



International Convention on the Elimination of All Forms of Racial Discrimination

Distr.: General
7 January 2010
English
Original: French

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Sixty-ninth session

SUMMARY RECORD OF 1772nd MEETING

Held at the Palais des Nations, Geneva
on Wednesday, 9 August 2006, at 3 p.m.

Chairperson: Mr. de GOUTTES

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The meeting was called to order at 3.05 p.m.

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

Sixteenth and seventeenth periodic reports of Denmark (CERD/C/496/Add.1; HRI/CORE/1/Add.58; a list of questions, an unclassified document, was distributed at the meeting in English only)

1. *At the invitation of the Chairperson, the members of the Danish delegation took their places at the Committee table.*
2. Mr. VINTHEN (Denmark), emphasizing that monitoring the observance of international human rights norms was one of the fundamental priorities for the Danish Government in the area of human rights, was delighted at the opportunity to discuss with the Committee the procedure by which Denmark would satisfy its obligations in connection with the Convention on the basis of the consideration of the sixteenth and seventeenth periodic reports.
3. Describing a series of recent events associated with the implementation of the Convention, Mr. Vinthen noted that the Danish Government decided to create a new system for providing information regarding acts and criminal offences allegedly committed out of racist convictions, the procedure for the functioning of which still remained to be established. The Government of Denmark also created a system for providing information regarding violations of the Act Prohibiting Discrimination on the Basis of Race.
4. With regard to employment, the 2003 Programme of Tutelage was designed to assist unemployed persons, especially immigrants, without a good knowledge of the Danish labour market, in being engaged in active life. In the context of this programme, companies would designate one of their workers to help new workers with advice and professional training. This system was gaining ever greater popularity, and the number of companies making use of it to promote the professional integration of immigrant workers was seen to rise.
5. In January 2006, the State Employment Service published a new instructional guidebook on the Law on the Prohibition of Discrimination in the Labour Market, which aimed at assisting interested persons in understanding and making use of the provisions of this law. This guidebook cited examples of acts of direct and indirect discrimination to be avoided and the procedural rules for submitting complaints and appeals, and questions of compensation for victims and the punishment stipulated by law in cases of discrimination were also discussed. With regard to the concern expressed by the Committee in connection with the elimination of subsidies to non-governmental organizations, Mr. Vinthen noted that the Government of Denmark had increased its assistance to organizations and movements that were active in the fight against racism and intolerance and for equality of opportunity and integration. At the present time, the Government was providing significant assistance to projects designed to raise awareness, which were being implemented jointly with the Institute for Human Rights. The Government was also financing the work of volunteers of the Danish Red Cross and the Council for Refugee Affairs in a campaign to fight discrimination and to encourage diversity, as well as numerous other initiatives aimed at assisting native-born Danes and ethnic minorities to act together to fight prejudice and promote tolerance and harmony. In addition, the Government was conducting and supporting

campaigns aimed at improving the situation of immigrants and immigrant children in the labour market. In 2005 the Ministry for Integration allocated the equivalent of more than €30.8 million for activities of this type.

6. Finally, the Government announced a series of initiatives directed at promoting respect and harmony among various communities. The Prime Minister of Denmark held two meetings with representatives of minorities, the second of which involved representatives of Muslim communities. The Minister for Refugee Affairs, Immigration, and Integration, for his part, held meetings with imams of the Islamic Society of Denmark in April and September of 2005. In the spring of 2006, he participated in a series of events for the purpose of organizing a discussion on questions of integration, including meetings with representatives of the Council for Ethnic Minority Affairs, Muslim organizations, ethnic minorities groups and inter-ethnic associations. In 2006, €0.54 million was allocated for the implementation of initiatives directed, among other things, at facilitating dialogue and accord among various ethnic and religious groups. All of these initiatives reflected the respect of the Danish Government for Muslims living in Denmark and its efforts to encourage participation by local authorities in these initiatives, as well as to promote an active civil attitude, freedom, and equality, and to prevent radicalization.

7. Ms. THOMSEN (Denmark), speaking in the name of the autonomous Government of Greenland, suggested that information be provided regarding new facts concerning several questions mentioned in chapter III of the report under review. As regards the matter of Thule (paras. 213-219), she noted that on 12 December 2006, after two years of study, the European Court for Human Rights declared the appeal unacceptable on the grounds that the return of the Thule tribe to its previous place of residence occurred prior to Denmark's ratifying the European Convention on Human Rights. The Government of Greenland was not a party to this case.

8. Ms. Thomsen noted that in the spring of 2006 the Greenland Parliament ratified the report of the Commission on Greenland's Judicial System and called for the reform of the system of the administration of justice as recommended by the Commission. Subsequently, the Danish Government and the autonomous Government of Greenland joined together in the preparatory work for implementing these recommendations.

