

**INTERNATIONAL
COVENANT
ON CIVIL AND
POLITICAL RIGHTS**



CCPR

Distr.
GENERAL

CCPR/C/SR.119
6 November 1978

ENGLISH
Original: FRENCH

HUMAN RIGHTS COMMITTEE

File

Fourth session

SUMMARY RECORD OF THE 119th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 31 October 1978, at 3 p.m.

Chairman: Mr. MAVROMMATIS

CONTENTS

Consideration of reports submitted by States parties under article 40 of the
Covenant: initial reports of States parties due in 1977 (agenda item 4) (continued)

Organizational and other matters (agenda item 2) (continued)

This record is subject to correction.

Participants wishing to make corrections should submit them in writing to
the Official Records Editing Section, room E.4108, Palais des Nations, Geneva,
within one week of receiving the record in their working language.

Corrections to the records of the meetings of the Committee at this session
will be consolidated in a single corrigendum to be issued shortly after the end
of the session.

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

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT: INITIAL REPORTS OF STATES PARTIES DUE IN 1977 (agenda item 4) (continued)

Byelorussian SSR (CCPR/C/1/Add.27) (continued)

1. The CHAIRMAN said that several members of the Committee had requested that the replies of Governments should be reproduced in as detailed a manner as possible in the summary records. If there was no objection, he would take it that the Committee decided that that would be done for the reply of the Byelorussian SSR.

2. It was so decided.

3. At the invitation of the Chairman, Mr. Stankevitch (Byelorussian Soviet Socialist Republic) and Mr. Maksimov (Byelorussian Soviet Socialist Republic) took a place at the Committee table.

4. Mr. STANKEVITCH (Byelorussian Soviet Socialist Republic) said that he had noted with satisfaction the interest expressed by the Committee in his country's report. He would do his best to reply to all the questions which had been raised.

5. Many members of the Committee had put questions regarding the Byelorussian legislative system and the relationship between the Covenant and the domestic legislation of the Byelorussian SSR. Under article 71 of the Soviet Constitution, the Byelorussian SSR was one of 15 federated republics united in the Union of Soviet Socialist Republics. The provisions not only of the Constitution of the USSR but also of the Constitution of the Byelorussian SSR, which had been adopted by the Supreme Soviet of Byelorussia and took into account the particular features of the Republic, were applicable in Byelorussia. The legislation of the USSR and the legislation of the Byelorussian SSR also had equal validity in the Republic. The Constitution of the USSR had defined the jurisdiction of the Union and that of the Union Republics. Article 73 listed the areas which fell within the jurisdiction of the USSR; the Republic did not legislate in those areas. For example, the USSR law on compulsory military service applied directly in Byelorussia since the organization of defence and direction of the armed forces of the USSR were within the jurisdiction of the USSR. The establishment of the fundamental principles of the legislation of the Union of the Soviet Socialist Republics and the Union Republics fell within the jurisdiction of the USSR. The Supreme Soviet of the USSR had enacted an entire series of basic rules, including the fundamental principles of civil and criminal law, of the organization of the judiciary and of civil and criminal procedure. Those basic rules, among others, guaranteed legislative consistency throughout the territory of the USSR and that of the Union Republics. In accordance with those rules, the Byelorussian SSR had adopted its own legislation and codes which reflected the basic rules and adapted them to the particular features of Byelorussia. Outside the areas indicated in article 73 of the USSR Constitution, the Republic exercised completely independent sovereign power in its territory. Article 70 of the Constitution of the Byelorussian SSR listed the areas which fell within the jurisdiction of the Republic, including the legislation of the Byelorussian SSR.

6. Under article 74 of the Constitution, the Byelorussian SSR entered into international relations. It met the obligations incumbent upon it through international treaties. The provisions of those treaties and other international instruments were not always reflected in their entirety in the Constitution and in Byelorussian legislation. Where that was the case, the Republic took the legislative and other measures necessary to ensure their application.

7. The Covenant had been published and was available to the citizens of the Republic in the Byelorussian language and in Russian. Citizens could study it free of charge in the public libraries of the Republic in the language of any of the Union Republics if they did not themselves have the text.

8. Mr. Hanga had asked for details of the legal training given to citizens in all general-education schools. Pupils in their eighth year of secondary education devoted 35 hours to studying the fundamental principles of law and those in technical schools 25 hours. Students at higher educational establishments other than law schools, as well as those at various specialized secondary schools, devoted between 28 and 110 hours to such study. Collectives organized regular evening courses, in question-and-answer form, on legal topics. Law courses were included in teachers' refresher programmes. In every region and every town, consultations on legal questions had been organized by the public authorities. There were currently 917 consultation centres of that kind in the Republic. Lawyers were in charge of that instruction. On 1 January 1978, 296 evening universities teaching law on a collective basis had been in operation in the Byelorussian SSR, and more than 50,000 students had been enrolled in their courses. In 1977, lawyers in the Republic had published 6,884 articles in journals and reviews and had made 2,312 statements on the radio and 188 on television.

