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Summary record (partial)* of the 3660th meeting**
Held at the Palais Wilson, Geneva, on Tuesday, 22 October 2019, at 10 a.m.

Chair: Mr. Fathalla

Contents

* No summary record was prepared for the rest of the meeting.
** No summary record was issued for the 3659th meeting.

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The discussion covered in the summary record began at 10.25 a.m.

Organizational and other matters, including the adoption of the report of the Working Group on Communications (*continued*)

Draft general comment No. 37 on article 21 of the Covenant (Right of peaceful assembly) (*continued*) (CCPR/C/GC/R.37)

1. **The Chair** said that paragraphs 40, 41, 46, 47 and 49 of the first draft of general comment No. 37 on article 21 of the Covenant had been revised by Mr. Heyns in order to reflect the proposals and comments made at the 3657th meeting. He invited the Committee to consider the revised versions of those five paragraphs before resuming its consideration of the draft as contained in document CCPR/C/GC/R.37.

2. **Mr. Heyns** (Rapporteur for the general comment) said that, in the revised versions of the five paragraphs in question, those items that required additional reflection and further discussion had been placed in square brackets and would be discussed again on second reading.

Paragraph 40

3. **Mr. Heyns** said that paragraph 43 had been merged into paragraph 40. Paragraph 40 now read:

> The right of peaceful assembly is not absolute. While the right may thus be limited, there is a presumption against restrictions. The onus is on the authorities to justify any restrictions and where the onus is not met, article 21 is violated. Restrictions are not permissible unless they can be shown to have been provided for by law, and are necessary and proportionate to the aims enumerated in article 21. Any restrictions that are imposed should be guided by the objective to facilitate the right rather than seeking unnecessary and disproportionate limitations to it.

4. The last sentence had been reworded in order to reflect the Committee's standard language for describing restrictions to particular rights.

5. *Paragraph 40 was provisionally adopted.*

Paragraph 41

6. **Mr. Heyns** said that paragraph 41 now read:

> Where the imposition of restrictions on an assembly is contemplated, the relevant authorities should where appropriate consider intermediate or partial restrictions, rather than viewing the choice as only between no intervention and prohibition. It is, moreover, often preferable to allow an assembly to take place and to decide only afterwards whether measures should be taken regarding transgressions during the event, rather than to impose prior restraints in an attempt to eliminate all risks.

7. The second sentence concerned the Committee's preference for alternatives to prior restraints.

8. **Ms. Brands Kehris** said she was concerned that the use of the word "often" in the second sentence seemed to imply that it would sometimes be permissible to prevent an assembly from taking place, in an attempt to eliminate all risks.

9. **The Chair** requested clarification regarding the inclusion of the word "transgressions" in the revised version of the paragraph.

10. **Mr. Heyns** said that one way of addressing Ms. Brands Kehris's concern would be to delete the word "all" in the second sentence. The reference to "transgressions during the event" had been made with the idea of encouraging States to wait and see what happened during an assembly rather than imposing prior restraints.

11. **Ms. Sancin** said that, in her view, the word "all" was very important and should be retained, as it served to set a high threshold for taking action to restrict an assembly.

12. **Ms. Brands Kehris** said that it was between the words “often preferable” and the word “all” that a disconnect seemed to exist. In addition, the meaning of the word “transgressions” was somewhat ambiguous. The paragraph could give the impression that, in the Committee’s view, an assembly should not be allowed to go ahead if there was a risk that a minority of participants would commit transgressions. In her view, either the expression “often preferable” should be reconsidered or a clear definition of the word “transgressions” should be provided.

13. **The Chair** said that the words “often preferable” implied that the transgressions in question were known about in advance. However, the paragraph seemed to be addressing situations in which transgressions that occurred during an event had not been known about in advance.

14. **Mr. Heyns** said that the Committee should not take the position that States should always allow an assembly to take place, even if there was a high risk of transgressions. However, he could see why the words “often preferable” might be problematic. One solution might be to delete the word “often”.

15. **Mr. Zimmermann** said that, according to his understanding, the paragraph concerned situations in which there was a risk that a forthcoming assembly would involve contraventions of particular rules, for example a ban on wearing uniforms. In such cases, the assembly should be allowed to take place and any applicable penalties, for example fines, should be imposed afterwards.

16. **Ms. Pazartzis** said that she would be grateful for confirmation that any measures to address transgressions that occurred during an assembly should not be taken until after the assembly had ended. If that was not the case, she would be in favour of deleting the words “only afterwards”.

