



**International Convention on
the Elimination of All Forms
of Racial Discrimination**

Distr.: General
27 September 2010

Original: English

Committee on the Elimination of Racial Discrimination
Seventy-seventh session

Summary record of the 2035th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 18 August 2010, at 10 a.m.

Chairperson: Ms. Dah

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The meeting was called to order at 10.05 a.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention *(continued)*

Eighteenth and nineteenth periodic reports of Denmark (continued) (CERD/C/DNK/18-19 and Corr.1; CERD/C/DNK/Q/18-19; HRI/CORE/1/Add.58)

1. *At the invitation of the Chairperson, the delegation of Denmark took places at the Committee table.*
2. **The Chairperson** invited the Executive Director of the Danish Institute for Human Rights to address the Committee.
3. **Mr. Christoffersen** (Danish Institute for Human Rights), expressed the hope that the Committee's positive attitude towards national human rights institutions would encourage other human rights bodies to include them in their work. His Institute recognized the positive steps taken by the Danish Government since 2006, such as the establishment of the Board of Equal Treatment and the development of an action plan on ethnic equal treatment and respect for the individual. Such initiatives must be continued and supported by adequate funding.
4. With regard to the issue of incorporating the Convention into domestic law, he drew attention to the concerns expressed in the Institute's parallel report. He suggested that the Committee should address the general underlying issue of ethnic profiling, on which further research was needed to monitor developments in Denmark. In general, the country faced significant challenges in combating discrimination and promoting an inclusive society.
5. While agreeing with the Country Rapporteur and other Committee members concerning the need for more clarity on the role of the public prosecution services with regard to hate speech and similar offences, he stressed the individual nature of legal systems and expressed the strong view that the Committee should not recommend that the powers of the Director of Public Prosecutions be circumscribed. Such an action would be entirely alien to Danish law and would not enjoy a high level of credibility. Instead, the Committee could recommend that the Public Prosecutors provide general information on their practice in that regard, with a view to fostering public debate. Moreover, victims' right of access to justice, including effective remedies in the event of lack of investigation or prosecution, should be ensured. It would be unreasonable, however, to ask the Government to change a generally well-functioning and clearly legitimate prosecution system. He expressed satisfaction at the Government's dedication to the serious issue of hate crime, and the hope that future initiatives in that regard would be nationwide.
6. Referring to paragraphs 47–56 of the Institute's parallel report, he highlighted the serious hardship facing asylum-seekers during prolonged asylum proceedings, in which respect the State party should be asked for further information in its next periodic report. Paragraphs 40–46 of the Institute's report covered the situation of ethnic minority women in abusive relationships, who were often forced to decide between remaining in the relationship or leaving the country. Government figures showing an increase in permanent residence permits granted to women who did not fulfil ordinary requirements were encouraging, but he suggested that the data could be deceptive for a variety of reasons. How many cases had been rejected, and in what circumstances? More stringent requirements for permanent residence were likely to result in a greater need for protection for such women, who would have grave difficulties in fulfilling the new requirements. In that regard, further information on the effects of the changes would be welcome in the next periodic report.

7. Further to the section of the Institute's report on individuals with a Roma ethnic background, he suggested that information be requested not only on measures taken to improve matters, but also regarding the situation on the ground. The scope of the challenge must be determined before deciding whether the Roma should be treated differently from other ethnic minority groups. The Institute espoused the view that all ethnic minority groups should have equal rights. He welcomed the Committee's focus on the issue.

8. **The Chairperson** expressed appreciation for the Institute's participation in the Committee's work, and for the State party's cooperation in that regard.

9. **Ms. Auken** (Denmark), stressing the great importance her Government attached to the Convention, said that, before any international instrument was ratified, current legislation was examined for incompatibilities and appropriate action was taken. In the case of the Convention, that had resulted in the introduction of section 266 B of the Criminal Code and specific legislation to prohibit discrimination. In Danish legal tradition, it was therefore presumed that legislation was in accordance with international instruments ratified, which could nonetheless be invoked directly by the courts in case of doubt. The Convention had been applied by the courts and other authorities in relation to violations of section 266 B and other legislation.