9. The members of the Committee had requested an example of the application of an international treaty on marriage and the family whose provisions would be applied directly in Byelorussia without having been incorporated into domestic legislation. The Treaty concerning Legal Aid in Civil and Criminal Cases concluded between the USSR and the Polish People's Republic was a good example. Under that treaty, the organs of the Byelorussian SSR entered directly into contact with their Polish counterparts. The provisions of that treaty concerning family relations were applied directly in Byelorussia.

10. Many members of the Committee, including Mr. Mora Rojas, Mr. Hanga, Mr. Lallah and Mr. Tomuschat, had referred to questions relating to article 2 of the Covenant. As the report indicated, article 32 of the Constitution of the Byelorussian SSR clearly affirmed the principle of the equality of citizens of the Byelorussian SSR before the law without distinction, and was fully in accordance with article 2 of the Covenant. It contained a long list of situations to which the general principle of equality applied, and specified that citizens of the Byelorussian SSR were also equal before the law irrespective of their political convictions. Article 47 of the Constitution of the Byelorussian SSR developed that principle by affirming the right of citizens to criticize any shortcomings in the work of State bodies and social organizations and clearly prohibiting the persecution of those who expressed such criticism. The text declared specifically: "Persecution for criticism is prohibited. Persons guilty of such persecution shall be called to account."

11. The question of the rights of citizens of other Union Republics in the territory of the Byelorussian SSR had been raised. Article 31 of the Constitution of the Byelorussian SSR provided that "Citizens of other Union Republics residing in the territory of the Byelorussian SSR enjoy equal rights as with citizens of the Byelorussian SSR." Under the same article of the Constitution, in accordance with the uniform federal citizenship established in article 33 of the Constitution of the USSR, every citizen of the Byelorussian SSR was a citizen of the USSR.

12. With regard to article 34 of the Constitution of the Byelorussian SSR, Mr. Lallah had asked about the prohibition of any advocacy of national exclusiveness. In essence, that prohibition meant that advocacy of the concept of superiority of one nation over others was forbidden. It was one of the guarantees of the legal equality of citizens irrespective of their nationality. That prohibition had nothing to do with the right of nations to self-determination.

13. Referring to article 6 of the Covenant, Mr. Mora Rojas, Mr. Opsahl, Mr. Lallah, Mr. Tomuschat, Mr. Graefrath and other members of the Committee had requested additional information regarding the application of the death penalty in the Byelorussian SSR, the crimes which were punishable by death, what was meant by "crimes against the State" and possible measures towards the elimination of the death penalty in the Byelorussian SSR. Mr. Graefrath had also expressed interest in infant mortality and the efforts made by the State to reduce it.

14. In the Byelorussian SSR, the death penalty was allowed as an exceptional criminal measure, pending its abolition (article 22 of the Criminal Code of the Byelorussian SSR). The words "pending its abolition" indicated that there were moves in the Byelorussian SSR to eliminate it. The Code also provided that it might be replaced by deprivation of liberty for "crimes against the State", listed in the Criminal Code as treason (article 6), espionage (article 62), terrorism (article 63), and terrorist acts committed against a representative of a foreign State. The death penalty might also be applied to suppress banditry (article 74 of the Criminal Code), premeditated murder with aggravating circumstances (article 100 of the Criminal Code), and gang rape or rape committed by a particularly dangerous recidivist (article 115 of the Criminal Code). Only the higher courts (regional courts and the Supreme Court of the Republic) were competent to try criminal cases which could involve the application of the death penalty. In practice, sentence of death was pronounced only very rarely and the number of executions was limited through exercise of the right of pardon by the Presidium of the Supreme Soviet of the Byelorussian SSR.

15. Mr. Tomuschat had asked for a specific example of an instance in which sentence of death had been pronounced for a crime against the State. No crime against the State had been committed on the territory of the Byelorussian SSR for the last 10 or 15 years. However, on 11 August 1978 the Supreme Court of Byelorussia had condemned to death by shooting, for treason, two Byelorussians who during the Second World War had betrayed their country by enlisting in an SS battalion and had participated directly in operations for the mass extermination of the population of Minsk. They had been discovered only recently because they had been living with false identity papers since the war. It should be noted that in their request for pardon the individuals concerned had not denied the facts.

16. Infant mortality was substantially lower in the Byelorussian SSR than in many other countries in the world; that was due to the efforts of the State, which applied a system of measures to protect the life and health of mother and child, and especially due to free specialized medical assistance for mother and child. At the same time, working conditions had been made easier for mothers. For example, pregnant women were granted maternity leave with full pay, 56 days before and 56 days after confinement (article 165 of the Labour Code). The law prohibited travel on mission and night work for pregnant women. Provision for other benefits had also been made in articles 160, 161, 162, 163, 164 and 169 of the Labour Code of the Byelorussian SSR. It should also be pointed out that average life expectancy in the Byelorussian SSR was 76 years for women and 72 for men.

17. Mr. Lallah had asked if it would not be possible to provide for men and women conditions comparable to those relating to child care. A case which had occurred in Byelorussia might be cited in reply. A woman had died in childbirth, but her child had survived. Under the legislation of the Byelorussian SSR (article 165 of the Labour Code), the mother was entitled to leave after childbirth. Since the mother was dead, the father of the child had requested it for himself. The Council of Byelorussian Trade Unions, which had jurisdiction in matters of social security, had agreed to the father's request. That was an exceptional case, but it created a precedent.