9. As regards the state of the autonomization process of Greenland, Ms. Thomsen indicated that the work of the Joint Danish-Greenland Commission, which had been charged with presenting recommendations for a new agreement on autonomy, was continuing but several delays due to local parliamentary elections in 2005 had occurred. The mixed commission conducted its seventh meeting in June 2006, at which it reviewed the entire draft law for self-determination, containing provisions regarding the transfer of supplemental authority to Greenland. The Joint Commission had the objective of recommending to the Governments of Denmark and Greenland draft laws and suggestions for reforming relations between Greenland and Denmark within the framework of the Constitution of Denmark.

10. Finally, the most recent statistical data on the number and composition of the Greenland population indicated that the overall number of the population was 56,901 persons, of whom 51,051, i.e. 90 per cent, were considered persons with solid family connections to Greenland. Of the overall population, around 6,500 persons were born outside of Greenland, specifically, 5,650 in Denmark, and others in the Faroe Islands (208), Scandinavian countries (228), Europe (53), and even North America and other countries (185).

11. The Greenlandic language continued to be a linguistic barrier, also for educated young Greenlanders, many of whom received their education in the Danish language

or studied abroad. The Greenlandic language was the basic language of this territory, but in accordance with the 1978 law on autonomy, both languages, Greenlandic and Danish, had the status of State languages. Despite the official status of the Greenlandic language, Danish had long been used in administrative bodies. For this reason, efforts were made to see that all official documents were published in both languages, which was a difficult task for the administration. Nevertheless, a powerful political will existed to improve the integration of the two linguistic groups, basically through ensuring that the Greenlandic language was studied and used by all residents. For this purpose, responding to the demand of the representatives of the Siumut Party in Parliament, who wanted the adoption of a law which would facilitate the integration of the Greenlandic language through its being universally taught, a working group was created for studying different variants for carrying out this task.

12. Mr. LARSEN (Denmark), responding to question 1 of the list of questions, regarding obtaining the most recent data on the ethnic composition of the population, as well as statistics on non-citizens residing in Denmark, explained that there was no breakdown according to ethnic groups in Danish statistical data for the three groups in question: Danes, immigrants and the descendants of immigrants. According to the current statistical definition, a Dane was any person one of whose parents was a Danish citizen, born in Denmark. An immigrant born abroad or the descendants of immigrants born in Denmark were considered non-citizens. As of 1 January 2006, approximately 350,000 immigrants lived in Denmark, along with 113,000 of their descendants, i.e., 6.5 per cent and 2.1 per cent of the population, respectively, and 70.7 per cent of immigrants and their descendants were from non-Western countries, so that 29.3 per cent of immigrants and their descendants were from Western countries. The latter category included the majority of the population of the South Jutland amt [county], Copenhagen itself and the area to the north of Copenhagen. Immigrants and their descendants from non-Western countries constituted a numerous population in the area of Copenhagen and other cities, such as Odense and Orkhus.

13. As of 1 January 2005, the rate of employment among Danes was 76 per cent versus 62 per cent among immigrants and their descendants from Western countries but 48 per cent among immigrants and their descendants from non-Western countries. From 1 January 2004, the rate of employment in this latter category rose by 2.6 per cent, whereas in the two other categories it remained level.

14. Mr. MORTENSEN (Denmark), responding to question 2, regarding examples of the direct application of the Convention in Danish courts, noted that in the 1999 case, when the petitioner was refused entry into a restaurant due to his skin colour, the High Court found the defendant guilty, citing article 6 of the Convention and assessing a fine of 1,000 DKK. In the same year, when there was discussion of a case regarding insulting statements made by a political figure with respect to members of the Muslim community in the course of a television broadcast, the High Court recalled that article 266 (b) of the Penal Code was based on article 4 of the Convention. Viewing this provision together with article 10 of the European Convention on Human Rights, the High Court ruled that the statements of the respondent were clearly insulting to the group in question, and it sentenced him to prison for seven days with a suspended sentence.

15. In another decision, handed down in 2002, the High Court ruled that the fact that in order to receive a licence, a taxi driver had to have Danish citizenship, did not contradict article 5 of the Convention, since paragraph 2, article 1, stated that the Convention was not applicable to distinctions or preferences that State parties made between citizens and non-citizens.

16. Mr. VINTHEN (Denmark), responding to question 3, regarding the carrying out of the recommendations contained in the third report of the European Commission against Racism and Intolerance, said that since the final version of this report was only published in May 2006, the Government had not yet undertaken measures for carrying out these recommendations but that it would do so if it decided that the problems mentioned in the report required the intervention of State authorities.

17. Mr. TAASBY (Denmark), responding to question 4, regarding the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, said that Denmark was not yet planning to sign this document because that would require Denmark to weaken its immigration policy and because the provisions of this document were difficult to harmonize with criminal law and the system for the administration of justice in Denmark. It was necessary to note that at the present time in Europe, only a very limited number of countries that were not members of the European Union had signed this Convention.

