always had the opportunity of making corrections to the summary records, but as a rule the deliberations were accurately recorded. He invited Mr. Zenker to introduce the report of the German Democratic Republic (CERD/C/64/Add.1).
3. Mr. ZENKER (German Democratic Republic) said that the people and the Government of the German Democratic Republic condemned all forms of racial discrimination and attached great importance to the struggle against any form of racist policy, a struggle which was linked to the struggle of mankind for peace, disarmament and detente. The safeguarding of world peace in the future depended upon the elimination of racism, and the elimination of racial discrimination had accordingly become a problem of international importance. The German Democratic Republic unreservedly supported the struggle for independence, self-determination and equality of civil, political, economic, social and cultural rights being waged by the peoples oppressed by colonialism and racism. It extended humanitarian aid to the victims of oppression and colonial and racial discrimination by providing for the education and training in its territory of students and skilled workers belonging to liberation movements. In 1976, more than one billion marks had been paid into the Solidarity Fund of the German Democratic Republic.
4. The German Democratic Republic wished to express its solidarity with the peoples of South Africa and Namibia who were struggling against colonialism, racism and apartheid. It had no relations whatsoever with the apartheid regime in South Africa and, at the thirty-fifth session of the United Nations General Assembly, it had sponsored a resolution inviting all States Members who had not yet done so to accede to the International Convention on the Suppression and Punishment of the Crime of Apartheid. It supported the unconditional elimination of the apartheid regime.
5. The fourth report of the German Democratic Republic replied to questions raised during consideration of the third report and supplemented the previous reports with additional information on the legal steps taken to implement the International

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Convention on the Elimination of All Forms of Racial Discrimination. The principles and duties enunciated in the Constitution prohibited any form of discrimination. In the German Democratic Republic, there were no organizations or movements spreading ideas or theories of racial superiority or of superiority of a particular ethnic or other group or trying to justify racial hatred or discrimination. The glorification of fascism or militarism and manifestations of racial hatred were punishable.

6. The aggravation of racial discrimination in certain States was a matter of concern to the German Democratic Republic. The past and the present showed that manifestations of racial hatred were the ideological instrument for the preparation of wars of aggression. For that reason, measures must be taken against neo-fascist and neo-nazi organizations. At the thirty-fifth session of the United Nations General Assembly, the German Democratic Republic had proposed a draft resolution on measures to be taken against nazi, fascist and neo-fascist activities and all other forms of totalitarian ideologies and practices based on racist intolerance, hatred and terror; the text had been adopted by 124 votes, with 18 abstentions.

7. As the fourth report of the German Democratic Republic stated, the Sorbs, the country's ethnic minority, had continued to develop as equal citizens. The Sorbs had every opportunity to develop their own linguistic and cultural interests, but that had not been possible until racial discrimination and discrimination against minorities had been completely eliminated.

8. Mr. TENEKIDES said he wished to ask three questions. The first concerned the possibility of appealing against a penal judgement. According to the report submitted, the procurator could file a "protest" against the appeal (CERD/C/64/Add.1, p. 5). Did that mean that the proceedings were then closed and that no appeal was possible?

9. The second question had to do with the Sorb minority. The report indicated that the Sorbs enjoyed the same rights as the other citizens of the German Democratic Republic (ibid.). He would like further information about that minority.

10. The third question concerned migrant workers, which the report had not mentioned at all. He would like to know if there were any foreign workers in the German Democratic Republic and, if so, what was their status and what was the attitude of the administrative authorities and the population towards them.

11. Mr. GOUNDIAM said that the report under consideration bore witness to the strengthening of the struggle against apartheid, in particular through opposition to any kind of nuclear collaboration with South Africa. That fact was very important, for when the Committee had studied the implementation of article 15 of the Convention, it had considered that there was a nuclear threat to the territories bordering on South Africa.

12. Article 4 of the Convention was put into effect by sections 91 and 92 of the Penal Code of the German Democratic Republic, which provided for the punishment of members of groups inciting racial discrimination or spreading racist propaganda or racist ideas. Section 92 went even further than most modern legislation by punishing preparations for, and attempts at, committing crimes concerning racism.

13. Mention was made in the report of legal assistance, whereby the district courts supplied citizens with information on how they could best assert their rights and protect their interests (ibid.). He wished to have more detailed information on the purport, extent and value of such assistance.

14. Considerable progress had been made in affirming the cultural identity of the Sorbs and integrating them in the society of the German Democratic Republic. However, it should be made clear whether the provisions of section 16 of the Labour Code had been given effect.