18. Mr. Opsahl and Mr. Tomuschat had raised the questions of respect for the human rights of arrested persons and convicted persons in detention and of the prohibition of their subjection to torture or cruel or inhuman treatment. In the Byelorussian SSR, both legislation and the practice completely precluded cruelty or inhuman or humiliating behaviour towards persons in detention, since the conviction prevailed that a strict sense of responsibility and justice, linked with respect for the inherent dignity of the human person, constituted the surest means of strengthening the legal order.

19. The legislation in force required examining magistrates strictly to conform to all the rules of criminal procedure and to respect all rights of the defence (articles 48 and 49 of the Code of Criminal Procedure of the Byelorussian SSR). It was a criminal offence to force an accused person to give evidence or to subject him to other measures of constraint. The legal provisions which forbade torture and cruel and humiliating treatment also applied to convicted persons serving their sentences. Article 1 of the Correctional Labour Code of the Republic stated: "The execution of the sentence does not have the purpose of causing the accused physical suffering or degrading his human dignity." The State and its organs did not avenge the crime but adopted measures designed to rehabilitate the guilty person.

20. It should be added that the régime in force in places of detention precluded arbitrary measures. It was strictly governed by the provisions of correctional criminal law and by the internal regulations of the penal institutions. Article 10 of the Correctional Labour Code stated: "The activities of the correctional labour institutions shall be entirely based on strict respect for the laws. The officials

of these institutions are responsible for observing legality in their acts." It should also be pointed out that, under article 11 of the Correctional Labour Code of the Republic, the procurators were bound to ensure that the laws were strictly applied in carrying out the sentences of the courts. The procurators were required to adopt in good time measures to prevent and eliminate all violations of the law and to bring the guilty parties to justice. Moreover, under article 115 of the Code, supervisory commissions made up of representatives of trade union organizations, the Komsomols and other social organizations and workers' collectives participated in the rehabilitation and re-education of convicted persons and in exercising social control over the activities of the institutes and organs responsible for carrying out the sentences of the courts.

21. In connexion with article 8 of the Covenant, four questions had been asked by Mr. Hanga, Sir Vincent Evans, Mr. Opsahl and Mr. Tomuschat. Those questions related essentially to the relationship that existed between the obligation to work and article 8 of the Covenant; the free choice of work or, in other words, how article 38 of the Constitution of the Republic was applied in practice; whether the right of a person not to work existed in the Republic; and whether there was a right to leave a collective farm. Mr. Hanga had also asked about the right of the administration and of the worker to terminate a contract of employment.

22. In socialist society, work was an obligation of honour for every citizen. Under article 8 of the Covenant, it was the normal civil obligation of a man capable of working. That obligation, as provided for in article 38 of the Constitution of the Republic, was fully in conformity with article 8 of the Covenant. In conditions of socialism, the labour sector was a focus of citizens' interests, since work was both the source and the means of satisfaction of the material and spiritual needs of the human being. A person who did not work assumed only a moral responsibility to society and no other. In the Byelorussian SSR, individuals had the right not to work, but society did not encourage the idle and condemned them morally.

23. In 1977, more than 16 million students had been studying more than 100 specialized subjects in the vocational training establishments of the USSR. They had all been able freely to choose their professions in accordance with their inclinations, and all of them had obtained work related to the specialized subjects they had studied. That was an example of the practical realization of the right guaranteed by article 38 of the Constitution. There was no unemployment in the Republic and freely chosen work was guaranteed and assured to anyone who wished to work. The procedure for terminating a contract of employment on the initiative of the worker was laid down in article 32 of the Fundamental Principles of Labour Legislation, which provided that the worker could interrupt his contract of employment for an indeterminate period in the case of illness, disablement or other valid circumstances, on giving two weeks' notice. Termination of a contract of employment on the initiative of the administration was governed by article 33 of

those Principles, which provided that the administration could terminate a contract of employment only in case of the winding up of the undertaking, a reduction in personnel, the worker's incompetence or inadequate qualifications, the worker's ill-health, failure by the worker to fulfil obligations arising from disciplinary action taken against him, absenteeism or drunkenness. Moreover, a worker could not be dismissed without the approval of the local Trade Union Committee.

24. With respect to article 9 of the Covenant, some members of the Committee had asked about the right of everyone to liberty and security of person and the legal conditions and duration of pre-trial arrest.

25. Under the Code of Criminal Procedure of the Byelorussian SSR, restrictions on the inviolability of the person were authorized only in cases strictly defined by law. Under article 119 of the Code of Criminal Procedure, the organ of inquiry or the procurator were empowered to detain persons suspected of having committed a criminal offence punishable by deprivation of liberty only on one of the following grounds:

(1) When the person was caught in the act of, or was arrested immediately after, committing the offence;

(2) When witnesses, including victims, positively identified a person as the offender;

(3) When clear traces of the criminal offence were discovered on the suspect or his clothing, in his possession or in his dwelling.

When other grounds for suspecting a person of having committed a criminal offence existed, he could be detained only if he had attempted to escape, if he had no fixed abode or if his identity had not been established.