10. The decision to incorporate the European Convention for the Protection of Human Rights and Fundamental Freedoms into Danish legislation had been taken against a background of raising general awareness of human rights principles. Given that the International Convention on the Elimination of All Forms of Racial Discrimination was already considered a relevant source of law and invoked by the courts, the Government considered that its incorporation would be purely symbolic, but nevertheless took note of the Committee's comments. The high number of individual communications sent to the Committee by people in Denmark under article 14 of the Convention might be related either to problems with prosecuting crimes involving hate speech, or to relatively high public awareness of and recourse to the Convention. Under Danish legislation, financial legal aid was provided to complainants when the Government was requested to provide an answer to the Committee. The Government would continue to publicize the Convention and the complaints mechanism by various means.

11. The decisions of the Director of Public Prosecutions, as the highest prosecuting authority, were taken in accordance with a strict principle of objectivity regarding possible breaches of the Criminal Code and were based on relevant case law. In recognition of the fact that cases relating to section 266 B deserved special attention, the Government had introduced a dedicated reporting scheme to ensure uniform and efficient practice. With a view to increasing transparency, the Director of Public Prosecutions would soon issue new guidelines on its practice concerning section 266 B. Consideration would be given to publishing decisions on the website of the Office of the Director.

12. The fact that only slightly more than half of the 24 hate speech cases tried in a court of law between 2004 and 2008 had resulted in convictions could indicate that the Director of Public Prosecutions did not reject cases unnecessarily. Most frequently, alleged violations of section 266 B were not tried either because they did not pass the relevant legal test or through lack of evidence. Some of the complaints rejected concerned statements made by politicians during political debates. In such cases, the Director of Public Prosecutions based his decision on the nature of the statement and the context in which it had been made, taking into account jurisprudence and the practice and principles of the Supreme Court, including that tolerance of others' opinions was a precondition for open debate in a democratic society. At the same time, freedom of expression must be exercised with the necessary respect for other human rights. Statements that did not conform to those principles should be penalized, inter alia to avoid giving any impression of impunity. In June 2010, Parliament had lifted the parliamentary impunity of an opposition member in

such circumstances; he was now facing charges. The opposition had called for the abolition of section 266 B on the grounds that it infringed freedom of expression, but the Government had refused, stating firmly that the provision was necessary to protect ethnic minorities and that it would not compromise its international obligations.

13. **Ms. Hansen** (Denmark), responding to concerns that the requirement to submit complaints of racial discrimination in writing might put some victims at a disadvantage, explained that the Board of Equal Treatment had been created to facilitate the complaints process by avoiding court proceedings in clear-cut cases which could be described easily in writing. That did not preclude any case from being tried in court. Cases of discrimination at work were usually brought by the complainant's union, or by the complainant if non-unionized, to be tried in the ordinary or labour courts. Denmark had a high level of union representation of workers.

14. Judges on the Board of Equal Treatment enjoyed special competence in the field of discrimination and had sometimes awarded more compensation than mainstream courts. The Board's secretariat could reject letters of complaint it deemed unsuitable for examination, but its decisions could be appealed to the Board. If the secretariat considered the case too complex, or likely to favour the defendant, it would usually refer the complaint to the Institute for Human Rights for advice on further legal action. Decisions could not be appealed to any administrative authority because of the Board's particular status. In effect, the ordinary court system served as an appeals mechanism for the Board. The parties concerned must decide whether to appeal. If, however, an employer refused to pay damages awarded by the Board, or comply with other orders, the Board was obliged to transfer the case to the ordinary courts at no cost to the plaintiff. Of the 22 racial discrimination cases heard by the Board since its creation in February 2010, 3 had been sent to the courts.