18. Mr. LARSEN (Denmark), responding to question 5, regarding the allocation by the State of resources to organizations and individual projects directed at integration and at the fight against discrimination, recalled that in 2003 an Action Plan had been published to promote equal treatment and diversity and the fight against racism (para. 184 of the report) to assure the implementation of the Declaration and Action Programme undertaken at the World Conference against Racism, Racial Discrimination, Xenophobia, and Related Intolerance. The majority of initiatives set out in the context of this Action Plan were realized in 2004 and 2005, as indicated in the report (paras. 184-193). Credits amounting to 5.1 million DKK (i.e., €684,000) were allocated to finance activities laid out in this Action Plan, which represented only a portion of the financial resources allocated by the Government for integration projects. Actually, in 2005, the Ministry for Integration (para. 4 of the report) allocated 230 million DKK (i.e., more than €30.8 million) for the activities of non-governmental organizations and other associations. Specifically, it carried out campaigns to raise awareness of such questions as how to improve the integration of foreigners, encourage democratic values and fight against racism and discrimination; it financially supported non-governmental organizations, the Danish Red Cross and the Council for Refugee Affairs; it financed research into the situation of minorities in Denmark, as well as publications on discrimination; and it carried out activities in the interests of especially underprivileged groups, including female members of minority groups.

19. Mr. MORTENSEN (Denmark), responding to question 6, regarding the request of the Committee for information on the powers of the Director of Public Prosecutions to assure the proper and uniform enforcement of article 266 (b) of the Penal Code, for statistical data on the decisions handed down in cases associated with incitement to racial hatred, and for information regarding the way in which Denmark combined freedom of expression with the obligation to put a stop to incitement to racial hatred, noted that, in accordance with the law, the Director of Public Prosecutions was superior to other prosecutors and was authorized to publish directives on procedural questions. To assure the proper and uniform enforcement of the law, The Director of Public Prosecutions in 1995 published an administrative note, which stated that he was obligated to provide notification of all violations of article 266 (b) of the Penal Code, complaints regarding which had been refused by the police, and that all arraignments were to be brought to his attention, along with the recommendation as to prosecution (para. 70 of the report). When an indictment was handed down and the case transferred to the court, the Director of Public Prosecutions was required to be informed of the result of the judicial process. If the court found the defendant not guilty, the Director of Public Prosecutions ascertained whether to appeal the verdict.

In addition, the Director of Public Prosecutions was charged, since 2004, with preparing a compendium of judicial practices under article 266 (b) of the Penal Code, including a brief description of all cases handled by the courts in which there had been a guilty or innocent verdict. This compendium, which the public could access on the website of the Director of Public Prosecutions, was regularly updated.

20. This mechanism effectively guaranteed uniformity in prosecutions in all cases regarding violations of article 266 (b) of the Penal Code, making it possible for the Director of Public Prosecutions to follow the situation closely because all the information at the disposal of local prosecutors was concentrated in his hands. The Government decided to create an analogous, more broadly based system for preparing reports on all violations and not only violations of article 266 (b) of the Penal Code. Details of the implementation of this project were to be decided jointly by the Director of Public Prosecutions and the Minister of Justice.

21. The following number of complaints were registered in connection with violations of article 266 (b) of the Penal Code: 35 in 2002, with 17 guilty verdicts; 27 in 2003, with 10 guilty verdicts; 27 in 2004, with 15 guilty verdicts; and 53 in 2005, with 23 guilty verdicts. The number of guilty verdicts was, of course, smaller than the number of complaints submitted, but this was reflective of not only this type of violation because when the number of violations of the Penal Code was viewed from a larger perspective, it was clear that of the 420,000 complaints heard in 2004, a guilty verdict was handed down only in response to 110,000 of them and the cases could have been terminated for the most varied reasons.

22. Article 266 (b) often had to be brought into harmony with right to freedom of expression, which was articulated in the Universal Declaration of Human Rights and which was more than once cited by the European Court for Human Rights in its jurisprudence as the basis for any democratic society, as well as a condition for its progress and for the personal development of its members. However, this did not mean that freedom of expression had no limits. Thus in 2000, the founder of a political party was sentenced to prison for having stated on a television broadcast that Muslims castrate and murder Danish people. For technical reasons, the Supreme Court was unable to establish whether or not this case involved propaganda. In another case, the High Court of Eastern Denmark sentenced four political figures to 14 days in prison, with a suspended sentence, for the publication in a newspaper of an advertisement hostile to Muslims, in which reference was made to the notion that many rapes could be explained by the multiethnic character of the society. Nevertheless, it would be difficult to summarize all of Danish jurisprudence, since each case represented a separate situation, and a balance between the freedom of expression and the prohibition of racist expressions had to be reached based on the circumstances of each concrete case.

23. With respect to preventing racist propaganda, the Parliament adopted the Durban Declaration and the Action Programme, it familiarized itself with the most recent concluding observations of the Committee and it promised to take into account the concluding observations that the Committee made from the review of the report in question. In general, the Government did everything in its power to provide the appropriate information to political parties. However, he thought that it was precisely the non-governmental organizations that should exert pressure on political parties in the first place.