26. In the case of every arrest, a report was prepared which had to indicate the legal grounds and the reasons for the arrest, and the procurator had to be advised of the case within 24 hours. Within 48 hours, the procurator was required to order either pre-trial detention or the release of the detainee (article 119 of the Code of Criminal Procedure of the Republic).

27. Pre-trial detention as a preventive measure was permitted only on the basis of a reasoned decision by the judge conducting the investigation, confirmed by the procurator. Pre-trial detention could not exceed two months. That period could only be prolonged if the particular complexity of the case required it, for a period not exceeding three months by decision of the regional procurator, for a period not exceeding six months by decision of the Procurator of the Byelorussian SSR and for an additional period of three months by decision of the Procurator-General of the USSR. Under the legislation of the Republic, therefore, it followed that the maximum duration of provisional detention was nine months. In the legal practice of the Republic, there had been no case in which those time-limits had been exceeded.

28. Under article 87 of the Code of Criminal Procedure, the reasons for any decision to hold a person in pre-trial detention as a preventive measure had to be given and communicated to the person concerned.

29. Where several persons were involved in a case, the preventive measure was applied individually and communicated separately to each of the accused. When the period of preventive pre-trial detention had come to an end, the director of the place of pre-trial detention released the detainee in conformity with the decision of the person responsible for the inquiry, the judge conducting the investigation or the procurator.

30. With regard to the question asked by Mr. Opsahl, he pointed out that, when a case came before a court, all matters connected with pre-trial detention were settled by the court. Those decisions bound both the pre-trial detention organs and the procurator. If the procurator did not agree with the court decision concerning a preventive measure, he could appeal to a higher court. The procurator had no power as far as the court was concerned. When appearing before the court in the capacity of public prosecutor, the procurator was bound fully to respect the judicial procedure established by the law.

31. Mr. Rojas had asked whether there were political prisoners in the Ukrainian SSR. There were no such prisoners, nor had there been any prosecutions for political reasons.

32. Sir Vincent Evans had asked whether solitary confinement was practised in the Republic. In the case of pre-trial detention, the persons arrested were confined in wards in accordance with the regulations on pre-trial detention in the Byelorussian SSR. Convicted persons serving their sentences in correctional labour settlements were placed in the usual residential quarters of the settlement (article 29 of the Correctional Labour Code of the Republic). It was only in exceptional cases and for a serious violation of prison rules that convicted persons could be placed in a disciplinary cell for a period of 15 days. Persons living in special régime settlements could, as an extreme measure, be confined in individual cells for a period of not more than one year.

33. Mr. Opsahl had asked what were the legal bases for the regulations in force in places of detention in the Byelorussian SSR. The legal basis was the Correctional Labour Code of the Republic, which had been approved by the Supreme Soviet of the Byelorussian SSR.

33a. It had already been pointed out that the Soviet penal system was imbued with a humanitarian spirit and that punishments were aimed exclusively at reforming the persons convicted by socially useful work, re-education and the improvement of general education and vocational and technical training.

34. Under article 47 of the Correctional Labour Code of the Republic, correctional labour establishments were obliged to provide general education for convicted persons on the basis of an eight-year programme of instruction. Convicted persons who had already completed eight years of general education were entitled to study in secondary general education establishments (articles 47 and 48 of the Correctional Labour Code). The law provided that convicted persons who had no special skill should be given vocational and technical training in the penal establishment. Efforts were also made to improve the productive skills of convicted persons (articles 49 and 50 of the Correctional Labour Code).

35. In reply to the questions which had been asked on the subject of emigration, it should first be stressed that unemployment had been entirely eliminated in the Republic during the 1930s. The collectivization of rural holdings had once and for all freed the peasants from hunger and need. Those achievements had irrevocably abolished the social and economic conditions that could have given rise to mass emigration of the population of the Republic. Furthermore, the constant development of the national economy had required a continuous supply of labour. Socialism had created conditions in which each person could find work that suited him. The need to go abroad in search of work and a better future had thus disappeared in so far as the inhabitants of the Republic were concerned.

36. From time to time, however, it might happen that some people, for one reason or another, usually family reasons, wished to leave the country for a certain period or settle abroad. In cases of that kind, applications for permission to leave were always considered by the competent bodies, in accordance with the provisions governing entry to and departure from the Soviet Union, which had been confirmed by the decision of the Council of Ministers of the USSR dated 22 September 1970 and published in the Compendium of Laws of the USSR. Authorization to leave the country was usually granted. If it was temporarily refused - an extremely rare occurrence - that refusal was decided upon in full conformity with the law and with the provisions of article 12 of the International Covenant on Civil and Political Rights, which made it clear that the State had the right to restrict emigration for reasons of national security, public order, public health or morals or other reasons. That right was exercised not only by the Byelorussian SSR but also by many other States. An application to emigrate did not give rise to any sanction such as eviction or dismissal. All the accusations of "repression" in connexion with applications to emigrate were the inventions of bourgeois propaganda. The preparation of the documents needed for emigration required not only certain formalities but also, in some cases, the settlement of inheritance, family or other questions. No other reason for refusing or deferring permission to emigrate was specified by the law or applied in practice.