15. In his opinion, the report submitted by the German Democratic Republic was a modest one, and he wished to supplement it by bringing to the attention of the Committee information which he had gathered from three issues of the Bulletin of the Human Rights Committee of the German Democratic Republic relating to racism and the struggle against that scourge. In the first issue, the Human Rights Committee of the German Democratic Republic publicized not only international law relating to the struggle against racism, the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, but also the German Constitution and the laws providing for its implementation. He was pleased that, in a country which had experienced the Hitler regime, tribute was paid to the victims of fascism and in particular to the Jews. Every year the citizens of the German Democratic Republic celebrated the anniversary of their liberation from Hitler's fascism. On the sites of the former concentration camps, in Berlin and elsewhere, the Government had erected monuments to the memory of the dead; those monuments were visited by millions of people every year. The elimination of anti-semitism was among the concerns of the Government of the German Democratic Republic and, in conformity with the principles of freedom of opinion and belief, and the right freely to manifest one's religion, citizens of the Jewish faith practised their religion in accordance with their traditions and enjoyed the active support of the State in that activity.

16. The legal system of the German Democratic Republic punished racism as a crime against humanity. Apartheid, which was the worst form of racism, was considered as punishable by an international court. The concern with efforts to combat racism was apparent in the educational system and school textbooks. In the German Democratic Republic, the education of young people was felt to have particular importance for the development of thought and humanitarian action. The first-grade reader familiarized pupils with the names of children from other countries and, by presenting "brown-skinned, yellow-skinned and white-skinned" people as mutual friends, gave practical effect to article 7 of the Convention. The second grade reader contained two stories about the ill-treatment of a young American black. It also contained a passage which read: "Can they help it if their skin is dark? The rights of blacks must be respected at last! The blacks are struggling in their country for their rights and freedom, and many people all over the world support their struggle."

17. The eighth-grade textbook contained a chapter on Africa which stated that the colonialist overlords had tried to justify slavery by claiming that the Africans had been so backward in the social, economic and cultural senses that they could not have developed without being guided and directed by Europeans. The

chapter concluded that the facts proved otherwise, for until the sixteenth century the inhabitants of the Kingdom of Mali had been in no way inferior to the artisans of Europe, both in ironwork and other craft activities. The same chapter stated that the African blacks in Guinea had established cultures which had been comparable to those of Europe, according to the first Portuguese explorers. Parts of the textbook related to national liberation movements, African cultures, the decadence of the colonial system in Africa and Lenin's statement on the independence of countries under colonial domination.

18. The second issue of the Bulletin dealt more particularly with the struggle of the Palestinians against Israeli occupation, and stated the moral and legal justifications for that struggle. A third issue dealt with apartheid, and he hoped that the results of the work of the Human Rights Committee of the German Democratic Republic would be more widely disseminated among the members of the Committee on the Elimination of Racial Discrimination.

19. Mrs. SADIQ ALI wished to know whether a citizen prosecuted by law had the right to choose his own counsel or was bound to accept a State-appointed counsel, whether trials were public, whether there was any time-limit on detention pending trial and, if so, what was that time-limit, or whether there was a law authorizing the procurator to extend such detention indefinitely.

20. She would also like more details on section 220 of the Penal Code, which provided for the imprisonment for up to three years of anyone who publicly demeaned the order instituted by the State, the bodies or institutions of the State, or social organizations or the acts or measures taken by them. It would be helpful to have specific examples of judgements rendered in pursuance of that provision of the Penal Code.

21. She wished to know how many citizens of the German Democratic Republic had been authorized to emigrate, what were the rules governing emigration and foreign travel, and whether there were age restrictions or restrictions applicable to citizens who had not reached retirement age. What rules governed the working conditions of foreign journalists and were those conditions specified by governmental provisions? Lastly, under which procedures could foreign journalists gather or obtain information within the German Democratic Republic?

22. With respect to the Churches, the Jehovah's Witnesses appeared to have been banned. She wished to know whether the Churches could play a part in education and provide employment for those of their members who maintained the synagogues and retirement homes, and whether there were Jewish schools and resident rabbis or priests.

23. She would also like to know whether under certain conditions workers were authorized to strike and, if they were not, what methods they could use to express their grievances and, if need be, negotiate better wages.

24. There were several political parties in the German Democratic Republic, but several questions could be asked about them. Were there any opposition parties? How did the parties participate in political life? Was there only one list of candidates for elections or did each party present its own list?

