



International Convention on the Elimination of All Forms of Racial Discrimination

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Summary record of the 1688th meeting

Held at the Palais Wilson, Geneva, on Thursday, 3 March 2005, at 10 a.m.

Chairperson: Mr. Yutzis

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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 (agenda item 4) *(continued)*

Initial and second periodic reports of Ireland (CERD/C/460/Add.1) (continued)

1. *At the invitation of the Chairperson, the members of the Irish delegation resumed their places at the Committee table.*
2. **Mr. Fabey** (Ireland) said that the Good Friday Agreement, also called the Belfast Agreement, signed on 10 April 1998 between the British and Irish Governments and all the political parties of Northern Ireland, defined the new relationship between the nationalist and unionist communities of Northern Ireland, between North and South, and between Great Britain and Ireland. It also established the status of Northern Ireland as a territory forming part of the United Kingdom and defined the means of establishing a united Ireland. The Agreement, which had been approved in a referendum by more than 70 per cent of the population, created two human rights commissions, one in the North and one in the South, which were implementing a wide-ranging programme of action and had set up a joint working group on racism.
3. The Irish Government recognized that travellers had a distinct cultural identity and were sometimes victims of discrimination and exclusion, but it did not think that, from the legal point of view, they formed a group separate from the rest of the population in terms of race, colour, descent or national or ethnic origin. They enjoyed the same civil and political rights as other citizens and were free to practice the religion or use the language of their choice. Their protection was ensured by the main anti-discrimination legislation, in particular, the Incitement to Hatred Act of 1989 and the Equality Act of 2004, which scrupulously reproduced the provisions of the European Union's Racial Equality Directive. The Government was determined to frame policy in such a way that travellers received equal treatment. Finally, although there were similarities between Roma and Irish travellers, the latter were not Roma and did not share the language, history or culture of that group.
4. The Irish Government had just set up an immigration and naturalization service with responsibility for implementing a consistent immigration policy, in particular, for issuing work permits and visas, improving the quality of the services provided for migrants and strengthening the effectiveness and integrity of the immigration system. The Economic and Social Council had made a study of national immigration policy in order to gain a better understanding of the origins of the migratory flows into Ireland and to assess all the economic and social implications. The conclusions of that study would be published before the end of the year.
5. The National Action Plan against Racism defined the means of promoting the integration of immigrants and fostering a more open and tolerant society and reaffirmed the rights and duties of cultural and ethnic minorities. The Steering Committee of the National Action Plan would be composed of representatives of the travellers and ethnic minorities. A charter against racism in sport had been signed in October 2003 to encourage the large sports associations to pay more attention to discrimination and harassment based on race, colour or national or ethnic origin. In 2000, the National Consultative Committee on Racism and Interculturalism had had an anti-racist protocol adopted by the political parties, thanks to which the 2004 local elections campaign had been free from hateful or racist language. According to the statistics compiled by *Garda Síochána* (national police), the number of racist incidents was falling. Ireland welcomed the improvement in the situation but was nevertheless pursuing its efforts to combat all racist practices in Irish society.

6. All the competent ministries were trying to raise awareness of the International Convention on the Elimination of All Forms of Racial Discrimination, but an even more sustained effort would have to be made, particularly with respect to the article 14 mechanism. The Irish Human Rights Commission had published a guide to the Convention, had disseminated information on its web site and, in November 2004, had organized an information seminar in collaboration with the National Consultative Committee on Racism and Interculturalism.

7. The Ombudsman was mainly responsible for investigating complaints concerning administrative measures, delays or negligence that he received from private individuals who considered themselves to have been unfairly treated. He could also draw a particular anomaly to the attention of the legislature in his annual report to Parliament.

8. Finally, he gave the Committee an assurance that Ireland would inform it of the amendment of the 1989 Incitement to Hatred Act and the proposals to set up a Press Council.