17. **Mr. Heyns** said that the paragraph covered various situations, including those in which there was a low risk of violence at a forthcoming assembly. Where the risk was low, the assembly should be allowed to go ahead. The second sentence dealt with transgressions during an assembly. The question of transgressions for which a minority was responsible was an important one, but it was dealt with elsewhere in the draft.

18. **Mr. Bulkan** said that the Committee had initially focused on the retroactive criminalization of participants in assemblies. However, in the revised version of the paragraph, the word “measures” seemed to encompass both criminal penalties and the actions that the police might have to take during an assembly in order to maintain order. For that reason, it might be preferable to delete the word “only”.

19. **Ms. Pazartzis** asked whether, as currently drafted, the paragraph implied that the police could not arrest a person for violence during a peaceful demonstration.

20. **Mr. Heyns** said that police powers were dealt with later in the draft. Nowhere in the draft did the Committee take the position that the police could not arrest violent participants in assemblies.

21. He proposed that, in the second sentence, the words “often” and “only” should be deleted but that the word “all” should be retained.

22. *Paragraph 41, as amended, was provisionally adopted.*

Paragraph 46

23. **Mr. Heyns** said that paragraph 46 now read:

> Only under strictly limited circumstances may restrictions be based on the message conveyed by the participants. The rules applicable to freedom of expression should be followed when dealing with the expressive element of peaceful assemblies. Peaceful assemblies may not be used to advocate for war, or to incite members of the public to commit acts of discrimination, hostility or violence. Assemblies with such aims must be prohibited. As far as possible, action should be taken in such cases against the individual perpetrators, rather than against the assembly as a whole. At the same time, the fact that an assembly provokes or may provoke a

hostile reaction from members of the public against participants does not in itself justify prohibition; provided that article 20 is not applicable, the assembly must as far as possible be allowed to go ahead and its participants must be protected. (See, however, para. 52.)

24. The aim of the paragraph was to make clear that, even when a peaceful assembly provoked or might provoke a hostile reaction, it should be allowed to go ahead, to the extent possible. A cross reference had been included to paragraph 52, which dealt with the circumstances in which prohibition was justified.

25. *Paragraph 46 was provisionally adopted.*

Paragraph 47

26. **Mr. Heyns** said that paragraph 47 now read:

Generally, the use of flags, uniforms, signs and banners is to be regarded as a legitimate form of expression that should not be restricted, even if such symbols are reminders of a painful past. In exceptional cases, where such symbols are intrinsically and exclusively associated with [incitement to discrimination, hostility or violence/acts of violence, or are aimed at intimidating members of the population], restrictions may be justified. Where such symbols are used as part of a broader message of incitement to violence this may lead to the conclusion that the assembly does not fall within the scope of a "peaceful" assembly, as dealt with above.

27. Paragraph 47 had been revised so as to build on the position put forward in paragraph 46. It established that, in exceptional cases, restrictions could be imposed on the use of symbols and that, where such symbols were intrinsically and exclusively associated with incitement to discrimination, hostility or violence, the assembly in question would not qualify as a "peaceful" assembly and would thus not enjoy protection under article 21.

28. **Ms. Brands Kehris** said that she supported the paragraph. However, she had concerns about the word "exclusively", which could open up a legal loophole. Many ideological groups argued that the symbols associated with their activities had other associations as well. One example of such a symbol was the swastika, which had associations that predated National Socialism.

29. **Mr. Heyns** said that the word "exclusively" had been taken from a decision of the European Court of Human Rights. He proposed that the word should be replaced with "exclusively/directly", enclosed in brackets.

30. *Paragraph 47, as amended, was provisionally adopted.*

Paragraph 49

31. **Mr. Heyns** said that paragraph 49 now read:

In addition, there are also the interrelated, substantive requirements that restrictions will be necessary and proportional. Article 21 provides that any restrictions must be necessary in a democratic society. In order to satisfy this requirement, it must be established that a restriction responds to a pressing social need and should be considered imperative, in the context of a society based on democracy, political pluralism and human rights, as opposed to being merely reasonable or expedient. It must also be the least intrusive among the measures that might achieve the relevant protective function. Establishing whether a restriction is necessary, requires a factual assessment. Restrictions, moreover, must also be shown to be proportionate, which requires a value judgment, balancing the nature and the extent of the interference against the reason for interfering.

32. The paragraph had been revised in order to make clear that a factual assessment was needed to establish whether a given restriction was necessary.

