



International Convention on the Elimination of All Forms of Racial Discrimination

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Summary record of the 2034th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 17 August 2010, at 3 p.m.

Chairperson: Mr. Kemal

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The meeting was called to order at 3.10 p.m.

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

Combined eighteenth and nineteenth periodic reports of Denmark (CERD/C/DNK/18-19 and Corr.1; CERD/C/DNK/Q/18-19)

1. *At the invitation of the Chairperson, the delegation of Denmark took places at the Committee table.*
2. **Mr. Jacobsen** (Denmark) said that several events of relevance to implementation of the Convention had taken place in Denmark since the previous periodic report had been submitted in August 2006. In July 2010, the Government had taken additional measures to combat racial discrimination. A new plan of action, which included measures to support relevant initiatives by local authorities, had been launched to combat discrimination based on race or ethnic origin and to promote diversity and equality of opportunity. Municipal councils had provided assistance to victims of discrimination, a human rights awareness campaign had been organized and several studies on the extent of discrimination in the country had been conducted.
3. The Danish Government also continued to focus on measures to prevent racially motivated hate crimes, including those involving the issuance of oral or written statements, and was determined to prosecute all perpetrators of such crimes. In that context, in 2009, the Government had presented *A Common and Safe Future: An Action Plan to Prevent Extremist Views and Radicalization among Young People*. The Danish Security and Intelligence Service (CERD/C/DNK/18-19, para. 45) was implementing a new programme aimed specifically at preventing racially motivated hate crimes by unearthing evidence of systematic organized crime motivated by racism and xenophobia. In addition, the Minister for Integration would once again be awarding the annual integration prize in November 2010.
4. Denmark had participated in the study conducted by the Organization for Economic Cooperation and Development on the educational outcomes of children of immigrant origin and particularly their scholastic achievements. The aim of that research had been to produce reliable data on access to education, the participation and performance of children of immigrant origin as compared to other students and to list a series of options for action by the authorities in the light of the positive experiences in many countries. The study had helped Denmark to identify its strengths and weaknesses in the field of education.
5. **Ms. Auken** (Denmark), referring to the first item on the list of themes drawn up by the Country Rapporteur (CERD/C/DNK/Q/18-19), said that the Director of Public Prosecutions based any decision to bring proceedings in respect of a violation of section 266 B of the Criminal Code on an assessment as to whether an investigation would allow the facts to be ascertained and the circumstances in which they occurred to be determined. In a number of cases, the Director had considered that the statements concerned did not constitute violations of section 266 B of the Criminal Code, either because they had not been made with the intention of causing offence, or because they had been made in the context of a private conversation or to a small circle of people. In other cases, the Director had considered that the statements had not been aimed at a specific group of people. In 2009, the Director of Public Prosecutions had received 11 complaints, of which 6 had been investigated and 5 found to be groundless.
6. On the matter of specific actions which had been taken or were envisaged to further encourage victims of racial hatred and discrimination to report racially motivated offences to the police and to allow them to actively participate in judicial proceedings, the Government was aware that not all racially or ethnically motivated crimes and offences

were reported and that every effort should be made to encourage victims to inform the police authorities in such cases. The national police were drawing up an action plan to encourage people to report crimes involving racial hatred, and a public awareness campaign entitled “Stop Hate Crimes” was being run in Copenhagen. A telephone hotline had been set up to make it easier for victims to report racist acts. The Director of Public Prosecutions had also published a number of new guidelines on dealing with such cases.

7. **Mr. Van Deurs** (Denmark) explained, in respect of the measures taken to comply with the Committee’s recommendation to grant asylum-seekers the right to appeal against the decisions of the Refugee Appeals Board, that the Board was an independent body whose decisions were final and were not subject to judicial review. Unsuccessful asylum-seekers had the right to have their application reconsidered if their personal situation had changed or if new evidence of relevance to the case had been submitted. In 2009, the Board had considered 51 applications, of which 26 had been accepted and 12 rejected; 13 asylum-seekers had been granted subsidiary protection or protected status.