9. **Mr. Doyle** (Ireland) said that his country had a “dualist” legal system, which meant that the international agreements to which it was party were not automatically incorporated into the domestic legislation. The public authorities had judged it unnecessary to incorporate the Convention into domestic law inasmuch as its provisions were already covered by the list of fundamental rights expressly protected by the Irish Constitution. According to them, it would have been inadvisable to proclaim fundamental rights through ordinary legislation, which would have been inferior and subject to existing constitutional provisions. In fact, Ireland had been quite slow to ratify the Convention, because it had carried out a thorough review of its legislation so as to revise or supplement it with a view to discharging its obligations under the Convention in full. Its position on article 4 of the Convention, namely, that it condemned racist propaganda and organizations, was limited by the constitutional provisions relating to freedom of expression. Consequently, Ireland was maintaining its reservation with respect to that article, which clearly indicated that the constitutional principle of freedom of expression must continue to take precedence.

10. On the question of whether racist motivation for an offence could be considered an aggravating circumstance, he pointed out that the principle of the independence of the judiciary was enshrined in the Constitution and that judges therefore had full discretion to decide on the penalties and aggravating circumstances applicable.

11. **Mr. Murphy** (Ireland) said that to take account of the increasing cultural and ethnic diversity of the population, the national police had set up a human rights service responsible for promoting respect for human rights, providing opinions and advice on police behaviour, communicating with national human rights institutions and building bridges with the communities that tended to remain on the fringes of society. Human rights awareness workshops were also being organized to remind officers of the principle of respect for human dignity and the need for the police to behave responsibly and transparently. Emphasis was also being placed on the European Convention on Human Rights, in particular on Protocol No. 12 which dealt with racial discrimination. Senior police officers were applying a policy of zero tolerance with regard to discriminatory behaviour and trying to improve police training, in particular by encouraging recruitment among minorities.

12. **Ms. Faughnan** (Ireland) said that the second National Action Plan against Poverty and Social Exclusion for the period 2003-2005 was primarily aimed at reducing poverty among travellers, migrants and minority groups and, in particular, at improving living conditions and increasing traveller participation in social life and at providing ethnic minorities with services to meet their fundamental needs. The progress made in 2003-2004 had formed the subject of a report by the Office of Social Integration, which was responsible for implementing the Action Plan. Moreover, Ireland was also receiving funds

from the European Union intended to help asylum-seekers and refugees integrate better at local level, while the Department of Social and Family Affairs was trying to make the new arrivals aware of their fundamental rights.

13. **Ms. Naughton** (Ireland) said that the majority of Irish schools were Catholic and public. During the period 2002-2003, out of the country's 3,150 primary schools, 2,912 had been Catholic educational establishments.

14. With the changing demographic patterns in Irish society, children from immigrant backgrounds were increasingly present in the Irish educational system. All children, whatever their faith or nationality, had the right to attend Irish schools. In 2003, Ireland had had 13,000 foreign children in school, including 2,000 from Nigeria, 700 from the United States, 6,000 from Germany and Spain, and 420 from China. More than 150 different nationalities were represented in the primary and post-primary schools. The foreign languages taught in Ireland were French, German, Spanish, Italian, Russian, Japanese and Arabic. Measures had been put in place to help children from immigrant backgrounds to integrate into the school system and additional funding had been provided for extra teachers to provide language support. Special primary schools had also been established for traveller children.

15. A programme of language training for integration had been set up to direct adult refugees to the appropriate courses, in addition to delivering the language training itself.

16. **Mr. Mcelhiney** (Ireland) pointed out that numerous initiatives had been taken to improve housing conditions for travellers in Ireland. He recalled that a National Strategy for Traveller Accommodation had been adopted in March 1996, followed by the establishment of a dedicated Traveller Accommodation Unit in the Department of the Environment, Heritage and Local Government. A National Traveller Accommodation Consultative Committee had also been set up to oversee the implementation of that strategy. A Housing (Traveller Accommodation) Act had been enacted in 1998 and local traveller accommodation consultative committees had subsequently been established in each local authority area. Early in 2000, local authorities had adopted their five-year traveller accommodation plans.

17. In the local authority areas several halting sites had been set up for travellers, in both rural and urban environments. At present, 120 traveller families were established on halting sites specially designed for them. A start had been made on a programme for building additional sites, backed by a €130 million government loan.

18. He acknowledged, however, that little progress had been made with regard to transient accommodation. For that reason the representatives of traveller families were being regularly consulted in order better to identify their particular needs in that respect.