33. **Mr. Zyberi** said that, as the paragraph set out the criteria used to assess the necessity and proportionality of any restrictions, he wondered whether the word "assessment" was more appropriate than "value judgment" in the last sentence.

34. **Mr. Heyns** said that, although he preferred the words "value judgment", they could be placed in brackets for discussion at a later stage.

35. **Mr. Zyberi** said that he withdrew his proposal.

36. *Paragraph 49 was provisionally adopted.*

37. **The Chair** invited the Committee to resume its consideration of the draft as contained in document CCPR/C/GC/R.37, beginning with paragraph 51.

Paragraph 51 (*continued*)

38. **Mr. Heyns** said that while, in paragraph 50, the closed list of the legitimate grounds for restrictions of the right to peaceful assembly followed the sequence used in article 21 of the Covenant, he had changed the order in paragraphs 51 to 57, which discussed the different grounds, because public safety and the rights of others were the two that he considered most important. He thought it better for national security, as one of the grounds that States abused most often, to come later in the list, followed by issues such as morality, which were highly contested. He suggested that the Committee should consider each paragraph individually first; the sequencing of the paragraphs could be addressed at a later stage.

39. It seemed from other members' comments during the previous meeting (CCPR/C/SR.3657) that paragraph 51, as currently phrased, did not communicate his ideas as intended. The overall purpose of the paragraph was to state that public safety was an important ground on which States could legitimately restrict the right to peaceful assembly. It normally applied to the conduct of the participants themselves, if that posed a danger to the lives of others or to property; however, the language at the end of the paragraph was intended to communicate that counterdemonstrations could, if they turned violent, also bring the "public safety" ground into play.

40. He disagreed with Ms. Sancin's proposal during the previous meeting that the word "immediate" should be replaced with "imminent", because the latter was interpreted widely to mean "within a matter of seconds" and he felt that many States would see that as unduly restrictive. On the basis of other comments, he proposed adding "similar" to the second sentence before the words "risk of serious damage to property", in order that it too should have a qualifier denoting immediacy; in the third sentence, he proposed replacing the words "could apply" with "normally applies" and deleting the words "but the risk is not sufficient to render the assembly violent", in order to clarify the intended meaning of the paragraph.

41. **Ms. Kran** said that she was in favour of inserting the word "similar.

42. **Ms. Sancin** said that, if "similar" had been included to represent the idea of "significant and immediate", she questioned the need for the additional qualifier "serious".

43. **Mr. Bulkan**, supported by **Ms. Brands Kehris**, said that damage to property could not be equated to the safety of persons, so it was necessary to specify that trivial damage to property did not fall within the scope of the paragraph.

44. **Mr. Heyns** said that inclusion of the qualifiers was important because otherwise the term "public safety" would become a catch-all that could easily be abused. He confirmed that the word "similar" represented the idea of "significant and immediate" risk. However, it was necessary also to include the qualifier "serious" when referring to the risk to property, as it must be emphasized that States could invoke the "public safety" ground only if damage to property was serious.

45. **Mr. Muhumuza** proposed replacing "serious" with "significant" or "tremendous" because, in his view, "serious" was an unsuitable qualifier for "damage to property".

46. **Ms. Sancin** said that she considered "serious" and "significant" to be synonyms in the context of damage to property. She agreed with Mr. Heyns that "serious" or "significant" were necessary qualifiers for damage to property as a ground for restriction of

peaceful assembly. She thought it better to omit the bracketed words “to their life or physical integrity”, thereby leaving the text more open to covering mental health too.

47. **Ms. Kran** said that, in her view, the bracketed text should remain in place because the purpose of the general comment was to codify the current situation in terms of international law, standards and best practice, rather than express what the Committee would like to see in an ideal world.

48. **Mr. Heyns** said that the language used came from the Siracusa Principles on the Limitation and Derogation of Provisions in the International Covenant on Civil and Political Rights, so he agreed that “to their life or physical integrity” should remain in place, although the brackets themselves were not necessary. He preferred not to include vague and open-ended concepts, such as moral integrity, which could very easily be abused. Likewise, he was opposed to changing the word “serious”, since it too came from the Siracusa Principles.

49. **The Chair** questioned the use of the word “risk”, which did not feature in the Siracusa Principles.

50. **Mr. Heyns** explained that, in order to make the general comment easier to read, “risk” was being used as a synonym of “danger”, the term used in the Siracusa Principles.