24. Mr. Mortensen did not know whether the political parties adopted a code of behaviour and whether they were observing the Charter of European Political Parties for a Non-Racist Society. No specific measures were applied to political figures; article 266 (b) of the Penal Code could be applied to them as well as to other persons

who made racist statements. In addition, the fact that their statements were propagandistic in nature was an aggravating circumstance and a monetary fine could be replaced by imprisonment (see para. 68 of the report).

25. In article 78 of the Constitution, the right of citizens to form associations without prior approval was asserted, provided, of course, that such associations did not pursue illegal aims. Associations that had the aim of committing violence or that used violence for achieving their goals were subject to being disbanded by court order. Individuals associated with racist groups were subject to prosecution if they made statements that fell under article 266 (b) of the Penal Code but the State did not have at its disposal statistical data regarding those convicted and their affiliations with racist groups. A harsher punishment was stipulated in cases where such statements were made in print or were preserved in databases and for that reason could be viewed as propaganda.

26. Mr. VINTHEN (Denmark), responding to question 8 regarding Radio Oasen, said that the Council for Audiovisual Broadcasting was charged with monitoring the activities of television and radio stations. For complaints made by individuals or on the basis of information published in the press, the Council was able to take a decision to prohibit broadcasting. Nevertheless, since 2002 not a single complaint had been submitted to it based on racist statements. Since it had no basis to act otherwise, the Council had extended the licence of Radio Oasen from May 2006 to May 2007 under the conditions of the initial licence, i.e., with the prohibition on spreading hostile statements about a specific group. If in the future this radio station violated criminal law, it would have to answer for the consequences. In any case, it had not received any State financial support since 2003. Article 22 (a) of the European Union "Television without Frontiers" Directive, which prohibited any on-air incitement to hatred, was included in the Danish law.

27. Responding to question 10, regarding the publication of 12 cartoons of the Prophet Mohammed in a Danish newspaper, which provoked a lively reaction in the Muslim world and the submission of a complaint by 11 associations and 2 individuals to the police of Orkhus based on article 266 (b) of the Penal Code, Mr. Vinthen said that the police authorities had transferred the case to the local prosecutor, who had not initiated a prosecution. After this decision, new complaints were submitted to the Director of Public Prosecutions but he also established that no violation had occurred, since the drawings did not relate to Muslims in general and did not represent them all as terrorists. Thereupon, the Prime Minister several times made statements with regard to the case, recalling the devotion of Danish society to the freedom of expression and persistently emphasizing the fact that any opinion had to be expressed with mutual respect and mutual understanding and in a civilized tone. He expressed his regret in connection with the fact that many Muslims saw an act of slander in these drawings and expressed the deep respect of the Danish State towards such an important religion as Islam.

28. Mr. MORTENSEN (Denmark), responding to question 11, noted that the new conditions set out in the Aliens Act had a double goal: to limit the number of unemployed aliens who arrived and to fight against forced or arranged marriages, the difference between which it was often hard to establish. The rule according to which a person may not be younger than 24 years of age and exercise the right to reunite their family had the goal of protecting young people from family pressure and giving them the opportunity to complete their education. In 2001, 67 per cent of foreigners younger than 24 years of age entered into a marriage with persons residing abroad, which represented a growth of 12 per cent in three years. In 2005, this indicator fell to

37 per cent, such a decrease constituting evidence that the stated goal was being achieved. These new provisions were not discriminatory because they were applied to all persons regardless of origin.

29. Mr. VINTHEN (Denmark) added that in 2003 Denmark adopted an Action Plan against forced and arranged marriages, containing 21 initiatives, the majority of which aimed at supporting dialogue, providing consultation and support services, as well as conducting research and preparing documentation. In this context, the Government published directives for local authorities and opened a telephone hotline, permitting young people who feared that they would be given in marriage against their will to call for help. Two new shelters, “Chestnut House” and the “Safe” accommodations centre accepted young girls from all over the country who were in calamitous situations and provided them with psychological support services. According to the available data, 50 per cent of the girls who applied to such places did not have Danish citizenship. These centres cooperated with the State in the distribution of information booklets.

30. Mr. ENGBERG (Denmark), supplementing the information contained in paragraphs 116 to 121 of the report, said that the existence of ties to Denmark was determined by all the information gathered: the duration and reasons for being in the country, the country where education was gained, the ability to express oneself in the Danish language, the existence of family ties with persons who lived permanently in the country, etc. Exceptions to the rules had the goal of permitting a person with solid ties to Denmark to have the opportunity to reside in Denmark, together with their alien spouse, since such ties acted as a guarantee of effective integration.

31. Mr. LARSEN (Denmark) said that Law 78 of 23 February 2005 was adopted by Parliament on 12 May 2005. Following the recommendation of the Council of Europe, this law most importantly introduced the concept of family unity into the Aliens Act, which directly reflected the European Convention on Human Rights and the legal traditions of Denmark, which called for recognizing the provisions of international agreements. The law confirmed the independence of the Council on Refugee Affairs in avoiding any indirect influence. Thus the members of the Council could be designated only by the Council itself. Finally, the law stipulated that petitioners for asylum who were the subject of extradition procedures could no longer receive food but would be given money to buy groceries for themselves.