19. **Ms. Harkin** (Ireland) said that health care services were delivered in Ireland within the framework of the National Health Promotion Strategy 2000-2005, which was aimed at reducing inequalities in health care between the different population groups and meeting the needs of those that were vulnerable. That strategy also envisaged the implementation of measures to eliminate barriers for disadvantaged groups, including refugees and asylum-seekers. Important reforms had recently been introduced in the field of health, in particular the appointment of an executive responsible for health at the national level.

20. She acknowledged that the health status of members of the traveller community was distinctly poorer than that of the general population, but pointed out that the Traveller Health Strategy 2002-2005 set out practical responses to that inequity. Thus, a Traveller Health Advisory Committee had been established within the Department of Health and Children and traveller health units had been set up in almost all Health Boards. Those units reported to the Advisory Committee on Traveller-Initiatives. The Strategy also provided for

the appointment in each Health Board area of a senior manager with responsibility for traveller health. Moreover, the Institute of Public Health in Ireland had been contracted to design a Travellers' All-Ireland Health Study scheduled to be completed within the lifetime of Traveller Health - a National Strategy 2002-2005.

21. She added that asylum-seekers housed in open accommodation centres had full access to health care, in both rural and urban areas. Pregnant women also had access to basic health care and could see a specialist if required. Illegal immigrants could receive emergency care, but that care was not free of charge.

22. With regard to the interpretation services offered to asylum-seekers, she acknowledged that those services needed to be improved, particularly where medical care was concerned. A €1 million loan had been granted to the head of the health services to enable him to improve the quality of medical interpretation services and €2 million had been allocated to the training and recruitment of interpreters with a special knowledge of asylum law. The Government recognized that, in the past, too many practitioners had refused to treat asylum-seekers and travellers. The Health Board would henceforth be exerting pressure on practitioners and any refusal to provide care would be dealt with severely.

23. **Mr. Murray** (Ireland) noted that, according to recent statistics, 16.5 per cent of travellers had a job, while 37.6 per cent of them were unemployed. The Department of Enterprise, Trade and Employment had allocated some €500,000 to traveller employment initiatives and was currently preparing, together with the national training and employment authority, other measures calculated to improve job opportunities for travellers.

24. **Mr. Fabey** (Ireland) considered that Ireland had not been very successful in dealing with the question of traveller education, despite having set aside €45 million specifically for that purpose. Travellers still had very low literacy rates and too many of them were not attending school. The Government was aware of those problems and intended to redouble its efforts to improve their level of education and thus make it easier for them to obtain employment.

25. **Mr. Costello** (Ireland) said that his country took very seriously its obligations to asylum-seekers, refugees and migrants under domestic and international law. There were very thorough arrangements for examining applications for asylum in the lower courts and on appeal, as well as for the reception and housing of the persons concerned. In the area of immigration, the Irish Government considered that the services should be improved and had quite recently set about establishing a new naturalization and immigration service to be responsible for improving the services offered to migrants, especially in relation to integration, and for ensuring better coordination between the public service-providing agencies concerned. However, migration – especially immigration – was a very recent phenomenon in Ireland and much remained to be done. Today, there were 700 people dealing with immigration matters in the Department of Justice as compared with only 5 in the mid-1990s and an annual budget of €350 million was available. In 2004, Ireland had issued 34,000 work permits and welcomed 133,000 visitors.

26. The problem of the lack of an appeals tribunal for immigration cases would be settled by the future legislation on immigration and residence, which would include a section on an immigration appeal procedure. In the next few weeks the Department of Justice would be publishing a paper on which the public, the NGOs and interested parties would be able to comment. However, it should be borne in mind that one of the inherent functions of the State recognized by the courts was to control the entry of non-nationals in the interest of Ireland's citizens and the common good. That function was performed by the Department of Justice, Equality and Law Reform.

27. Concerning the dispersal of asylum-seekers, he declared that the Irish Government would not accept that that method led to segregation, since the concentration of a large number of asylum-seekers in a single place could end in their ghettoization. As the influx of refugees had risen from over 7,000 in 1999 to 11,000 in 2002, the State had had to intervene directly in order to avoid a major housing crisis and provide aid and housing services throughout the country. The State was doing all it could to further improve the level of those services, which had made it possible to meet the needs of the refugee population humanely, fairly and effectively. A high quality of service was being provided in those dispersed reception centres and close contact was being maintained with the local authorities and NGOs to encourage and coordinate the services and initiatives.