8. **Mr. Rasmussen** (Denmark), said that in respect of the measures envisaged by Denmark regarding children who did not benefit from the policy on mother-tongue tuition, which was limited to bilingual children from European Union and European Economic Area countries, so that they might enjoy on an equal footing the same entitlements, said that the country was under no international obligation to offer mother-tongue tuition to foreign children. Instruction was given in Danish to allow immigrant children to learn the official language and eventually to find employment. Research showed that instruction in foreigners’ mother tongues did not necessarily equate with success. The Government considered that the best solution was to concentrate the available resources on supporting development and the acquisition of Danish from an early age.

9. **Ms. Auken** (Denmark), referring to the reasons why applicants to the Police Service with ethnic backgrounds other than Danish failed the police recruitment test, and measures being taken to address that phenomenon, said that the Danish Police Service had carried out an as-yet unpublished study which indicated that proportionally more candidates of ethnic backgrounds other than Danish failed the entrance examination than did ethnic Danes (36.1 per cent compared to 33.5 per cent). Although they were not able to explain the results, the police thought that the reason could be that the police profession was not very attractive to members of other ethnic groups. The police force had made a consistent effort to ensure that ethnic groups were well represented, and it worked with educational institutions to encourage young people of immigrant origin to join the force.

10. **Mr. Van Deurs** (Denmark) said that, in respect of the third item on the list of themes, which concerned the number of residence permits granted, refused and the grounds for refusal under the amended section 7, paragraph 2, of the Aliens Act, the Refugee Appeals Board considered each application individually to determine whether it met the requirements of the Convention relating to the Status of Refugees. Furthermore, under section 7, paragraph 2, of the Aliens Act as amended in 2002, the possibility of obtaining de facto refugee status had been replaced by the possibility of obtaining subsidiary protection, and being a conscientious objector was no longer sufficient to be granted residence status.

11. **Mr. Torp** (Denmark), referring to subparagraph (f) of the third item on the list of themes, said that immigrants from non-Western countries certainly did have a higher unemployment rate than ethnic Danes. However, policies implemented over several years to improve the employment rate among immigrants had succeeded in raising the rate from 44 per cent in 2001 to 54 per cent in 2009. Over the same period, the employment rate for Danes had not varied. Paradoxically, the financial crisis had had fewer negative repercussions on immigrants than on Danes, as the unemployment rate of the former had risen by 19 per cent, compared to 92 per cent for the latter.

12. The education provided to immigrant children in the national system played a decisive role in their entry into the labour market. The employment rate of immigrant women who had attended Danish schools was 83 per cent, which was almost identical to that of Danish women, at 84 per cent.

13. The Government had adopted a number of initiatives to help immigrants find work. In 2006, it had launched the New Chance for Everyone programme and other projects that had helped to improve the immigrant employment rate. Recently, a comprehensive plan had been launched to help the long-term unemployed, among whom immigrants continued to be overrepresented, to find work.

14. **Mr. Spies** (Denmark), speaking on the fourth item on the list of themes, said that, under Danish law, most rights and responsibilities were connected to residence rather than nationality, which meant that all immigrants, including Roma, who had a residence permit were given access to a wide range of social services. Moreover, any resident of Denmark who felt that he or she had been the victim of discrimination on grounds of race or ethnic origin could invoke domestic legislation prohibiting racial discrimination, including section 266 B of the Criminal Code, the law prohibiting racial discrimination, the law banning discrimination in employment and the law on equal treatment for ethnic groups. The Roma living in Denmark thus enjoyed the same basic rights and protection from racial discrimination as ethnic Danes and other residents of foreign origin.

15. In July 2010, a new action plan on equal treatment for ethnic groups had been launched alongside the existing integration policy in order to supplement current legislation. The plan provided for 21 specific initiatives to combat discrimination and intolerance in all areas and to promote diversity in the labour market. The Government was also planning to launch a campaign by the spring of 2011 to raise awareness of basic human rights and, before finalizing those preparations, would ensure that the campaign took into account the Committee's concluding observations on the present periodic report.