32. Mr. VINTHEN (Denmark), responding to question 14, explained that the bill on the fight against “ghettoization” had been passed by Parliament in April 2005. In accordance with this law (paras. 149 and 150 of the report), city councils could now decline to provide public housing to unemployed persons if such persons already made up a large percentage of the residents, provided that they would be allocated the equivalent value of public housing in another place. It was still too early to tell whether this measure was achieving its goal, in other words, the avoidance of “ghettoization”, or whether, on the other hand, it would affect the freedom to choose a place of residence. At the present time one could only confirm that municipalities were meeting with difficulties in carrying out their obligation to provide equivalent housing.

33. Regarding question 15, Mr. Vinthen said that his delegation could not confirm that the number of homeless had significantly grown among minority groups, since the number of these persons had not been accurately established. The only number that was known was of persons who had visited the shelters and that was only since 1999. According to the most recent statistical data, relating to 2004, 33 per cent of the persons visiting homeless shelters in Copenhagen were foreigners, 20 per cent were persons who were not nationals of a Scandinavian country or of the countries of the

European Union and in the other three large cities of the country besides the capital, only 3 per cent of persons visiting shelters were foreigners. The fight against phenomena such as homelessness was being waged mainly by municipalities. Copenhagen was conducting active efforts in this area, having presented an initiative to assist a number of homeless Somalis as well as many homeless drug users, mainly from northern Africa, in obtaining housing.

34. Mr. LARSEN (Denmark), responding to question 16, explained that the starting allowance and the adaptation allowance were payments of the same type and the same amount and were granted to persons who officially had not lived regularly in Denmark during at least seven of the previous eight years (para. 20 and further of the report). Having suggested the passage of a law on such an allowance, the Government considered it very important to fully satisfy Denmark's obligations deriving from international agreements. In this sense, the law in question as a whole was in harmony with the provisions of the documents ratified by Denmark, including the Convention on the Status of Refugees, the International Convention on Economic, Social, and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and the European Convention on Human Rights.

35. The principle according to which the amount of the benefits depended on the amount of time the recipient worked in Denmark was a principle recognized in many countries. The starting allowance and the adaptation benefit were ways to help people get a job. They were a response to the urgent necessity to solve a serious problem. They were not discriminatory in that they applied to Danish citizens returning from abroad as well as to immigrants, without regard to race, skin colour or national or ethnic origin.

36. These benefits were a response to the appropriate objective of raising the rate of employment among persons receiving social assistance by improving the financial attractiveness of employment as compared to social assistance. Statistical data on the results of the analysis conducted in April 2005 showed that these benefits made it possible to effectively achieve this appropriate objective.

37. Mr. TORP (Denmark), for his part, said that Act No. 361, which introduced a new adaptation benefit for persons who officially had not been permanent residents of Denmark for at least seven of the preceding eight years, had had a positive effect in that, according to data obtained in the first research studies, it motivated Danes generally to return to their country and encouraged foreigners residing in Denmark to find work quickly and thus be able to once again provide for themselves. When the present Government came to power in 2001, it considered it very important to propose a benefit the amount of which would not be excessively high so as not to induce recipients to remain dependent on social assistance. The Government considered that the new law guaranteed for all the right to social security and a sufficient standard of living. The adaptation benefit represented a lifesaver which, since it was less substantive than classical social assistance, made it possible for the majority of persons to quickly become self-sufficient. Research studies indicated that persons receiving the adaptation benefit found work more quickly than persons receiving other types of benefits. Some in the mass media attempted to determine whether the recipients of the adaptation benefit had a budget sufficient for a life of dignity but their investigations presumed a standard budget based on the average level of consumption for Danes, and not a budget corresponding to the subsistence minimum. If recipients of the adaptation benefit did not have the standard budget of Danes, they were still receiving a benefit which was significantly higher than the level of subsistence, which allowed them to live in dignity.

38. Ms. HOLSE (Denmark), responding to question 17, said that the creation of separate classes in schools could be explained for pedagogical and financial reasons, but absolutely not on the basis of the ethnic origin of the pupils. Furthermore, individual classes for Roma children in elementary and secondary schools no longer existed. As regards the municipality Hoje Taastrup, in one of that city's schools, a longer school day was indeed introduced for children of refugees and immigrants not to isolate them but rather to give them the opportunity to make up for their lag in school and to help them better master the Danish language. This experience, which related only to the aforementioned municipality, was immediately used to improve the social and economic situation of children of needy refugee and immigrant families.

39. In 2005, the Ministry of Education published a new handbook for the mandatory stimulation of speech in bilingual children of preschool age and distributed it to all municipalities and preschool institutions. This handbook repeatedly emphasized that foreign bilingual children needed to begin speaking Danish as early as possible, and it especially directed the attention of parents and preschool workers to the difficulties of children who were learning two languages. Every year, the Ministry of Education investigated the condition of bilingual children in Danish cities, with emphasis on children who were receiving assistance in learning Danish as a second language. The results of the efforts undertaken by Denmark in stimulating speech in bilingual children in preschool institutions would be reviewed in 2007.