15. **Mr. van Deurs** (Denmark) said that the aim of new requirements for permanent residence was to create a direct link between permanent residence and the social integration of immigrants. Under the new, points-based system, points could be earned in various ways. One hundred points were required for the grant of a permanent residence permit. In order not to discriminate on grounds of education, employment could be taken into account in lieu of qualifications. Outstanding public debts, such as unpaid taxes, must be cleared before residence could be granted, but bank loans and similar debts were not taken into account. The same requirements applied to all immigrants, including refugees, and temporary residence permits could be renewed to allow people time to earn the necessary points for as long as they continued to meet temporary residence requirements. Serious disability was accepted as grounds for exemption from fulfilling ordinary requirements.

16. **Mr. Spies** (Denmark) said that the Government's strategy to reduce ghettoization focused on social housing areas, not ethnic groups, although many of the areas targeted had large immigrant and refugee populations. Ghettoization created a barrier to the successful integration of those groups into Danish society. Legislation gave recipients of social benefits the right to alternative housing in an area with higher levels of employment, while their previous accommodation would be given to people in work. Those receiving benefits remained entitled to housing throughout, and efforts were made to provide substitute accommodation within six months. The areas to be targeted were determined annually, the principal criterion being unemployment levels of between 30 and 50 per cent. As a result, the number of deprived areas — those where over half of residents received social benefits — had fallen from 23 in 2007 to 20 in 2008. Many challenges still remained, particularly with regard to safety and education, and an updated strategy would be launched later in 2010.

17. According to research carried out in 2007 through telephone interviews with immigrant families, only a limited number of immigrants experienced racial or ethnic discrimination. Less encouragingly, discrimination was experienced more frequently by

descendants than by immigrants, possibly attributable in part to their different lifestyles. Efforts would be made to eliminate discrimination in nightlife by providing additional information for nightclub staff, among other things.

18. **Ms. Hansen** (Denmark) said that the Convention permitted a State party to make distinctions between citizens and non-citizens. Such unequal treatment should not, however, involve discriminatory acts that were prohibited by law, such as discrimination on the ground of a person's national origin. Unequal treatment was permissible, on the other hand, where citizenship was a relevant qualification for a particular job, for instance a Ministry of Defence position that called for a strong sense of national loyalty. In practice, it was difficult to conceive of situations in which private companies would have a legitimate interest in choosing only Danish citizens. In response to a question from a Committee member, she confirmed that positions as lawyers, doctors, engineers or accountants were open to non-citizens.

19. **Mr. Rasmussen** (Denmark) said that the municipalities were free to decide whether or not to order mother-tongue tuition for bilingual children other than those from European Union or European Economic Area countries or from the Faroe Islands or Greenland. Some municipalities had opted to do so and parents were required in some cases to pay fees. The Ministry of Education had published a curriculum and guidelines for mother-tongue tuition. The Government took the view that it was preferable to use available financial resources to support Danish-language instruction from an early age and to enhance the overall quality of the tuition offered to bilingual students, thereby improving their academic performance. The aim of Danish educational policy was not to promote the assimilation of bilingual children or to maintain their minority identity but to help them to succeed in the education system, the labour market and society in general.

20. Mother-tongue tuition was offered to some children because they needed to be prepared for a possible return to their country of origin. It was offered to Faroese and Greenlandic children not because of the formal status of the languages concerned but because they were commonly used in public and private contexts in the Faroe Islands and Greenland. The Ministry of Education had not ruled out the possibility that mother-tongue tuition could contribute to the academic success of bilingual children. However, there was no consensus among researchers that bilingual children required such tuition in order to learn a second language and to achieve success in the education system.

21. Denmark had a very heterogeneous student population and more than 100 languages were spoken in Danish schools. The provision of high-quality mother-tongue tuition to all bilingual children would therefore entail a considerable financial burden and major practical difficulties. The Organization for Economic Cooperation and Development (OECD) had described the Government's policy as justifiable in its 2010 review of migrant education. Schools and teachers were encouraged in the revised 2009 curriculum for Danish as a second language to make use of bilingual children's knowledge of their mother tongue. A range of minority languages could also be chosen as optional subjects in primary and secondary schools.

22. With regard to separate classes for Roma children, the so-called "absenteeism classes", also known as "Roma classes", offered in the municipality of Helsingør had been declared illegal by the Ministry of Education and closed down in summer 2005. No other cases of segregated education for Roma children had come to the attention of the Ministry since then.