The meeting was suspended at 4.15 p.m. and resumed at 4.45 p.m.

37. Mr. MAKSIMOV (Byelorussian Soviet Socialist Republic), replying to questions raised in connexion with article 14 of the Covenant, said that the right of the accused to legal assistance was guaranteed under article 157 of the Byelorussian Constitution. The colleges of advocates were responsible for defending the accused in criminal cases, representing parties in civil cases and, in general, protecting the legitimate rights and interests of citizens and organizations and helping to strengthen socialist law. Other important aspects of their work included the organization of legal consultations, settlement of disputes by arbitration at the request of organizations or collective farms and informing the public about Soviet legislation. The legal status of the colleges of advocates was governed by the legislation of the USSR and the Byelorussian SSR, and in particular by article 160 of the Byelorussian Constitution, the Act concerning the Organization of the Judiciary in the Byelorussian SSR (article 13) and the Decree on the Bar of the Byelorussian SSR.

38. Lawyers normally took part in a trial at the request of the accused, but they could also be appointed by the court. According to article 51 of the Byelorussian Code of Criminal Procedure, the participation of defence counsel was obligatory, particularly in trials in which the procurator or public prosecutor took part, and in cases involving minors or persons who were deaf, dumb or blind.

39. The lawyer selected by the accused could participate in the preliminary investigation from the moment charges were brought. The accused could dispense with his lawyer's assistance and defend himself at any stage in the proceedings. The rights and obligations of lawyers were set out in the codes of civil and criminal procedure. A lawyer's remuneration was determined, in accordance with article 18 of the Decree on the Bar, by a decision of the general assembly of members of a college of advocates. However, the law provided for various instances in which citizens received legal assistance free of charge (article 160 of the Byelorussian Constitution).

40. In accordance with article 156 of the Byelorussian Constitution, proceedings in all Byelorussian courts were open to the public. Hearings in camera were extremely rare in practice and were permitted only when a public hearing would be prejudicial to the interests of protecting State secrets, to avoid the publication of information affecting privacy (article 10 of the Byelorussian Code of Criminal Procedure), and in cases involving crimes committed by minors under 16 years of age or sexual crimes (article 13 of the Byelorussian Code of Criminal Procedure). The judgement of the court was pronounced publicly in all cases.

41. Mr. Graefrath and Mr. Hanga had asked questions concerning the system of people's assessors. The basis for the system, which derived from an important democratic principle in the Byelorussian judicial system, was set out in chapter 18 of the Byelorussian Constitution. Article 151 provided that all Byelorussian courts were based on the principle of the electiveness of judges and people's assessors. Civil and criminal hearings in all courts were based on the principle of collegiality, and cases were heard in courts of first instance with the participation of people's assessors. Judges and people's assessors were responsible to their electors; they reported to them and could be dismissed by them under a legally established procedure. In the administration of justice, people's assessors enjoyed the same rights as judges and, like judges, were independent and subject only to the law.

42. The independence and impartiality of judges were guaranteed by the principle of holding elections at all levels, the unconditional requirement that judges be subject only to the law, the fact that hearings were conducted in public and the fact that cases were heard in such a manner that judges could not be influenced by third parties. All citizens were equal before the law and the courts, irrespective of property, status, national or racial origin, religion or other circumstances.

43. The presumption of innocence was one of the basic principles of Byelorussian criminal law. Article 8 of the Byelorussian Code of Criminal Procedure stated that no one could be adjudged guilty of a crime or sentenced to criminal punishment except by the judgement of a court.

44. Article 158 of the Byelorussian Constitution provided that judicial proceedings in Byelorussia were conducted in Byelorussian, Russian or the language spoken by the majority of people in the locality. All persons participating in

court proceedings who did not know the language in which they were being conducted had the right to become fully acquainted with the materials of the case, to use the services of an interpreter free of charge and to address the court in their own language.

45. The legislation in force (article 245 of the Byelorussian Code of Criminal Procedure) provided that the presence of the accused at hearings in a court of first instance was obligatory. The fact that the accused agreed that his case should be heard in his absence did not relieve him of the obligation to appear before the court if his presence was considered essential. Although the article in question provided for exceptions, it should be noted that, so far, no criminal proceedings had taken place in the Byelorussian SSR without the accused being present.

46. Under the legislation in force, competence for the supervision of the activities of courts and procurators lay with the courts and procurators to whom they were responsible. The supervisory process took two forms: judges and people's assessors could be dismissed by their electors before the end of their term of office and could also be subjected to disciplinary action. The most serious step that could be taken was to initiate criminal action against a judge. However, judges could not be subjected to criminal proceedings, dismissed or arrested without the authorization of the higher legislative organs of the Byelorussian SSR, the Presidium of the Supreme Soviet of the Byelorussian SSR or the Supreme Soviet of the Byelorussian SSR (article 25 of the Act concerning the Organization of the Judiciary in the Byelorussian SSR).

47. Mr. Iallah had questioned the wisdom of including in the code articles on the criminal responsibility of judges and procurators in cases of illegal arrest or sentencing. There seemed to have been some misunderstanding. The law provided that magistrates were criminally responsible not for acts committed in error but for acts committed intentionally and in violation of the law.