16. In recent years, the Government had taken a number of steps to assess the number of Roma living in the country. In the context of discussions with a Roma association on the applicability of the Framework Convention for the Protection of National Minorities to the Roma minority living in Denmark, the Ministry of Foreign Affairs, the Ministry of Refugee, Immigration and Integration Affairs, and the Ministry of the Interior and Health had reviewed several studies relating to the presence of Roma in Denmark from 1505 to date. No specific outcome had been achieved because of a lack of information, particularly in respect of the period between 1875 and 1960. Roma had certainly settled periodically in Denmark in the past, but had not lived there continuously. There were currently between 1,500 and 10,000 Roma in the country, according to various sources. The Danish Refugee Council — the main NGO in Denmark — said that there were about 2,000 Roma living in the country, half of them in Helsingør and the remainder in the Copenhagen region.

17. **Ms. Thomsen** (Denmark), addressing the fourth item on the list of themes, stated that, as noted in the report (CERD/C/DEN/18-19, annex I, paras. 3 and 4), the Supreme Court had handed down a judgement that the Thule tribe did not constitute a tribal people or a distinct indigenous people within the Greenlandic people. Following that decision, the Government had declared that Denmark had only one indigenous people, the Inuit. The Government thus considered the case of the Thule tribe to be definitively closed.

18. Greenland had enjoyed autonomous status since June 2009, following a referendum in which 75.5 per cent of voters, including the inhabitants of the Thule region, had voted for self-rule. Inuits represented 89 per cent of the island's population, and all the members of Parliament and of the Cabinet were Inuits. There were no cases pending concerning the Thule tribe.

19. **Mr. Peter** (Country Rapporteur) said that he was pleased to note that, ever since its presentation of its initial report, Denmark had regularly submitted periodic reports to the Committee. Moreover, the Danish delegation had a majority of women. After a brief description of the geographical, demographic and political situation in the State party, he reviewed the list of themes (CERD/C/DNK/Q/18-19), paying particular attention to the application of section 266 B of the Criminal Code, which he considered problematic. The Director of Public Prosecutions had very wide-ranging powers over proceedings under section 266 B of the Criminal Code, as he could decide not to open investigations, to terminate ongoing investigations or to drop the charges. There could well be a link between that and the fact that, between 2004 and 2008, only 13 of 26 complaints regarding acts of racism had led to convictions. Table 2 in paragraph 49 of the periodic report (CERD/C/DNK/18-19) showed that a total of 99 cases had not been taken to trial, which might seem to indicate that the Director of Public Prosecutions tended to afford greater protection to the presumed perpetrators of acts of racism than to the victims. Did the Director of Public Prosecutions' broad powers perhaps favour a culture of impunity, and had anything been done to restrict them? In view of the fact that the immunity of a Member of Parliament had been lifted in June 2010 on the request of the Director of Public Prosecutions and that there had then been calls for the repeal of section 266 B of the Criminal Code, the Committee would welcome the delegation's comments on those events and an indication as to whether the State party might give in to the pressure and agree to repeal the section.

20. While the establishment of the Board of Equal Treatment was to be welcomed, the institution did have some shortcomings. Firstly, it dealt only with complaints submitted in writing and did not hear oral statements from parties or witnesses. Further, its secretariat was authorized to reject complaints that it considered inadmissible, which constituted an excessive degree of power. Finally, the Board's decisions were not subject to appeal before another administrative authority. It was to be hoped that the State party would be prepared to review the Board's procedures in the light of those comments.

21. Although the State party did not in any way prohibit local authorities or bodies from offering children of immigrants an education in their mother tongue, it would be interesting to know whether the authorities were prepared to provide financial support for such teaching projects.

22. Given that, in paragraph 199 of the report, the State party had said that there was no explanation for the higher failure rate in the police entry examinations for candidates of ethnic origin other than Danish, the State party should try to explain the situation scientifically.