28. With regard to the problem of the foreign parents of children born in Ireland, he explained that following a constitutional amendment approved by referendum in June 2004 the Irish Nationality and Citizenship Act, which had entered into force in January 2005, no longer allowed non-national parents to acquire Irish nationality when they had a child while on Irish soil. The Government had immediately adopted new arrangements enabling the foreign parents of children born before 1 January 2005 to remain in Ireland. Each case was examined individually by a service of the Department of Justice, Equality and Law Reform. It was up to the applicant to provide all the information required. There was a "good character" requirement and, if authorization to remain in Ireland was granted, the person concerned had to make every effort to become economically viable. At the end of two years, if he could show that he was law-abiding and economically viable, the permit was extended for three years. At the end of five years, he could apply for Irish nationality. Some 10,500 applications had already been received under that procedure. The new arrangements allowing family reunification concerned only the parents and siblings. Any other family member applying to remain in Ireland had to cite other grounds.

29. In response to a question concerning the detention of asylum-seekers, he stressed that Ireland had no policy of detention for expulsion purposes, although the expulsion of persons without legal status or means of subsistence in Ireland was an essential part of the integrity of the asylum process and a principle recognized by the Office of the United Nations High Commissioner for Refugees. Ireland's expulsion system was based on a complete body of law and expulsion came only at the end of a detailed procedure offering several levels of appeal. After that, the person concerned had the opportunity either to give reasons for being authorized to remain in the country or to leave it or to agree to expulsion. If he or she chose to leave the country but lacked the means to do so, assistance was provided directly by the State or by the IOM, which managed voluntary repatriation programmes for the Department of Justice.

30. Persons forming the subject of an expulsion decision were not detained pending enforcement of the decision provided that they met the immigration services' conditions, for example, had a fixed abode or reported regularly to the police. Thus, there was nothing systematic about detention and it was not imposed as long as the conditions were met. Many people avoided expulsion decisions, since out of some 2,796 decisions signed in 2004 only 598 had been enforced. Detention measures were generally adopted as a last resort in order to organize the journey or obtain travel documents. Unlike other countries in the European Union, Ireland did not have special detention centres to which people who had to be expelled were taken. Those people, who were very few in number, were held in the Cloverhill provisional detention centre, an institution opened in Dublin in 1999 that met the most exacting standards of comfort and hygiene.

31. **Mr. McCutcheon** (Ireland), replying to a question concerning whether the principle of equal treatment could be applied to the State's controlling duties, said that under the Equal Status Act of 2004 there were nine grounds for prohibiting discrimination, direct or indirect, in the supply of goods or services, one of them being race, which covered ethnic

origin, colour, nationality and national origin. That Act supplemented the Employment Act, which prohibited any discrimination based on the same criteria in the field of employment. According to the general definition given in the Equal Status Act, “service” meant a service or facility of any nature which was available to the public generally or a section of the public, whether on payment or without payment, which might include access to and the use of any place, facilities for banking, insurance, transport or travel or education, or a service or facility provided by a club. The Irish definition of service was significantly broader than that in article 50 of the Treaty establishing the European Union.

32. However, not all acts of the State affecting private individuals could be deemed to be services, for example, controlling duties. Thus, the Equal Status Act applied not to the decision concerning visas but to the interaction between the State employees and the person requesting the visa. The fact that controlling duties did not fall within the Equal Status Act did not give the State employees free rein to engage in discrimination and their acts and decisions could be challenged in the courts in various ways.

33. With regard to the National Action Plan against Racism, the Government was taking positive measures to prevent institutional racism by applying an intercultural approach and introducing anti-racist training programmes for the civil service.

34. Section 19 of the Public Order Act penalized the occupation of land if that act was likely to damage the land occupied or substantially and prejudicially affect the right to use and enjoy it and allowed the national police to direct a person to leave the land and to remove any object belonging to that person. On the recommendation of the Traveller Accommodation Consultative Committee, the Department of Environment had agreed to recommend that municipalities should refrain as far as possible from asking the police to expel, under the Public Order Act, families illegally occupying a plot of land until the local authorities had been able to provide a solution to their accommodation problem. In exceptional circumstances, when a family had to be expelled, it was the police powers under the Housing Act, which were more limited in scope, that had to be applied. The fact that a family had had to leave a piece of land was not grounds for exclusion from the priority housing waiting list.