48. A question had been asked in connexion with the system of comrades' courts. The activities of those courts in the Byelorussian SSR were governed by the Statute on Comrades' Courts, as confirmed by a decree of the Presidium of the Supreme Soviet of the Byelorussian SSR. The courts in question were part not of the Byelorussian judicial system but of the system of social organizations. They were elected bodies. Their main purpose was to prevent breaches of the law and to educate the population by persuasion and through the influence of the social group. Comrades' courts expressed the wishes of the collective which had established them and were responsible to that collective. In enterprises, institutions and educational establishments, comrades' courts were set up by a decision of the general assembly of manual workers, office workers or students. In collective farms, agricultural communities and residential communities, they were set up by a decision of the members of the collective farm, tenants or members of the agricultural community. In their activities, comrades' courts had to abide strictly by the law. Cases they were called upon to investigate included non-observance of regulations concerning labour protection, safety and sanitation and hygiene in places of work, theft, small-scale vandalism, insults, slander, blows not affecting the health of the victim, swearing and obscene language, cases where parents did not fully meet their obligations with regard to educating their children, lack of respect on the part of children for their parents, lack of respect for women, the degradation of green belt areas and disputes concerning the ownership of objects worth less than 50 roubles,

when the parties agreed to bring such cases before a comrades' court. Decisions of comrades' courts could be appealed before the local trade union committee or the executive committee of the local Soviet of Working People's Deputies. Thus, comrades' tribunals were social organizations that played an important role in developing in Byelorussian citizens a sense of collectivism, mutual assistance among comrades and respect for the dignity and honour of citizens; they also gave workers' representatives an opportunity to influence the social environment in a direct and continuous manner.

49. Mr. Tomuschat had referred to the question of legal provisions to protect Byelorussian citizens against interference in their home, as provided for in article 17 of the Covenant.

50. The general principle of the inviolability of the home, as provided for in article 17 of the Covenant, was expressed in article 53 of the Byelorussian Constitution, which read: "Citizens of the Byelorussian SSR are guaranteed inviolability of the home. No one may, without lawful grounds, enter a home against the will of those residing in it." The general principle of the inviolability of the home was also reflected in other legal provisions, and in particular in the Act concerning the Basic Rights and Obligations of the Soviet Police with regard to the Maintenance of Public Order and the Struggle against Crime. Article 7 of that Act provided that, in the course of their activities, members of the police were entitled to enter places of residence to look for persons suspected of committing crimes and also to prevent crimes or offences that constituted a threat to public order or the personal safety of citizens. The law emphasized that, in general, members of the police force could enter places of residence in the aforementioned circumstances only by day and provided that they had incontrovertible evidence concerning a breach of the law. If a citizen believed that his rights concerning the inviolability of his home had been infringed without good reason, he could lodge a complaint with the procurator, who must then take the necessary measures to put an end to the infringement and defend the citizen's interests.

51. Mr. Tomuschat, Mr. Mora Rojas and Mr. Opsahl had raised various questions related to religious freedom in the Byelorussian SSR. In reply, it should first of all be pointed out that freedom of conscience had always been constitutionally guaranteed in the Byelorussian SSR. Article 50 of the Byelorussian Constitution laid down a new principle according to which incitement of hostility or hatred on religious grounds was prohibited. That provision was designed both to protect believers from any discrimination that might affect their rights and to protect atheists from hostility on the part of those holding religious beliefs. It was also directed against anti-social demonstrations organized under the cloak of religion. The Constitution emphasized that respect for Soviet laws constituted a basic obligation for all citizens of the Byelorussian SSR, including believers. Attempts, for example, to violate Soviet laws governing religious services or to incite believers to refuse to fulfil their civil obligations, to refuse to participate in the social and political life of the country or to perform religious rites harmful to the health of citizens, etc., were not permitted. Finally, by implication, the provision prohibited all attempts to incite hostility between adherents of different religions. From the very first days of its existence, Soviet power had put an end once and for all to the privileged status of particular religions.

52. In the Republic, the Church was separated from the State, but Soviet legislation provided the Church with effective opportunities to satisfy the religious needs of believers. The Constitution guaranteed the right of citizens of the Republic to "perform religious rites". That covered dissemination of religious teachings in churches and temples of all denominations, through the organization of religious services and prayer meetings, the performance of religious rites and ceremonies, freedom to preach, etc. Churches also had the right to create special establishments for religious education, to publish religious works and produce religious objects. Both oral and written religious propaganda were therefore permitted. Soviet legislation authorized religious education for children on a private basis, provided it was within the family and given by their parents. The legislation concerning church services did not prohibit children from going to churches with their parents and attending religious services. It did not therefore prevent people from providing their children with a religious education.

53. With regard to article 19 of the Covenant, Mr. Mora Rojas, Mr. Prado Vallejo, Mr. Opsahl and Sir Vincent Evans had raised questions concerning the right to freely express opinions. That right was fully recognized in the Constitution and laws of the Byelorussian SSR. Every citizen of the Republic could not only hold his own opinions, but was also free to criticize shortcomings in the work of State bodies and public organizations and to submit proposals for improving their activities to the bodies and organizations empowered to take decisions on the matters concerned (Article 47 of the Constitution of the Republic).