51. **Ms. Kran** said that she proposed reformulating the first and second sentences to read “The ‘public safety’ ground may only be invoked when”. The first sentence as it currently stood did not add to the principles stated in the paragraph, while the case referenced in the footnote, rather than supporting the statement, simply provided one instance of a public safety rationale being put forward by a State party.

52. **Ms. Brands Kehris** proposed that “only under exceptional circumstances” should be inserted between “could” and “also potentially fall under this heading” in the final sentence of paragraph 51, to ensure that an expectation that violence might break out at an assembly could not be used as an excuse for preventing that assembly except where that expectation was based on solid and specific grounds.

53. **Mr. Bulkan** said that he objected to the principle behind the final sentence, which suggested that a peaceful assembly could be subject to restrictions because of anticipated violence; such a principle was open to abuse by States parties and could conflict with the wording of paragraph 46, as amended. The proposal by Ms. Brands Kehris would mitigate some of his concerns.

54. **Mr. Zimmermann** said that he shared the concerns expressed by Ms. Brands Kehris and Mr. Bulkan. He proposed that the substance of the final sentence of paragraph 51, amended or rephrased as necessary, should be moved into paragraph 52, which addressed the potential for a demonstration to be halted legitimately, under certain limited circumstances, on the grounds that there could be violent counterdemonstrations.

55. **Mr. Heyns** said that he agreed with the proposals made by Mr. Zimmermann and Ms. Kran.

56. **Mr. Ben Achour** said that he felt that the current wording of paragraph 51 was too restrictive. Other protected rights, in addition to the rights to “life or physical integrity” and “property”, could be endangered; he therefore proposed adding the formulation “their other human rights”, used in paragraph 53, at the end of the second sentence of paragraph 51. He also wished to point out that the words “This could apply to a situation” at the start of the third sentence of paragraph 51 needed to be clarified.

57. **Mr. Heyns** said that he did not agree with Mr. Ben Achour’s proposal to include the formulation “their other human rights” in paragraph 51; it was necessary to keep the language concerning public safety separate from that relating to other human rights.

58. **Mr. Ben Achour** said that he felt that paragraphs 51 to 57 should be reordered so that the issues which they addressed followed the sequence used in the Covenant; given that their introduction in paragraph 50 did follow that sequence, the reader would be surprised by the change of order in subsequent paragraphs. In order to reflect the order followed in the Covenant itself, the ground “interests of national security” should come before the

"public safety" ground, which was the less important of the two. Existing paragraph 56 should therefore be moved up to become paragraph 51.

59. **The Chair** said that, while he endorsed Mr. Ben Achour's proposal in a personal capacity, he suggested that the matter of sequencing should be put to one side in order for the Committee to return its focus to the substance.

60. **Mr. Heyns** said that, while he did not disagree with Mr. Ben Achour, he would also prefer to address the matter of sequencing at a later time. With regard to the proposal to clarify the phrase "This could apply to a situation" at the start of the third sentence, he would be happy to replace it with wording along the lines "Considerations of public safety may come into play in a situation".

61. **Mr. Ben Achour**, speaking on a point of order, said that paragraphs 51–56 were very important; indeed, they were at the heart of the issue of restrictions. Sufficient time should therefore be dedicated to their consideration.

The meeting was suspended at 11.40 a.m. and resumed at 11.55 a.m.

Paragraph 52

62. **Mr. Heyns**, referring to the proposal to move the last sentence of paragraph 51 to paragraph 52, said that the sentence should in that case be rephrased, replacing the words "could also potentially fall under this heading" with "could exceptionally invoke considerations of public safety", or something similar. The existing paragraph 52 concerned violent counterdemonstrations and how they should be dealt with.

63. He proposed that, in the existing first sentence of paragraph 52, the word "demonstrators" should be replaced with "participants in assemblies", as had been done elsewhere. In addition, the words "such as those posed by violent counterdemonstrations" should be inserted after "external threats" and a full stop inserted after "threats". The phrase "but if the State is genuinely unable to do so" should be replaced by the phrase "Only if the State is genuinely unable to do so", which would become the start of the new second sentence.

64. **Ms. Sancin** said that it was not clear to her why the threats referred to in the first sentence were qualified by the word "external", since, in her view, demonstrators should be protected from threats of all kinds. Similarly, with regard to the proposed addition of the phrase "only if the State is genuinely unable to do so", she wished to know why the qualifier "genuinely" was used, and how the State's ability or inability to protect would be assessed.