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25. A high proportion of the female population held jobs in the German Democratic Republic. It would be interesting to know at what level women participated in the political parties, the Government, the economy and the non-manual occupations, and whether they held jobs other than workers or welfare officers.

26. Mr. BESSONOV said he was pleased that the report of the German Democratic Republic contained replies to the questions which had been raised during consideration of the previous report; they showed that that country was prepared to maintain a constructive dialogue with the Committee. The report highlighted the activities undertaken by the German Democratic Republic at the international level to combat colonialism, neo-colonialism, racism, fascism and all other manifestations of the denial of human rights. In contrast with other countries, the German Democratic Republic scrupulously implemented all General Assembly and Economic and Social Council resolutions against apartheid, as well as the sanctions against South Africa.

27. The report explained all aspects of the legal system aimed at combating racism and racial discrimination, even though the social and economic bases which might give rise to such practices did not exist in the German Democratic Republic, which was a socialist country. He did not agree with Mr. Dechezelles that man was born a racist; in his opinion, economic and social conditions were responsible for the evil of racism. In that connexion, tribute should be paid to the German Democratic Republic because in just 30 years it had succeeded in educating a new generation, which had never experienced racial discrimination or racism, in the principle of the equality before the law of all persons everywhere, regardless of the size of the population group to which they belonged. The legal system of the German Democratic Republic was designed to prevent any isolated manifestation of racism from arising from within or outside the country and its laws protected the citizen against all such manifestations.

28. The Government of the German Democratic Republic had adopted positive measures for the benefit of the various nationalities or minorities living in its territory. It was unfortunate, however, that the report did not specify what legal rules and practices applied to foreigners. It would also be helpful if the German Democratic Republic dealt more systematically in its reports with the measures taken in pursuance of article 7 of the Convention.

29. Mr. DEVETAK considered that the excellent report of the German Democratic Republic bore witness to its continuing determination to combat racial discrimination both nationally and internationally. The information it contained on the country's attitude to apartheid and to South Africa was more detailed than before and he agreed with its authors that ties with that country must be severed in order effectively to combat racism and racial discrimination everywhere.

30. While paying tribute to the struggle waged by Zimbabwe and by the front-line States and the socialist countries which had assisted it, one must not lose sight of the contribution made by many other countries, particularly the non-aligned ones, and by thousands of individuals who had fought for the same goal. Too narrow an approach would not be in keeping with the much broader spirit of the Convention, which was to unite in the same struggle all peoples of goodwill, regardless of ideology, political system, or any other consideration.

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31. Sections 91, 92, 106, 140 and 220 of the Penal Code appeared on the whole to meet the requirements of article 4 (a) and (b) of the Convention. The absence of provisions regarding organizations and propaganda should be noted, however. Perhaps they were governed by other provisions, in which case it would be useful for the Government of the German Democratic Republic to indicate in the future what those provisions were.

32. He paid tribute to the policy of the Government of the German Democratic Republic with regard to the Sorb minority. All the measures which it had taken for its benefit were consistent with the Convention, and in particular article 5 and article 2, paragraph 2, thereof. The next report, however, should provide more detailed information regarding the educational arrangements made for that minority, experience in that area, the kinds of schools - perhaps bilingual - established for the minority, vocational training, secondary and higher education, the administrative system (special bodies or advisers) in the educational sector, the teacher-training system, and other details.

33. Mr. DECHEZELLES explained that he in no way approved of neo-colonialism, racism, apartheid or any form of chauvinism or obscurantism that might give rise to racism, whose consequences were intolerable. Nor did he approve religious intolerance or tribalism in its racist manifestations. He wondered, however, whether ideological speeches on the collective causes of racism and international politics did not by their repetition fall outside the scope of the Convention; as a technical legal body, the Committee must leave political questions in the background. He was of the opinion that the report of the German Democratic Republic placed too much emphasis on ideological considerations and too little on the strict obligations of State under the Convention. The reason given by the German Democratic Republic for the absence of laws or rules condemning racist principles and organizations in that country was that any manifestation of that kind was impossible in a socialist society, which had eliminated the underlying political, economic and ideological causes of such manifestations. He doubted that in a country which had known nazism, there was never any resurgence of, or nostalgia for, the past. For him, racism was the product of fear and ignorance of others, and was therefore inherent in man's very nature. That tendency, which was mirrored in nations when their economic power became too great and when they sought to extend their influence through a lust for power, must therefore be combated by means of education. In those circumstances, care must be taken not to join any kind of bloc because such blocs gave rise to international tension and were characterized by a hatred of foreigners, the underlying cause of racism.