54. Article 48 of the Constitution guaranteed citizens freedom of speech, of the press, and of assembly, meetings, street processions and demonstrations, and also guaranteed the exercise of those freedoms. It stipulated that those freedoms must be exercised in accordance with the interests of the people and in order to strengthen and develop the socialist system. That meant that those freedoms must not be abused to the detriment of the interests of the people and that activities intended to undermine the socialist régime were prohibited. There was no legislation in the Republic providing for prosecution for any opinion, including political opinions. However, article 67 of the Criminal Code provided for criminal liability in respect of specific acts of agitation or propaganda designed to undermine the socialist régime. Article 186 of the Criminal Code also provided for liability in respect of the systematic dissemination of slanderous fabrications designed to denigrate the Soviet political and social régime. Those, too, were cases of intentional acts. The legislation of the Byelorussian SSR prohibited slander both against citizens and against society.

55. Referring to the questions raised in article 22 of the Covenant, he said that the right of association of citizens was regarded in his country to be one of the basic workers' rights. Mr. Mora Rojas had asked whether that right was limited to organizations recognized by the law. In fact, the registration of trade union organizations was not required in the Byelorussian SSR. The right to freedom of association in trade unions was provided for in the regulations of the trade unions, which represented the broadest kind of mass association of workers; at present, they had 4,100,000 members in the Republic. The first paragraph of section I of the regulations governing trade unions stated that any factory or office worker was entitled to join a trade union.

56. Mr. Hanga had asked about the relationship between the trade unions and the State. The trade unions participated in the most direct way in the conduct of affairs of State. They enjoyed the right to initiate legislation, participated in national economic development planning, represented the interests of office and factory workers in State and economic organs, administered the State social insurance system, and carried out other functions. At present, the membership of the various social organizations accounted for almost the entire adult population of the country.

57. Mr. Opsahl had asked a question regarding membership of the Communist Party. In that connexion, it should be stressed that the Communist Party of the Soviet Union was deeply rooted in the heart of the masses. The Communist Party constituted an army of more than 16 million members and included the best representatives - those who were best informed and most open to progress - of the working class, agricultural workers in collective farms and intellectual workers. The party existed for the people and it served the people. As a result of its devoted and disinterested struggle for the fundamental interests of the workers, the Communist Party of the Soviet Union had acquired immense authority within the nation, which had boundless confidence in it.

58. Mr. Tomuschat and Mr. Opsahl had raised questions concerning Article 27 of the Covenant, which dealt with national minorities. Persons of Polish, Lithuanian or Jewish origin did not occupy specific areas in the Byelorussian SSR but lived in a wide variety of localities. Persons of other nationalities also lived in the Republic. All those persons participated on an equal footing in the political, economic, social and cultural life of the country. The question of separate development for persons of a specific nationality had therefore never arisen in practice. Citizens of all nationalities living in the Republic had equal rights. Article 62 of the Constitution of the country stipulated that each citizen had the duty to "respect the national dignity of other citizens".

59. Mr. Hanga had asked a question concerning private property in the Byelorussian SSR. The reply to that question was to be found in article 13 of the Constitution of the Republic, which stated that "earned incomes form the basis of the personal property of citizens of the Byelorussian SSR. Personal property may include articles of everyday use, personal consumption and convenience, the implements and other objects of a smallholding, a house and earned savings. The personal property of citizens and the right to inherit it are protected by the State". The Criminal Code and the Civil Code regulated the protection of the private property of citizens in detail.

60. Mr. Graefrath and Mr. Hanga had expressed interest in the problem of the participation of the people in the management of State affairs and the protection of the rights provided for in the Covenant. The reply to that question was to be found largely in articles 2, 7 and 8 of the Constitution of the Republic and in a series of legislative acts of the Republic which had already been referred to in his replies to other questions.

61. Mr. Opsahl had asked about the foreign relations of the Byelorussian SSR and the existence of a Ministry of Foreign Affairs in the Republic. The Byelorussian SSR was currently participating in the work of some 60 international

organizations and their organs and was a party to 150 international agreements. There was a Ministry of Foreign Affairs in the Republic, but the Republic did not maintain embassies in other countries. There were missions of the Byelorussian SSR to the United Nations in New York, UNESCO in Paris and the Office of the United Nations and other international organizations at Geneva. In its foreign policy, the Byelorussian SSR was guided by the same noble aims, tasks and principles as those established in the Constitution of the USSR.

62. Mr. Mora Rojas, Mr. Lallah, Mr. Koulishhev and Mr. Tomuschat had asked questions concerning the rights of aliens in the Byelorussian SSR, their status and the means available to them to protect their rights. They had also asked whether the citizens of the other Union Republics were considered as aliens in the Byelorussian SSR, whether aliens could vote and be elected and what their legal capacity was as a subject of law.