23. It might be asked whether the amendment to the Aliens Act, which required an applicant for a permanent residency permit to have been awarded 100 points based on a number of criteria, was not discriminatory. The criteria included being 18 years of age or over, having been resident in Denmark for four years, not having been sentenced to a period of imprisonment of 18 months or more, having passed a Danish-language examination and having had full-time employment in Denmark for two and one half of the previous three years, as well as not having received public assistance during the three years preceding the application and not having debts in excess of 13,500 euros. The Committee would appreciate an explanation of why debt was considered to be a hindrance to the granting of a residence permit. The new system might complicate the process for granting permanent residence and made no distinction between those capable of meeting all the criteria and those, such as asylum-seekers, who were less able to do so, or between poor, less well-educated persons and rich, educated ones. The new system might also contravene international commitments undertaken by the State party, particularly the provisions of the 1951 Convention relating to the Status of Refugees and its 1967 optional protocol.

24. In its 2006 concluding observations following the examination of the State party's sixteenth and seventeenth periodic reports, the Committee had expressed concern at the fact that the minimum age for the purposes of family reunification had been set at 24 years, clearly as a way of combating early or forced marriage. Had the Danish National Centre for Social Research, which had been studying the issue, published its report in September 2009? If so, what were its conclusions, and was the report available in English?

25. In respect of the protection of the Roma people, the State party drew a distinction between Roma who had come to Denmark in the late 1960s and those who had fled the war in the Balkans in the early 1990s. While, according to the report, the former had become integrated into Danish society, information on the situation of the latter would be of interest; as an ethnic minority, they had the right to the protection provided for under article 27 of the International Covenant on Civil and Political Rights. Members of the delegation might comment on the veracity of statements by a number of NGOs that Roma were sometimes expelled, underwent racial profiling by law enforcement officials, or were refused access to campgrounds. They might also mention any specific measures taken to protect those Roma who had arrived in the country in the 1990s.

26. He also asked whether the State party had any precise figures on the composition of its population.

27. The Supreme Court, in its decision of 28 November 2003, had not considered the Thule tribe to be a distinct indigenous people, despite the tribe's perception to the contrary, on the grounds that its members had the same living conditions as the rest of the Greenlandic people. That opinion was consistent with the declaration made by the Danish Government, and acceded to by the Greenland Home Rule Government, in connection with the ratification of International Labour Organization Convention concerning Indigenous and Tribal Peoples in Independent Countries (No. 169), according to which Denmark had "only one indigenous people" in the sense of the Convention, namely the indigenous people in Greenland, also known as the Inuit.

28. After reading paragraph 20 of the Committee's concluding observations (CERD/C/DEN/CO/17) to the State party's sixteenth and seventeenth periodic reports, and paragraph 13 of the concluding observations of the Human Rights Committee to Denmark's fifth periodic report to that body (CCPR/C/DNK/CO/5), and taking note of the Committee on the Elimination of Racial Discrimination's general recommendations No. 8 on identification with a particular racial or ethnic group and No. 23 on the rights of indigenous peoples, he asked whether, despite the Supreme Court's 2003 decision, the State party would be prepared to take steps to begin free and informed negotiations with the Thule tribe on its status as an indigenous or tribal people.

29. **Mr. Avtonomov** said that more frequent use might be made of the Convention if it were incorporated by a special act into the State party's domestic law, as was the European Convention for the Protection of Human Rights and Fundamental Freedoms, which, according to information from the Danish Institute for Human Rights, was cited more frequently in Danish courts.

30. It was surprising that the State party should argue that the Roma residing in Denmark had no long-term, unbroken association with Denmark, as they were a nomadic people. Had the Roma population in Denmark increased since Europe had opened its borders and had their arrival been a source of conflict and tension with the local population?

31. The issue was not one of granting national or ethnic minority status to the Roma, but rather of recognizing them as a distinct group who could claim a number of rights, notably education in their own language. More information on the subject would be welcome.

32. The Committee would also welcome additional information on Greenland's new status, particularly in respect of the autonomous Government's powers, and whether it needed to accede directly to the Convention or was a party thereto through Denmark. Did the new Greenlandic Government have power over issues related to combating discrimination and could it legislate on civil status and land ownership?