65. **Mr. Ben Achour** said that he would be in favour of replacing the word "demonstrators" in the first sentence with "participants in assemblies". In the French version of the text, the reference to "*manifestations*" in the second sentence would also need to be changed. In addition, the phrase "police force" at the end of the paragraph should be replaced by "security forces", since in some countries the relevant officials came under the control of the armed forces.

66. **Mr. Zimmerman** said that he agreed with the proposal to replace the word "demonstrators" with "participants in assemblies" in the first sentence. He proposed that "interference" should be replaced with "restrictions", to be consistent with the Committee's usual terminology.

67. **Mr. Heyns** said that he would accept the proposed replacement of "interference" with "restrictions".

68. **Mr. Bulkan** said that the phrase "participants in assemblies" could perhaps be broadened to include the term "bystanders" or "observers". He wished to know, with regard to the last sentence, to whom, and at what stage, the State would be required to "provide concrete evidence of the risk".

69. **Mr. Furuya** said that he agreed with the proposal to replace "demonstrators" with "participants in assemblies". However, the State also had an obligation to protect bystanders. The phrase should therefore be broadened to read: "The general obligation of

the State is to protect participants of assemblies and bystanders from external threats." The term "surrounding persons" could also be used instead of "bystanders" if preferred.

70. **Mr. Heyns** said that he was not convinced of the need to address the protection of bystanders in paragraph 52; the main point of the paragraph was to say how States should respond to counterdemonstrations. The term "external threat" was used to contrast those participating in assemblies with those coming from the outside, namely in the form of counterdemonstrators.

71. With regard to his proposed amendment to replace "but if the State is genuinely unable to do so" with "Only if the State is genuinely unable to do so", which would become the start of the new second sentence, the use of the word "genuine" was to show that it should not be too easy for the State to claim that it was unable to protect participants in assemblies; it was necessary to set a high threshold. As for who would assess the State's ability to protect, that would fall to the domestic courts, or possibly to the Committee itself.

72. Concerning the new third sentence, which started "There is high potential for abuse in this area …", he said that he had no amendments to propose.

73. **Ms. Sancin** said that the first part of the third sentence should be deleted, since there was high potential for abuse in many other areas too. The sentence would thus simply read: "Restriction, prohibition or dispersal of such events should be subjected to strict scrutiny".

74. **Ms. Brands Kehris** said that she would be in favour of retaining wording that alerted States to the potential for abuse in that area, but would have no objection to it being phrased differently if necessary.

75. **Mr. Bulkan** said that it was clear to him that there was a link between "high potential for abuse" and "strict scrutiny" later in the sentence. He wondered whether, if the first phrase was deleted, the second should be too.

76. **Mr. Zyberi** said that, as a compromise, the sentence could start with the words "States must ensure that any restriction ...".

77. **Ms. Sancin** said that the third sentence, which started with "An unspecified risk of violence", explained why strict scrutiny was necessary. The reference to the potential for abuse was therefore unnecessary.

78. **Mr. Muhumuza** said that the phrase "subjected to strict scrutiny" suggested that such scrutiny took place after the fact. Rather, States should be obliged to give serious advance consideration to decisions to impose restrictions. He therefore proposed that the sentence should be turned around to read: "Prohibition or dispersal of such events should be undertaken only after serious consideration".

79. **Mr. Heyns** said that it was useful to look at the paragraph as a whole, and in the context of the draft general comment as a whole. The substance of Mr. Muhumuza's proposal was already contained in the draft general comment. It was important to keep the phrase "strict scrutiny" because of the high potential for abuse. He would, however, agree to delete the words "There is high potential for abuse in this area". The sentence would therefore read as follows: "Restrictions, prohibitions or dispersals of such events should be subjected to strict scrutiny."

80. Turning to the last sentence, he said that the phrase "the State must provide concrete evidence" could perhaps be amended to read: "the State must be able to provide concrete evidence".

81. **Mr. Quezada Cabrera**, noting that the phrase "the State must provide concrete evidence of the risk" sounded like a legal procedure, said that he would propose replacing it with "the State must substantiate the risk". He further proposed deleting the phrase "even if a significant police force is deployed".

82. **Mr. Heyns** said that the phrase "the State must provide concrete evidence of the risk" could be replaced with "the State must show that it will be unable to contain the situation".

83. **Ms. Brands Kehris** said that it should be clear that the police were required to conduct a genuine risk assessment to establish whether they were able to contain the situation. She was therefore reluctant to delete the reference to concrete evidence.