23. **Ms. Auken** (Denmark) said that paragraphs 198–200 of the periodic report referred to the test that must be passed by all applicants for admission to the Danish Police College. In response to a question regarding possible differences in the performance of trainees of Danish and other ethnic backgrounds who had been admitted to the course, she said that

trainees from different ethnic backgrounds tended to drop out somewhat more frequently, but the difference was not pronounced. The College had developed a mentor programme to assist them. Note had been taken of the Committee's recommendation to conduct further research in that area.

24. **Mr. Spies** (Denmark) said that ethnicity was not recorded in Danish population censuses. He was therefore unable to provide accurate statistics of the number of Roma in the country. Estimates obtained from non-governmental organizations representing Roma people and the Danish Refugee Council ranged from 1,500 to 10,000. The principal countries of origin were believed to be Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia and Romania. As of 2009 migrants and their descendants from those countries totalled some 30,000.

25. The report provided an overview of Roma integration policies. The Government adopted a holistic approach to the matter, promoting awareness campaigns and the development of groups of youth and parental role models from ethnic minority backgrounds. Local groups of role models had been established in more than 13 municipalities, including those of Helsingør and Copenhagen where most of the Roma population lived. The Action Plan to promote equal treatment provided for initiatives to combat intolerance of specific ethnic groups. In cases of mutual intolerance between specific groups, a dialogue focusing, for example, on what they had in common could be initiated. Action was taken to prevent minority groups from becoming victims of mistrust and anger on account of conditions over which they had no control.

26. The Action Plan also provided for the mapping of tendencies towards extremism and polarization. The idea was to focus on cases of anti-Semitism and intolerance that were based on organized initiatives or that created rifts in the local population. Appropriate preventive measures would be introduced in cooperation with the municipalities in the light of the findings. If, for example, cases of intolerance vis-à-vis Roma groups were identified, preventive measures would be adopted.

27. **Ms. Thomsen** (Denmark) said that Greenland had become self-governing on 21 June 2009, which was also Greenland National Day. The report did not contain a great deal of information about Greenland, but she invited Committee members to consult, for example, the report on the self-government process submitted to the Permanent Forum on Indigenous Issues (E/C.19/2009/4/Add.4) and the document concerning the Act on Greenland Self-Government submitted to the General Assembly at its sixty-fourth session (A/64/676). The Prime Minister of Greenland had also made a statement to the United Nations Expert Mechanism on the Rights of Indigenous Peoples in August 2009 in which he had conveyed his Government's commitment to implement the United Nations Declaration on the Rights of Indigenous Peoples.

28. The self-government arrangements were a further extension of the home-rule system that had been in place for the past 30 years. Greenlanders were recognized under the Act on Greenland Self-Government as a people enjoying the right of self-determination under international law and the right to all natural resources in Greenland. Greenlandic, an Inuit language, was the official language but Danish continued to be taught in school alongside other foreign languages. The Act also contained a provision for independence based on a decision by the people of Greenland. Although no referendum on the issue was yet planned, if Greenland opted for independence, it would be an independent State party to United Nations treaties.

29. The Inuit accounted for 89 per cent of the population of Greenland and all members of the democratically elected Government were of Inuit descent.

30. One Committee member had enquired about the "birthplace criterion", whereby people recruited in Denmark for employment in Greenland received special benefits. The

system had been abolished when the Greenland Home Rule Government had assumed office.

31. She confirmed that a National Committee on the “legally fatherless” had recently been established. A dialogue on the issue had begun between the Prime Ministers of Greenland and Denmark.

32. **Ms. Auken** (Denmark) said that the Danish Prime Minister had promised at a meeting with the Home Rule Government on 12 June 2010 that the issue of the “legally fatherless” and the related legislation would be thoroughly scrutinized in the context of a review of family law in Greenland.