63. It was stated in the report of the Byelorussian SSR that questions concerning the legal status of aliens were dealt with in a special section of the Civil Code of the Republic, section VIII, comprising articles 557 to 564. Those articles specified in particular that alien citizens in the Byelorussian SSR enjoyed the same civil and legal status as Soviet citizens (article 557). Article 35 of the Constitution of the Republic stated that "Citizens of other countries and stateless persons in the Byelorussian SSR are guaranteed the rights and freedoms provided by law, including the right to apply to a court and other State organs for the protection of their personal, property, family and other rights." In that respect, their rights were the same as those of Soviet citizens. However, aliens did not have the right to vote and could not be elected. The term of "alien" did not apply to citizens of the other Union Republics. Article 31 of the Constitution of the Republic stated that "Citizens of other Union Republics residing in its territory enjoy equal rights with citizens of the Byelorussian SSR."

64. Concerning Article 1 of the Covenant which referred to the right of peoples to self-determination, Mr. Lallah, in particular, had wanted to know whether in the Republic it was really possible to leave the country. That was indeed possible, since article 69 of the Constitution of the Byelorussian SSR provided that "The Byelorussian SSR shall retain the right freely to secede from the USSR." That right was guaranteed by the Constitution of the USSR. However, the question did not arise in practice for the Byelorussian people. Byelorussian citizens were proud that the Byelorussian SSR had been among the Republics which had voluntarily founded the USSR in 1922. The people of Byelorussia, as a nation, had been saved during the dark years of fascist aggression by the joint efforts of all the peoples of the USSR, and unity with the other peoples of the Soviet Union was an unalterable principle of the people of the Republic.

65. Mr. Opsahl and Sir Vincent Evans had raised a general question regarding the statement contained in the report of the Byelorussian SSR that international co-operation among States in the field of human rights must primarily be directed towards the struggle against mass and gross violations of human rights occurring as a result of policies of aggression, colonialism, racism, apartheid, and the exploitation of man by man. Mr. Opsahl had referred to the co-operation of the Scandinavian countries and other European countries in other fields, particularly concerning religious rights. Reference had also been made to the links with détente.

66. He wished to stress that the effectiveness of United Nations action to encourage and develop universal respect for human rights and fundamental freedoms was largely dependent on the extent to which its Member States made a systematic effort fully to achieve that goal. In practice, international experience showed that the effectiveness of efforts to guarantee human rights and freedoms was directly dependent upon the general world situation. It was not by chance that the most widespread and gross violations of human rights occurred precisely where a policy of aggression, colonialism and racism was adopted. The more the United Nations took systematic action to strengthen peace and security and international détente and to combat all forms of aggression, colonialism and racism, the more favourable would the conditions created be for improving the effectiveness of its action in the field of human rights and freedoms.

67. The representatives of the Byelorussian SSR in the various United Nations assemblies and meetings had frequently underlined the important continuing role of measures to increase the number of States parties to the basic international instruments in the human rights field. United Nations bodies should systematically strive in their activities to make those instruments universal international agreements. They included, first and foremost, the Conventions relating to genocide, racial discrimination and apartheid, and the International Covenants on human rights. His delegation had consistently voted for the adoption of General Assembly resolutions calling upon all States to adhere to the Covenants and to ratify them. At present, as was well known, only a third of the Member States of the United Nations had become parties to the International Covenant on Civil and Political Rights. That situation was alarming and distressing. The adherence of all States to the Covenants and the vigorous observation of their provisions would open up broad opportunities for the realization of the will of the people, as stated in the Charter of the United Nations "to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small".

68. In conclusion, he wished to stress that the measures adopted in his country were evidence of the will of and efforts made by the Republic to ensure the effective protection of human rights and freedoms, in accordance with the International Covenant on Civil and Political Rights. They were also evidence of the Republic's will to co-operate with the Committee on Human Rights in a constructive spirit, as well as of its respect for the Committee's useful humanitarian activity.

69. The CHAIRMAN thanked the Byelorussian Government for the report it had submitted, its designation of eminent persons to represent it and the fruitful dialogue which it had initiated with the Committee.

70. Mr. TOMUSCHAT hoped that, as had been requested, the representative of the Byelorussian SSR would provide the Committee with the legislative texts from which he had quoted passages during his statement.

71. Mr. STANKEVITCH (Byelorussian Soviet Socialist Republic) said that he willingly agreed to that request, but wished to point out that a new edition of the Civil Code was in preparation and that the Criminal Code was being revised in order to take into account the new Constitution just adopted by the Byelorussian SSR.

72. The CHAIRMAN said that the Committee had completed its consideration of agenda item 4.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)

73. The CHAIRMAN said that the Government of Iraq would be submitting its report very shortly before the next session of the Committee. There was therefore no need to send it a reminder.

74. Sir Vincent EVANS asked which reports the Committee would be considering at its April session.

75. The CHAIRMAN replied that the Committee would consider the majority of the reports before it, in the chronological order in which they had been received, whether they were initial reports or addenda. He thought that there would be about six or eight of them.

76. The letter from ILO (CCPR/C/L.3/Add.3) need not be discussed at present and, in any event, the agenda for the next session of the Committee would contain the usual item on the question of the co-operation of the Committee with the specialized agencies concerned. He understood that on that occasion the Committee would also have before it a letter from UNESCO.

The meeting rose at 5.50 p.m.