40. Ms. Holse noted that article 5 of the Convention clearly enunciated the right to education and professional training but did not stipulate that all children had to have the opportunity to receive an education in their native language. Since all children in Denmark had access to education, the State was observing its obligations arising from the Convention to the fullest extent. Bilingual children from ages three to six received assistance in stimulating their speech. In addition, beginning with preschool institutions and concluding with college, bilingual children with such a need were able to attend courses in Danish as a second language.

41. On the other hand, municipalities were obligated to provide instruction in the child's native language but only for children from countries of the European Union, the European Economic Area, the Faroe Islands and Greenland. Nevertheless, a few municipalities offered immigrant children courses for learning their native language in order to facilitate their return to their country of origin. Moreover, the law that was adopted in 2005 permitted municipalities to send a bilingual child who was obliged to attend courses in Danish as a second language to a school located outside of his neighbourhood, where he would have greater opportunities for successfully completing the instruction. However, parents reserved the right to choose the elementary school to which they would send their child, since this law only covered bilingual children whose second language was Danish. There were cases in which no school was able to satisfy the needs of an individual bilingual child. The Ministry of Education would publish directives for the instruction of the Danish language as a second language in the autumn of 2006, and would evaluate the methods of instruction of Danish as a second language in 2007.

42. Mr. AMIR (Country Rapporteur) congratulated the State party for submitting the report which entirely reflected the guiding principles of the Committee and for sending to Geneva such a high level delegation. He noted that Denmark stood in the avant garde of encouraging and defending human rights and was at the top of the list of nations where the greatest freedom of expression of ideas and opinions existed. In addition, he congratulated the Danish State on the fact that it had allocated more than 0.85 per cent of its GDP to official development assistance (ODA). Considering the

favourable results of the State party in the area of human rights, the Country Rapporteur expressed surprise at the fact that the Government still did not propose including the Convention in Danish law, which would have purely symbolic significance, since nothing would actually change in the legal system of Denmark because the provisions of the Convention were to a large degree already being observed. Thus he called on Denmark to correct the situation by providing its residents with the best protection against racial discrimination.

43. He noted with satisfaction that Denmark had adopted new normative acts with regard to asylum and refugees but he asked for more specific information, including statistical data, on the application of these provisions.

44. With regard to article 4 of the Convention, the Country Rapporteur applauded the provisions of article 266 (b) of the Penal Code, which prohibited the spreading of statements or other information containing threats, humiliating comments or insults to the dignity of groups of persons (para. 67 of the report), but judging from the information which had been published in the press, in 2005 there were 48 occurrences of a racial nature and 41 cases where the provisions of article 266 (b) were violated. Such a situation evoked even greater concern in connection with the fact that the Director of Public Prosecutions refused to accept complaints regarding perpetrators of such acts. Citing the freedom of expression of belief, the judicial authorities also rendered a decision on the complete dismissal of the case involving publishing the cartoons of the prophet Mohammed in the Danish press. Mr. Amir was not persuaded by the statements contained in paragraph 84 of the report, according to which the courts had not hesitated to limit the freedom of the expression of belief and he requested that the delegation give explanations with regard to this question.

45. Mr. Amir thought that the Danish authorities should mitigate the consequences of indirect discrimination by adopting a general law on the social and economic integration of ethnic minorities and by modifying the rules of criminal procedure.

46. In light of all this, the Danish Government deserved praise for those measures undertaken by it to limit the spread of discrimination and to create a more flexible mechanism for integrating ethnic minorities in Danish society. The Danish authorities also made greater efforts in the area of providing housing, finding jobs, organizing professional training and hiring in State agencies such as the police, prison administration and judicial bodies. Denmark also was trying to satisfy the concluding observations and conclusions of the Committee although there was much to be done to eliminate discrimination, which remained in many areas. Recalling that Denmark used a system of quotas for accepting minority children into kindergartens, and that in some schools children were prohibited from speaking their native language, Mr. Amir thought that the State party ought to consider measures that would permit minority children to have access to the widest possible scope of education, both in Danish as well as in their native language. This would make it possible to ensure that integrating these children would not be turned into forced assimilation.

47. Mr. Amir also noted that strict conditions governing the right of foreigners to enter into marriage did not promote integration because, for example, both spouses needed to have reached the age of 24 in order to make use of the procedure for reuniting families. Conditions associated with the reuniting of families, and set out in the Aliens Act, were criticized in the aggregate not only by the Council of Europe and the Council of Women of Denmark, but also by the United Nations Committee on Economic, Social, and Cultural Rights. In addition, the legal provisions with regard to this question seemed not to harmonize with article 5 (d) of the Convention.

48. With regard to the implementation of article 2 of the Convention, Mr. Amir thought that not including the Convention in Danish law limited the application of this document in the national courts and administrative agencies and made it impossible to effectively protect members of national minorities residing in Denmark.