33. **Mr. Jacobsen** (Denmark) drew attention to a Government paper entitled “Denmark 2020: Knowledge, Growth, Prosperity, Welfare” which had been published in February 2010. According to the paper, Denmark should seek to become one of the leading countries in Europe in terms of integration by 2020. In particular, non-Western immigrants and their descendants should be integrated into the labour market. The Government would closely monitor efforts to prevent the spread of extremist views and radicalization among young people. It would also strengthen democratic and civil education as well as education in Danish culture and society for newly arrived immigrants in order to enhance their ability to participate actively in community life.

34. **Ms. Crickley** said that the Committee was concerned primarily to ensure that effective remedies were available, for instance in the case of hate crimes and hate speech. Referring to the planned review of the guidelines for the implementation of section 266 B of the Criminal Code, she asked whether the State party would consider developing mechanisms for the proactive promotion of equal treatment by the Department of Public Prosecutions.

35. With regard to the participation of minority ethnic groups in the police force, she suggested that provision should be made for oversight of their performance not only in the Police College but also throughout their careers. It would be interesting to ascertain, for instance, whether they had equal access to promotion.

36. It was unclear in some cases whether the delegation was referring to integration or assimilation. The Roma who had arrived in Denmark before 1960 were allegedly fully integrated. She wondered whether they had in fact undergone a process of assimilation. Noting the enormous difference in the estimates of Roma cited (1,500 and 10,000), she emphasized the desirability of having relatively reliable ethnic data in order to address discrimination issues effectively.

37. Commending the Action Plan on ethnic equal treatment, she asked whether targets had been set and provision made for the assessment of progress made. She was somewhat concerned to hear that members of ethnic minorities who were more extrovert might be at greater risk of discrimination. It was essential to preserve cultural diversity in the process of democratic integration.

38. She noted that 83 per cent of immigrant women and 84 per cent of non-immigrant women were in employment. However, as immigrant women were often vulnerable and required special protection, it was important to ascertain the kind of work in which they were engaged, especially in the light of the new rules governing residence and the matrimonial cohabitation control system. How would the authorities ensure, for instance, that women victims of domestic violence were protected?

39. With regard to the strategy to counter ghettoization, she commended the aims of the redistribution process but asked how the State party proposed to ensure that minorities continued to enjoy the right to non-discrimination following their relocation.

40. In view of the complexity of the home-rule and self-government situation, she wondered what mechanisms were being put in place to ensure the continued protection of identity and the need for free and informed discussion of changes in traditions and, for example, traditional ownership.

41. **Ms. Auken** (Denmark) said that the police had received 190 complaints of breaches of section 266 B of the Criminal Code during the period from 2004 to 2008. However, the number of complaints did not necessarily reflect the number of alleged offences, since incidents involving hate speech quite frequently gave rise to several complaints in different police districts, especially if they were reported in the media. The Government was very much aware of the need to encourage victims of such offences to report them to the police. It also acknowledged that confidence that the complaint would be taken seriously by the police and the prosecution services was one of the main prerequisites.

42. In addition to the measures that had been taken in cooperation with the Danish Institute for Human Rights, the police had made efforts to optimize their registration practice. In 2009, a new case-handling system had been introduced that included a specific section to be filled in if the police officer suspected that an offence might have been racially motivated. In the same year, the police had been issued with internal guidelines to follow when hate crimes were reported.

43. She welcomed Ms. Crickley's recommendation to establish mechanisms for the proactive promotion of equality, which she would communicate to the police authorities.

44. Members of the police force who were from non-Danish ethnic backgrounds were a precious resource. Efforts were being made to encourage members of ethnic minorities to join the police so that the force reflected the ethnic composition of the population. Ethnic-minority police officers were excellent role models for young people from non-Danish ethnic backgrounds.

45. **Mr. Jacobsen** (Denmark) said that the Government shared the Committee's concern about the lack of reliable data on the number of Roma in the country. The Government was engaged in an ongoing dialogue with the Advisory Committee on the Framework Convention for the Protection of National Minorities of the Council of Europe and was working with other bodies.