34. Commenting on the provisions of the Penal Code of the German Democratic Republic, he raised the question whether some of them were in keeping with article 4 of the Convention. He had in mind section 91, concerning genocide and section 92 regarding fascist propaganda and incitement to hatred of other peoples or races, which could encourage the planning or commission of crimes against humanity. In any case, the two sections were far removed from the spirit and letter of the first paragraph of article 4 of the Convention, because they referred only to race and not to groups of persons of another colour or ethnic origin, and took into account propaganda or manifestations of hatred directed only against an organization or a group and not against specific persons, as required by article 4 of the Convention. Those sections of the Penal Code

obviously had repercussions on procedure and it could justifiably be asked whether a specific person who had been a victim of racist violence, defamation or discrimination could act individually in order to obtain redress, particularly if the offense was committed by an official who might have acted not only on his own responsibility but also on that of the State (article 4 (c) of the Convention).

35. He paid tribute to the German Democratic Republic for the efforts it made to educate its youth; it would nevertheless be desirable for the State to authorize exchanges of young people with other countries, the free movement of persons, marriage with foreigners and the establishment of free trade unions.

36. Mr. PARTSCH said it was unfortunate that the fourth periodic report of the German Democratic Republic paid more attention to foreign policy than to domestic policy. It was particularly regrettable that the information which had been requested concerning the Labour Code had not been provided and that the report contained no details on measures taken with regard to education.

37. He noted that sections 91 and 92 of the Penal Code of the German Democratic Republic, the texts of which had been included in the report, did not fully correspond to the provisions of article 4 of the Convention. Section 92 punished crimes against humanity, but most acts of racial discrimination against individuals could not be considered as crimes of that nature. Despite repeated requests by the Committee, the full text of section 106 of the Penal Code of the German Democratic Republic relating to fascism, militarism and racial hatred had not been reproduced in the report, and it was therefore impossible to determine whether effect was actually being given to article 4 of the Convention.

38. He noted that, under the legal system of the German Democratic Republic, every citizen was entitled to apply to the courts in "any criminal, civil, family or labour case" (CERD/C/64/Add.1, p. 4). Since no mention was made of administrative cases, he would like to know what remedies were available to citizens who considered that they had been discriminated against by officials and what remedies were available to them in order to defend themselves without action being taken by the Public Prosecutor.

39. Mr. ZENKER (German Democratic Republic) thanked the members of the Committee who had recognized that his country had fulfilled its obligations under the Convention. In reply to the questions asked about the Sorb minority, he pointed out that the report contained fairly detailed information on the matter. He would nevertheless provide additional information in order to show that the members of that minority enjoyed the same rights and freedoms as other citizens of the German Democratic Republic. In cultural matters, an independent Sorb cinema group had been operating for more than one year and, every year, the Sorb community theatre put on four or five plays which often dealt with topics of current interest. In addition, radio programmes in the Sorb language were regularly broadcast in the German Democratic Republic and the number of publications in Sorb was increasing. In that connexion, he pointed out that a four-volume history of the Sorbs had been published in Sorb and in German and that one Sorb publishing house alone published 80 to 100 books every year. That meant that that minority was developing in complete equality and that the provisions of the Convention relating to ethnic minorities were being fully observed.

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40. With regard to the implementation of article 5 (d) (ii) of the Convention on the "right to leave any country, including one's own, and to return to one's country", he said that his country adhered to the principle of equal rights and non-discrimination in dealing with cases of persons who wished to leave or enter the country.

41. In conclusion, he assured the members of the Committee that his Government would be duly informed of all the questions which had been asked, and that it would consider them carefully and reply to them in full in its next periodic report.

42. Mr. NETTEL said he wished to point out that, contrary to what the statement by the representative of the German Democratic Republic might imply, several members of the Committee were of the opinion that that country had not fulfilled all its obligations under article 4 of the Convention.

43. The CHAIRMAN said that many members of the Committee were satisfied with the report submitted by the German Democratic Republic, while others would like to receive additional information on the implementation of article 4 of the Convention and on procedural matters, including possible remedies in cases of acts of racial discrimination.

Mr. Zenker withdrew.

Initial report of the Republic of Korea (CERD/C/61/Add.2)

At the invitation of the Chairman, Mr. Park (Republic of Korea) took a place at the Committee table.