49. With regard to implementing article 4 of the Convention, Mr. Amir supposed that it would be necessary to change the regulations that were applicable in the event of repeated complaints, in order to effectively resolve cases of racial discrimination in a way that harmonized with international law.

50. The Country Rapporteur also noted that the weak representation of ethnic minorities in municipal political bodies had a negative influence on their participation in Danish society. He emphasized that the difficulties associated with obtaining Danish citizenship, limitations on the right to enter into marriage, to obtain a job and an education and to have access to public places, as well as limitations on the realization of economic, cultural, political and social rights presented cause for concern, which was already mentioned in the past, including by the Danish Institute for Human Rights in its report of June 2006. In addition, the Advisory Committee of the Framework Convention for the Protection of National Minorities of the Council of Europe, in its second opinion involving Denmark, of 9 December 2004, directed the attention of the authorities to the powerful feeling of intolerance that was still felt in Danish society, especially in the political arena and in some of the mass media (ACF/INF/OP/II (2004) 2005, para. 183). In its opinion, the Advisory Committee noted that ethnic minorities, including the German community, continued to be victimized by ideas associated with xenophobia and intolerance, despite the measures that had been undertaken to fight against discrimination, including the adoption of anti-discriminatory legislative frameworks (ACF/INF/OP/II (2004) 2005, para. 75).

51. Mr. Amir regretted that the policy and law of Denmark with regard to foreigners had changed in the direction of greater rigidity, which was demonstrated in procedural changes that made it possible to decide that a petition for refugee status was clearly unfounded; the personnel of the Council for Refugee Affairs were reduced in number; the opportunity for submitting petitions for refugee status to Danish embassies abroad was abolished; limitations on the right to enter into marriage and a regulation of the procedure for reuniting families were introduced for those requesting refugee status; and the time period required in order to receive a permanent residence permit was increased from three to seven years and the amounts paid for social assistance to refugees and foreigners were reduced.

52. Mr. Amir also thought that the Aliens Act was not well enough defined and that its frequent modification had seriously complicated the future prospects of the persons in question. He recalled that in his report to the Parliamentary Assembly of the Council of Europe, presented in July 2004, the Commissioner for Human Rights of the Council of Europe, Mr. Alvaro Hill-Robles, requested that the Danish authorities review specific provisions of the 2002 Aliens Act with respect to the reuniting of families. The European Commissioner directed particular attention to the modification of the provision establishing a minimum age for both spouses for submitting an application for reuniting families, which now was 24 years of age, the age at which a Danish citizen could submit an application for reuniting families; and it was also now necessary to be a citizen for 28 years in order that the condition be removed regarding the accumulated connections of both spouses with Denmark. The European Commissioner also registered a reservation in connection with the maximum age for children to enter Denmark in the context of the reuniting of families, which was set at 17 instead of 14. In his report, the Commissioner for

Human Rights of the Council of Europe requested that the authorities see that the rights of refugees in the reuniting of families be clearly established by law so that the opportunity to submit an appeal was guaranteed in the event that refugee status was denied and so that the independence and the role of police councils would be strengthened, and he asked that greater flexibility be shown in issuing permanent residence permits to female aliens who had ended their cohabitation with persons demonstrating tendencies towards violence.

53. In conclusion, Mr. Amir expressed his gratitude to the Danish delegation, which had been able to give information regarding the efforts undertaken by Denmark to resolve questions that had concerned the Committee. He expressed the wish that the Danish authorities better inform all groups of Danish civil society regarding the Convention and the concluding observations of the Committee, not only via the Internet.

54. Mr. PILLAI noted with interest that the Danish authorities recognized the necessity to achieve a balance between observing free expression of belief and carrying out the provisions of the Convention, and that Radio Oasen (CERD/C/496/Add.1, para. 79) had been granted new permission to broadcast until March 2007, provided that certain conditions were met.

55. On the other hand, he thought that the Danish Government should review its decision not to include the Convention in Danish law (*ibid.*, para. 48) so as to carry out the concluding observations of the Committee on the previous periodic report of the State party, as well as the recommendation of the Danish Inter-Ministerial Committee to include it (*ibid.*, para. 48).

56. In addition, Mr. Pillai referred to the report prepared in December 2005 by the European Commission against Racism and Intolerance (ECRI), which expresses regret in connection with the elimination of the Council for Ethnic Equality in December 2002 in the context of the decision by the Government to eliminate, unify, or limit the mandate and reduce the financing of more than 100 organizations which were viewed as “dogmatic” (CRI (2006) 18, para. 32). According to this report, on 1 January 2003 a Complaints Committee was created within the Danish Institute for Human Rights to receive complaints regarding equality without regard to ethnic origin. Nevertheless, this agency did not have the financial or human resources necessary for it to function to its full extent (CRI (2006) 18, para. 33). He wished to know if the Danish authorities were planning to make use of the recommendations of ECRI, specifically, to provide the Complaints Committee with sufficient authority and financial resources so that it could function effectively as a specialized agency in the fight against racism.