46. **Mr. Spies** (Denmark) agreed that it was necessary to identify the number of people in the Roma community who were suffering from racial discrimination before taking preliminary action. The local action plans on preventing racial discrimination should be helpful in that regard as they would enable the Government to work together with the municipalities to identify which groups were being discriminated against or felt that they were experiencing a lack of tolerance. If that was the case for Roma groups, measures would be taken under that initiative. Under the new Action Plan to Promote Equal Treatment and Diversity and Combat Racism, there was also a research initiative which would contribute to the development of more precise methods for measuring discrimination, including experienced discrimination.

47. **Mr. Rasmussen** (Denmark) said that the Government considered itself responsible for creating a framework that allowed children from minorities to maintain and express minority culture and to use that culture in the school environment. Guidelines had been published on using minority languages as an active component of school life. Integration was conceived as a two-way process; bilingual children were given language instruction, and teaching in all subjects was designed to integrate language support, intercultural education and ethnic-minority children's use of their mother tongue and their cultural knowledge. Bilingual children therefore adapted to the school system as the school system adapted to changes in the student population.

48. **Mr. Spies** (Denmark) said that the aim of the Government's strategy on ghettos was to prevent marginalized grouping, not ethnic grouping. The fact that people from ethnic minorities chose to live in the same area was not an issue; problems occurred when people were unemployed and marginalized. The new Action Plan to Promote Equal Treatment and Diversity and Combat Racism included initiatives to foster prosperity in deprived areas, including grants to support dialogue and network activities. Such activities could include debates, educational courses, theatre activities or any other steps to create social cohesion and improve the quality of life for all residents. The Government did not wish to be prescriptive about such activities; rather, it believed that the best solutions would come from residents themselves.

49. In general, measures were designed to include rather than integrate ethnic minorities in the democratic process in a wide range of areas. One project had been conducted in cooperation with the Danish Youth Council to set up a democratic platform to encourage young people from ethnic minorities to establish their own associations. While associations were the backbone of Danish society, they were a relatively new concept for some ethnic minorities. The Government had provided funding and a secretariat and it was up to the young immigrants to decide what activities and initiatives they would take in order to play a fuller part in society. The focus was therefore on empowerment and inclusion rather than assimilation or integration.

50. **Mr. van Deurs** (Denmark) said that women who separated from their partners owing to domestic violence were generally allowed to remain in the country if they had lived there for at least two years. While new rules on permanent residence permits had entered into force in June 2010, persons who did not meet the requirements for permanent residence status were not required to leave the country. Therefore victims of domestic violence could stay in Denmark and have their residence permits renewed. The new rules had been introduced to reflect the Government's requirement that immigrants should reach a certain level of integration in order to achieve permanent residence status.

51. **Ms. Thomsen** (Denmark) said that there was strong ethnic identity in Greenland, and an openness that celebrated specific cultural differences in both northern and eastern Greenland. The Inuit were part of society and were treasured as such. Hunting with kayaks and harpoons was preserved and protected as a traditional method of hunting.

52. A common Inuit language, Kalallisit (Greenlandic), had been developed over time in order to ensure that the entire population could communicate. It was spoken by only about 50,000 people and was costly to maintain and develop. A new language law had been introduced and the authorities were developing curricula and materials for the mainly Danish employees in Greenland so that it could become the first language of Greenland as well as the official language.

53. **Mr. Spies** (Denmark) said that the 2003 Action Plan to Promote Equal Treatment and Diversity and Combat Racism had covered the establishment of the Danish Institute for Human Rights, which had begun work in its current form in 2002. In 2003, it had also been designated Denmark's body for equal treatment, and, as part of that mandate, had been assigned the task of documenting discrimination. The new Action Plan had included funding of about 120,000 euros for a research project in that field.

54. **Mr. Murillo Martínez** said that, while he understood that the data on the prison population he had requested were somewhat detailed, it would be useful if the State party could indicate in its next report what percentage of the prison population was from an ethnic-minority background.

55. He invited the Government to take an active part, both in Denmark and abroad, in the commemoration in 2011 of the International Year for People of African Descent, which had been declared by the United Nations General Assembly in its resolution 64/169.