44. Mr. PARK (Republic of Korea), recalling that his country had acceded to the International Convention on the Elimination of All Forms of Racial Discrimination on 5 December 1978, said that, since the submission of the initial report on 9 July 1980, there had been a change of Government in his country and a new democratic Constitution had been promulgated on 22 October 1980, after approval by referendum. His country's second periodic report would contain explanations of the relevant provisions of the new Constitution.

45. As specified in the initial report, racial discrimination was contrary to the basic principles enunciated in the Constitution of the Republic of Korea. There had, moreover, never been any practice or experience of racial discrimination in Korea because it had maintained its racial homogeneity throughout its history. Article 10 of the new Constitution provided that "all citizens shall be equal before the law and there shall be no discrimination in political, economic, civic or cultural life on account of sex, religion or social status".

46. As a State party to the International Convention on the Elimination of All Forms of Racial Discrimination, his country would continue to make every effort to ensure faithful observance of its provisions. In that connexion, on the occasion of the celebration of the International Day for the Elimination of Racial Discrimination, the Minister for Foreign Affairs of his country had stated that the people of the Republic of Korea believed in the ideals of human dignity and equality,

regardless of race, colour or sex, and therefore considered racial discrimination in any form as an affront to human dignity as well as a challenge to basic human rights.

47. Mr. NETTEL noted that, in section III of the initial report of the Republic of Korea, it was stated that the Government of that country, not having any kind of experience or practice of racial discrimination, did not find it necessary to adopt or introduce new legislative, judicial, administrative and other measures with a view to eliminating racial discrimination (CERD/C/61/Add.2, p. 7). He was surprised that reference had been made to "new measures", since, to his knowledge, the Republic of Korea had never had any legislation designed to eliminate racial discrimination. He also failed to understand how the Government of Korea could, as stated in that section of the report, continue to fulfil the obligations laid down in articles 2, 4 (c) and 7 of the Convention when it had not done so until now because it had never adopted any provisions to that effect. In his opinion, the fact that the Government of a State party to the Convention considered that there was no racial discrimination in its country and that there would never be any in no way exempted it from adopting the legislative, judicial and other measures provided for in articles 2, 4 and 7 of the Convention. Indeed, the members of the Committee generally agreed that racial discrimination was a phenomenon that could arise at any time and in any country, as experience had in fact shown. Consequently, the very fact that a State had ratified the Convention imposed on it an obligation to adopt new legislation, if only to prevent the phenomenon from occurring. If it did not do so, it was acting in breach of the Convention.

48. He also noted that article 9 of the former Constitution made no mention of discrimination on account of race. The report nevertheless indicated that "The social status stipulated in the above-mentioned article 9 is interpreted to include race, colour and national origin" (*ibid.*, p. 3). In his opinion, it was not enough to interpret an article because interpretations could change from one day to the next. The same was true of court decisions and case law. Positive and specific legal provisions must therefore be adopted in accordance with the requirements of articles 4, 5 and 6 of the Convention, and it would be advisable to bring that point to the attention of the Government of the Republic of Korea.

49. The initial report of the Republic of Korea should be commended with gratitude, because it demonstrated that that country was willing to establish a dialogue with the Committee. He hoped that the next report would be prepared in accordance with the Committee's guidelines and that it would contain the information requested.

50. Mr. DEVETAK said it was a matter of concern to him that all the information contained in the initial report of the Republic of Korea was based on a constitutional text that was no longer in force. He was therefore not sure what attitude to adopt - whether simply to consider the part of the report which did not relate to the provisions of the former Constitution and request additional information in accordance with article 9 of the Convention, or to envisage deferring consideration of the report until the Committee's next session and requesting the Government of the Republic of Korea to amend it in the light of the adoption of the new Constitution.

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51. The CHAIRMAN considered that the most appropriate solution would be to request the Government of the Republic of Korea to take account of the Committee's guidelines and the relevant provisions of the Constitution now in force in the country when it prepared its next periodic report.

52. Mr. NETTEL pointed out that, if the new Government of the Republic of Korea had agreed to submit the initial report - even though it had been prepared before the adoption of the new Constitution, it was because the report clearly reflected that Government's attitude towards its obligations under the Convention. He was therefore of the opinion that the Committee should not be too punctilious and that it should consider the report, especially since the Government, in submitting the report, had demonstrated its willingness to establish a dialogue with the Committee, and that was not the case with all States parties.

The meeting rose at 1 p.m.