33. Did the Inuits speak Greenlandic, the official language of Greenland, or an Inuit language? It would be interesting to know whether ethnic Danes and Danish speakers were subject to discrimination in Greenland and whether their rights were protected.

34. Despite the Supreme Court's decision, the matter of the Thule tribe would not be resolved as long as that people did not themselves identify with the indigenous population of Greenland. The Committee would welcome additional information on the subject.

35. **Mr. Thornberry** asked why, in the delegation's opinion, the Committee had received a disproportionate number of individual communications from Denmark. Might the fact that the Convention was not incorporated into domestic law and the xenophobic statements made by some political leaders partly explain the situation?

36. Why did the authorities not apply the same policy on bilingual education throughout the country, and why was bilingual education offered only in the languages of the European Union? Paragraph 33 of the report stated that Roma who had come to Denmark before the 1960s were fully integrated into society; information on the integration of Roma children in schools, in particular, would be welcome.

37. **Mr. Cali Tzay** said that there were reports that, at one time, Danish families had received financial assistance from the State to move to Greenland and thus help the Government to maintain control over the territory. He asked the delegation to describe that fortunately bygone situation and to indicate what percentage of Inuits were part of the autonomous Government of Greenland. Might Denmark review its position on the Thule people's right to self-identification?

38. **Mr. Diaconu** said that he would like more information on the Roma in Denmark, specifically their numbers and the problems they encountered. NGOs reported that Roma were victims of racial profiling and their children were put in special schools. The delegation was asked to explain those points.

39. He asked about the results of the strategy against "ghettoization" mentioned in paragraphs 131 to 135 of the report and for more information in respect of the right to land and property of the indigenous peoples of Greenland and the Faroe Islands. Did human rights issues in Greenland fall within the competence of the autonomous Government or the Danish Government?

40. **Mr. de Gouttes** asked what the legal reasons were for the fact that Denmark had not incorporated the Convention into domestic law, as it had in the case of other instruments. In respect of the application of article 4 of the Convention, the report mentioned only 13 convictions for racist offences, with most cases not being followed up. In that context, it was surprising how many communications the Committee had received from individuals in Denmark, most of which concerned hate speech by Danish politicians. What measures had been taken to facilitate access to justice for victims of racism and to help them collect evidence?

41. What measures had been taken to provide reception arrangements and decent living conditions for the Roma and give them access to education, health care and housing? The very broad powers of the Board of Equal Treatment were to be welcomed, but it should be noted that appeals against its decisions could not be brought before the administrative authorities. Were there any cases in which parties had turned to the national courts after the Board had issued a negative decision? Given the strained relations existing between the

police and immigrants, it would be of interest to know whether the State party had recruited members of ethnic minority groups into the police force and the judicial system?

42. **Mr. Murillo Martínez** asked for additional information on the conclusions and recommendations set forth in the report of the Ministry of Refugee, Immigration and Integration Affairs, mentioned in paragraph 173 of the periodic report, which stated that, in 2007, “11 per cent of the immigrants experienced discrimination in the street”. Which nationalities were concerned? Additional information on the prison situation in Denmark and, specifically, statistics on the nationality and ethnic origin of detainees would be of interest.

43. **Mr. Prosper**, noting that the question was political rather than technical in nature, asked how, given the trend towards ethnic diversity in Danish society, the State party intended to bring about conditions that would allow everyone to live harmoniously and show greater tolerance to each other.

44. **Mr. Kut** said that the State party should avoid establishing a hierarchy of human rights, in that freedom of expression seemed to be more important than other basic rights in Denmark. According to many scientific studies, there was a correlation between racist political speech and racial violence.

45. **Mr. Saidou**, referring to article 5, subparagraph (e), of the Convention, asked for additional information on how ethnic minorities exercised their economic, social and cultural rights in the country. Specifically, were non-Western immigrants in positions of responsibility?

46. **Mr. Jacobsen** (Denmark) thanked the Committee members for their clear questions and said that the delegation would make every effort to respond to them clearly at the next meeting.

The meeting rose at 6 p.m.