56. **Ms. Auken** (Denmark) said that it had been impossible to draw any conclusions from the rather detailed statistics that were currently available, in Danish only, on the number of people from a non-Danish ethnic background who were currently in prison. The relevant information would be included in the next periodic report.

57. **Mr. Jacobsen** (Denmark) said that he had taken note of the invitation to commemorate the International Year for People of African Descent in 2011.

58. **Mr. Amir** commended the State party on its campaign to eliminate racism from football, Show Racism the Red Card.

59. Recalling the Committee's concern in 2006 about asylum-seekers living with their children in centres for several years, without the right to engage in social, professional, educational and cultural activities outside the centres except to a limited extent, and who might be transferred many times from one centre to another (CERD/C/DEN/CO/17, para. 13), he asked whether asylum-seekers now had the right to appeal against the Refugee Board's decisions and whether the State party had reviewed its policy to ensure that asylum-seekers' rights under the Convention were fully respected.

60. He wished to know whether the Government had decided to amend its environmental policy in the wake of the 2009 United Nations Climate Change Conference in Copenhagen.

61. **Mr. Jacobsen** (Denmark) said that his Government was continuing its efforts to ensure that the issue of the impact on the traditional ways of life of indigenous people was taken into consideration in the context of reaching international agreement on climate change.

62. **Mr. van Deurs** (Denmark) said that, on average, the authorities decided on asylum cases well within a year and asylum-seekers lived in asylum centres while their cases were being reviewed. Those whose applications were rejected and refused to leave the country were, in principle, residing illegally in Denmark, since the Government had clearly stated that they were obliged to leave the country. They therefore had to reside in an asylum centre until they could leave. Some asylum-seekers whose applications had been denied had indeed been living in asylum centres for a long time, but they were people who had refused to travel back to their countries of origin. In the past, under certain circumstances, the Government had enabled families with children to move into accommodation elsewhere in Denmark in order to help them live a more normal life. Nonetheless, the Government maintained its position that asylum-seekers whose applications had been turned down should not have the right to work. They did have the right to travel within the country, as long as they returned regularly to the asylum centre.

63. The Refugee Appeals Board was a quasi-judicial body, which speedily processed appeals from rejected asylum-seekers. The Government considered that its decisions should not be subject to judicial review. That viewpoint had been upheld by the European Court of Human Rights in its decision 11230 of 2007: the Court had rejected an appeal which had amounted to a challenge to the merits of the Refugee Appeals Board's decisions.

64. **Mr. de Gouttes** welcomed the presence of the national human rights institution of Denmark for the interactive dialogue. He thanked the Danish delegation for the information provided, particularly relating to the State party's implementation of article 4 of the Convention, the prosecution of racial discrimination offences and efforts to encourage members of minority groups to work for the police and justice systems. He would welcome more information on the last point in Denmark's next periodic report.

65. The Committee had been informed, inter alia by cases brought to its attention under the individual complaints procedure, of examples of hate speech by political leaders, notably the Danish People's Party. He asked for more information about the differences in

the scope of application of article 266 B of the Criminal Code, which penalized threats or insults against a group — not an individual — on account of race, colour or national or ethnic origin, and articles 267 and 268, which dealt with defamation of an individual. In its general recommendation No. 15 on the application of article 4 of the Convention and its general recommendation No. 30 on discrimination against non-citizens, the Committee asserted that the prohibition of racist ideas was not incompatible with freedom of speech. Even in the context of a political debate, the State party was obliged to determine whether the statements made were racist in character and penalize them if necessary. In particular, it should take resolute action to counter any tendency to stigmatize non-citizens in politicians' speeches or the media, or on the Internet. He would like to know the delegation's views on that issue.

66. **Ms. Auken** (Denmark) said that States should indeed avoid using freedom of speech as an excuse to refrain from penalizing hate speech. Those targeted also had the right to be protected from insults. The Director of Public Prosecutions assessed the seriousness of such statements and the context in which they were made, in order to define acceptable boundaries for political debate. Some incidents of political hate speech were prosecuted: for example, a case had been brought in June 2010 against a member of the Danish People's Party for statements of a degrading nature. The Government took its obligations under article 4 of the Convention very seriously.