35. The risk of multiple discrimination against members of ethnic minorities and the traveller community was a problem of which the Government was aware. During the drafting of the Anti-Racism Act, an assessment had been made, with the active assistance of the NGOs, to determine the most vulnerable population groups. The authority responsible for equality had worked on the many obstacles facing members of the ethnic communities. The service of the Department of Justice responsible for gender equality had initiated a study of the impact of policies relating to the traveller community on the women of that community. To protect ethnic minority women against conjugal violence, the Department was providing two associations that worked with those women with funds to increase awareness of the problem and disseminate information about the assistance services and legal remedies available in Ireland. It was also currently preparing an information campaign to combat stereotypes and disinformation concerning violence against women within minorities, which would include the large-scale distribution of an information booklet.

36. **Mr. Brady** (Ireland), replying to questions raised with regard to the demographic statistics, said that the Irish population had just exceeded 4 million and should reach 5 million in 15 to 20 years time. The Statistics Office was cooperating closely with government to ensure that the statistics system fully described the socio-economic changes that would result from that population increase. Every department of government was currently developing a statistics strategy for reviewing its data requirements and the data sources available to it and cooperating with the Statistics Office to detect and close any gaps. The Statistics Office was also working on a series of thematic reports on young

people, the elderly, migrants and persons with disabilities, which should be published over the next two years.

37. Concerning the problem of taking ethnic origin into account in the census, he said that the 2006 census would include, in addition to a question on ethnic origin, two questions on nationality and country of origin, which would result in a statistical description based on the replies to those two questions and not just that on ethnic origin.

38. **Mr. Byrne** (Ireland) explained that the recent National Action Plan against Racism had its origin in the commitments undertaken by Ireland at the World Conference against Racism in 2001. A system of partnership agreements with all the social stakeholders (trade unions, employers, voluntary organizations, etc.) had made it possible to circulate that document among all sectors of society. The Plan systematically emphasized the establishment of networks and common-sense measures that would enable cultural and ethnic diversity to be welcomed in Ireland. It was aimed at encouraging those ideas to take root in all aspects of the social services and public service provision. Anti-racism and diversity plans would be drawn up at the level of all the country's municipalities and counties, with the first to be launched shortly in Galway. Initiatives were being prepared in cooperation with the trade union and employers' confederations to organize an all-Ireland campaign against racism in the workplace.

39. **Mr. Farrell** (Irish Human Rights Commission) welcomed the level and quality of the very timely and constructive dialogue with the Committee and the seriousness with which the Irish Government was treating that exchange, as evidenced by the presence of a numerous delegation. He explained that the reason why Ireland's report made relatively little mention of the activities of the Human Rights Commission was that that body was very independent of the Government. The Commission dealt with a very broad range of human rights issues, in particular, gender equality, inequalities, disability and the administration of justice. Racism had been one of its priorities since its creation. Since the World Conference against Racism in 2001, it had cooperated closely with the National Consultative Committee on Racism and Interculturalism and the Equality Authority, as well as with the NGOs representing ethnic minorities, travellers, refugees and asylum-seekers.

40. In order to address the problems in a pan-Ireland context, the Commission also cooperated closely with the Northern Ireland Human Rights Commission, with which it had established a joint committee on racism that was more particularly concerned with the problems of ethnic minorities throughout the Irish region, especially cross-border problems. The Commission had published policy documents defending the recognition of travellers as an ethnic minority and had criticized recent legislation penalizing travellers who occupied unauthorized sites on the grounds that the local authorities were not providing them with suitable and adequate accommodation.

41. The Commission assigned special importance to the Convention on the Elimination of Racial Discrimination and had published, together with the Northern Ireland Commission, a user's guide to the Convention for NGOs wishing to submit communications to the Committee. In November 2004, it had organized, jointly with the Northern Ireland Commission, a seminar on the use of the Convention for NGOs in which the Secretary of the Committee had participated.