57. Mr. THORNBERRY noted that in the case of Thule, which was mentioned in paragraph 213 of the report under discussion, the group of citizens from the Thule tribe, residing in the northwestern part of Greenland, appealed the decision of the Danish High Court of the Eastern Circuit of 20 August 1999 regarding the Office of the Prime Minister of Denmark to the Danish Supreme Court. In its decision, the High Court had ordered the payment of compensation to this tribe but had refused the other claims contained in the complaint, such as the right to reside in and use the abandoned settlement which was closed in March 1953, as well as the right of access to the entire region of Thule for settling and hunting. Mr. Thornberry requested that the delegation explain whether this tribe was regarded by Danish authorities as belonging to the indigenous population or to an ethnic minority. He also wished to know why the plaintiffs in this case, who had received compensation, since the matter involved the remediation of damages, were refused permission to resettle on their own lands. In this connection, he recalled that the Committee’s general recommendation XXIII on the rights of indigenous peoples (HRI/GEN/1/Rev.7, para. 5) called on

States parties, in cases where lands and territories of indigenous peoples which they traditionally owned had been confiscated, to take measures to return such lands and territories. In this recommendation it was specified that only in cases when it was impossible to do this for unexpected reasons should the right to return be replaced by the right to just and prompt compensation and that such compensation, if possible, should be made in the form of lands and territories. Mr. Thornberry wished to know what conclusions the High Court drew in order to substantiate their refusing the Thule tribe the right to resettle on lands that it had occupied until 1953.

58. Mr. SICILIANOS asked the Danish delegation to explain the difference between refugee status de facto (para. 57) and the status of supplemental protection, which it was now possible to receive in accordance with the Aliens Act (para. 58). He requested more detailed information regarding the process that was now being applied to applicants for refugee status whose application was refused but who could not be extradited, such as Iraqis. He also wanted to know whether the children of applicants for refugee status were attending school in Denmark.

59. Noting that paragraph 67 of the periodic report contained several references to the fact that new provisions of the Penal Code were being applied to those making racist statements, Mr. Sicilianos wished to know what measures were being taken by the Danish Government in accordance with the opinion adopted by the Committee for the Elimination of Racial Discrimination on 6 March 2006 regarding the case of *Mohammed Khassan Gelle v. Denmark* (CERD/C/68/D/34/2004, communication No. 34/2004), in which the Committee recommended that the State party provide the petitioner with adequate compensation for the moral damages caused by statements of the Deputy of the Danish Parliament and the leader of the Danish People's Party, which compared persons of Somali origin to paedophiles and rapists.

60. Mr. Sicilianos also wished to know what measures were being taken by the Danish Government with regard to the second opinion of the Advisory Committee of the Framework Convention on the Protection of National Minorities, adopted on 9 December 2004, in which the Advisory Committee came to the conclusion that the Danish authorities should expand the sphere of activity of the Framework Convention to other national minorities besides the German minority of South Jutland (ACF/INF/OP/II (2004) 2005, para. 12).

61. Mr. AVTONOMOV said that according to paragraph 14 of the periodic report, local municipalities were no longer obligated to create integration councils but could decide to create them if necessary. Noting that the State party had roughly 70 integration councils (para. 16), he wished to know whether the Danish authorities had determined that local integration projects were more effectively implemented in municipalities that had such councils and also whether the aforementioned number of 70 integration councils was significant in the scale of the entire country.

62. Mr. Avtonomov also noted that in accordance with Law No. 364 of 2002, the planning for an adaptation programme was made on the basis of an individual contract, which was worked out by the municipality in cooperation with individual immigrants or refugees (para. 23) and that the obligation to conclude such a contract applied to all aliens covered by the Aliens Act, immigrants who had come to Denmark to reunite their families and refugees who had been granted asylum (para. 25). He wanted to know what the consequences would be for persons refusing to sign such a contract.

63. Mr. TANG Chengyuan noted with interest that on 2 April 2004 a new law entered into force in Denmark which introduced into the Penal Code an amendment taking into account the various aggravating circumstances that could be present in the

case of racially motivated crimes (para. 64), and that article 266 (b) of the Penal Code forbade the dissemination of information containing threats, insults or statements degrading to dignity of groups of persons on the basis of their race, skin colour, nationality or ethnic origin, religion or sexual orientation. Therefore, he wished to know why the defendants in the so-called case “on the cartoons of the Prophet Mohammed” were not prosecuted for violating the 2004 law and the aforementioned article of the Penal Code.

64. As far as Mr. Tang Chengyuan knew, Radio Oasen had obtained permission to broadcast from the local Council on Broadcasting Affairs and the permission included the requirement that the programmes not contain attacks on or insulting expressions towards specific groups in society, and it was prohibited in any form whatsoever from inciting hatred on the basis of race, gender, religion or nationality (para. 81). He asked about possible sanctions in the event that these conditions were violated, recognizing that the local Council on Broadcasting Affairs was not authorized to withdraw a radio broadcasting licence.

65. The CHAIRPERSON declared that the Committee would continue its review of the sixteenth and seventeenth periodic reports of Denmark at the next meeting.

The meeting rose at 6.05 p.m.