84. **Mr. Bulkan** proposed replacing the phrase with "the State must be able to justify the risk".

85. **Mr. Heyns**, recalling that it was stated earlier in the final sentence that an unspecified risk of violence was not enough, said that he proposed replacing "The State must provide concrete evidence of the risk and show" with "the State must be able to show, based on a concrete risk assessment".

86. With regard to Mr. Ben Achour's proposal to replace "police force" with "security forces", it was clear from the Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials that policing functions should be performed by military forces only in exceptional cases. If the Committee referred to security forces in the last sentence, it would give the impression that the military could perform those functions under normal circumstances.

87. **The Chair** said that the deployment of security forces to support the police force had become the rule rather than the exception in a number of States.

88. **Ms. Sancin** said that such developments should not be encouraged. The Committee frequently criticized the militarization of security operations. She was therefore in favour of retaining "police force".

89. **Mr. Ben Achour** said that the term "security forces" was relatively neutral and was frequently used to refer to the police.

90. **Mr. Zimmermann** said that military forces should never be used to oversee a demonstration. The Committee should perhaps seek a broader term than "police force" which would include, for example, the gendarmerie but would clearly exclude military forces.

91. **Mr. Heyns** proposed replacing "police force" with "law enforcement force", bearing in mind that the term "law enforcement officials" was used in the Basic Principles. Lastly, he drew the Committee's attention to Mr. Shany's proposal that the phrase "or if due to exceptional circumstances the State is unable to deploy such a police force" should be added at the very end of the paragraph.

92. **Ms. Brands Kehris** said she wondered whether it was desirable to include that phrase, since it was virtually impossible to foresee all exceptional circumstances that might impede the policing of an event.

93. **Mr. Bulkan** said that its inclusion would open up an area of discretion that was rife with potential for abuse.

94. **Mr. Heyns** said that he would prefer not to include the additional phrase proposed by Mr. Shany.

Paragraph 53

95. **Mr. Heyns** said that the third sentence should be amended to read: "Mere disruptions of daily life are normally not grounds for restrictions." He proposed deleting the fourth sentence, since the same point had been made earlier in the draft general comment, unless the Committee wished to retain the reference to freedom of movement. The words "on the rights of others" should be inserted in the fifth sentence after "imposes a disproportionate burden". Lastly, Mr. Shany had proposed that "results in the undue disruption of traffic" in the final sentence should be amended to read: "results in a major disruption of traffic".

96. **Mr. Zimmermann** said that the paragraph should cover not only the right to freedom of movement but also other rights, such as the right to property.

97. **Mr. Bulkan** said that he found the reference to the "conduct of hate crimes" in the second sentence somewhat confusing.

98. **Mr. Ben Achour** said that, in the French text, the term "*réunion*" [meeting] should be replaced with "*rassemblement*" [assembly].

99. **Ms. Pazartzis** proposed replacing "may be related to their safety" in the first sentence with "may be related to the safety of persons", and "threats to their other human rights" with "threats to other human rights". As the purpose of the second sentence concerning hate crimes was unclear, she suggested that it should be deleted.

100. **Ms. Sancin** said that the first sentence seemed to imply that the rights and freedoms of others must be protected under article 21 of the Covenant only if they were threatened.

101. **Ms. Brands Kehris** said that, while she was open to the idea that a broader range of rights of others could be addressed, such coverage should not be unlimited, in view of the potential for abuse. Drawing attention to the distinction between hate speech amounting to incitement, on the one hand, and hate crimes, on the other, she wondered whether the second sentence was in fact intended to address the issue of hate speech. She therefore proposed replacing the phrase "hate crimes" with "criminal hate speech" or "incitement to hatred".

102. **The Chair** suggested that the Rapporteur should prepare a revised version of the paragraph.

103. **Mr. Heyns**, encouraging Committee members to provide input for a revised version of the paragraph, said that he would particularly appreciate guidance on which other rights should be listed. He suggested replacing "threats to their other human rights" with "potential infringements of their rights".

104. **Ms. Sancin** said that it would be difficult to list all rights that could be infringed. The problem could be resolved by inserting "inter alia" or "such as" after a brief list. Referring to the last sentence, she said that all claims regarding the potential adverse impact of an assembly should be substantiated, not just claims regarding the disruption of traffic and the movement of pedestrians. The same issue seemed to be addressed in the second to last sentence.

The meeting rose at 1 p.m.