67. **Mr. Diaconu** noted that Denmark had not incorporated the Convention or other international human rights instruments into its domestic legislation, with the exception of the European Convention on Human Rights, which dealt only indirectly with racial discrimination. If the courts invoked the International Convention on the Elimination of All Forms of Racial Discrimination in all relevant cases, as asserted in paragraph 25 of the report, then surely there could be no barriers, other than purely formal ones, to its full incorporation into domestic legislation?

68. The Director of Public Prosecutions decided whether to prosecute incidents of hate speech on the merits of the individual case. However, that system placed undue reliance on the judgement of one individual: in his own country, there was a supervisory council which oversaw the activities of judges and could recommend their dismissal if their decisions were persistently unsound. Could a plaintiff contest a decision by the Director of Public Prosecutions in the civil courts and claim damages?

69. **Ms. Auken** (Denmark) said that an individual could bring a civil case under articles 267 and 268 of the Criminal Code. However, no such case had ever been brought under article 266 B, and it was difficult to foresee any situation where someone might have an individual claim in a case where the Director of Public Prosecutions had decided not to prosecute under that article, which dealt with the rights of a whole group.

70. **Mr. Avtonomov** expressed his concern at the lack of statistical data disaggregated by ethnic group. Without the relevant data, the Government would not be able to respond to the de facto discrimination affecting vulnerable groups, especially the Roma. For instance, the figures given by the delegation for the size of the Roma population ranged from 1,500 to 10,000. Statistical methods existed which did not lead to racial profiling or stigmatization, but which would nevertheless give the Government the information it needed to respond to negative trends in good time.

71. He asked for more information about the structure and powers of the new autonomous Government in Greenland. Was the Convention in force in Greenland under the new self-government arrangements, or would the new Government need to accede separately? Its powers covered many areas of potential discrimination, including family and employment.

72. **Mr. Peter** (Country Rapporteur), summing up the interactive debate with the State party, thanked the delegation for the information it had provided. The list of themes drawn up by the Committee (CERD/C/DNK/Q/18-19) had provided a useful basis for the discussion.

73. Denmark's record was good in an area of particular interest to him, the campaign against racism in sport. The Danish Football Union had declared a policy of zero tolerance against manifestations of racism by fans.

74. The debate had highlighted a number of issues of concern to the Committee. They included the lack of statistics on the Roma population, especially those who had arrived in Denmark since the 1960s, and racial profiling and harassment by the police. The situation of the Thule tribe of Greenland continued to give cause for concern.

75. Many members had noted the perceived reluctance of the Director of Public Prosecutions to bring alleged incidents of hate speech by politicians before the courts. The protection provided by article 266 B of the Criminal Code would only be effective if the Director of Public Prosecutions was prepared to prosecute infringements of that article. According to individual complaints which had come before the Committee, many people in Denmark believed that the Director was insufficiently stringent. Nevertheless, the Committee was encouraged by Government declarations that the provisions of the article would continue to be enforced.

76. Many members of the Committee had called upon the Government once again to consider incorporating the Convention directly into its domestic legislation.

77. Another issue of concern was the situation of foreign women victims of domestic violence who stood to lose their right to remain in Denmark if they separated from their abusive husbands. The delegation had indicated that an increasing number of women were allowed to remain in Denmark in those circumstances, but members had nevertheless called upon the Government to ensure that all were treated humanely.

78. Members had welcomed Government initiatives to combat racism and discrimination and encourage members of ethnic minorities to join the teaching profession and the police.

79. The Committee would transmit its concluding observations to the State party at the end of the session. He thanked the members of the Secretariat who had helped him in his in-depth consideration of Denmark's report.

80. **The Chairperson** thanked the Danish delegation for its contribution to a frank and fruitful dialogue. The Committee particularly looked forward to hearing from representatives of the new Greenland Government in future years.

The meeting rose at 1 p.m.