42. Where asylum was concerned, the Commission had criticized the Government's proposal to repeal the provision of the Constitution automatically conferring Irish nationality on children born in Ireland. It had proposed that the right of residence be granted to the limited number of asylum-seekers or members of ethnic communities related to Irish citizens and to children born before the law was amended. In that connection, he welcomed the adoption of measures enabling parents of children born in Ireland to request

the right of residence. The Commission would like that right to be granted generally to all parents of children born in Ireland, unless there were very cogent reasons for not doing so.

43. The Commission had recommended that asylum-seekers who had been waiting a long time for their application to be processed should be authorized to work since, being isolated and housed in scattered accommodation, those people were dependent on social assistance, factors which had the effect of cutting them off from the rest of the population and stirring up prejudice and hostility against them.

44. The Commission had also recommended strengthening the Incitement to Hatred Act, a relatively ineffective piece of legislation that the Government had been reviewing since 2000, and would like to see that review rapidly completed.

45. As the Irish economy had developed and Ireland had been transformed from a country of emigration to a country of immigration, a large number of migrant workers had flowed in. As the Irish delegation had acknowledged, the Irish immigration legislation was out of date and did not adequately protect the rights of those workers. The Commission had recently published, together with the Northern Ireland Commission, a document on the rules of international human rights law applicable to migrant workers and hoped that those rules would be taken into account in any new legislation concerning such workers. It had also invited the Government to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. It was concerned that, under the present system, work permits were issued to the employers rather than to the workers, which made them vulnerable in the event of a dispute with the employer since they might lose not only their job but also the right to remain in Ireland. It was also concerned about the situation of women migrant workers, a good number of whom were doing domestic work which left them particularly exposed to exploitation, and regretted that the protection provided by the 2000 Equality Act did not cover those women workers. A further concern was the situation of women brought into Ireland to work in the sex industry.

46. The Irish Human Rights Commission had played an active role in the consultative process leading to the adoption of the Government's anti-racism plan. It had learnt with satisfaction that the minorities would be represented on the steering committee for that action plan. It also pointed out that the plan would need adequate funding if it was to be effective.

47. Finally, the Commission subscribed wholeheartedly to the observation made at the previous meeting by a member of the Committee according to which Ireland would have an opportunity, within the context of the forthcoming legislation on work permits and the implementation of the National Action Plan against Racism, not only to do the minimum necessary to avoid criticism from the Committee but also to set an example in Europe by equipping itself with global and progressive legislation and by acting vigorously to eradicate racism in the country. The Commission noted that the Irish Government was planning to seize that opportunity and intended to cooperate with it constructively and critically to achieve that end.

48. **Ms. Connelly** (Irish Human Rights Commission) said that it was important to understand that the Commission's investigative function was not an isolated function but was linked with other functions such as keeping the laws and practices of the State permanently under review and fostering awareness of the importance of human rights in Ireland, together with the formulation of recommendations aimed at strengthening the protection of human rights. For example, when individual complaints suggested that there was a gap in the legislation or raised the question of the compatibility of a practice with human rights norms, the Commission could decide to carry out an enquiry in order to determine whether such a gap in the law or practices contrary to the rules of international law really existed. Since 2003, the Commission had dealt with a considerable number of

pending individual complaints and communications. It had decided to enquire into two cases, one concerning aid for social workers, the other the treatment of a foreign national at Dublin airport, with a view to clarifying the law and practice in the areas in question and calling attention to the legislation and practice concerning the entry of foreigners into Irish territory and the international norms applicable.

49. Thus, the Commission's primary mission was not to offer remedies for individuals in the event of a violation of human rights and it did not perform the function of a court. However, in some cases, the Commission could assist a person to institute legal proceedings in connection with human rights issues, and itself commence proceedings to protect the rights of an individual or group of individuals.

50. **Mr. de Gouttes** said that the idea suggested by Committee was to amend the Criminal Code so as to establish a general aggravating circumstance that took into account the racist motivation for certain criminal offences but not, as the delegation appeared to have understood, to try to influence the judges before they delivered their judgement, which would threaten their independence.

51. He considered that Ireland's reservation with respect to article 4 of the Convention was more theoretical than practical, as the State party had managed to guarantee freedom of expression while still penalizing incitement to racial hatred in its 1989 Act.

52. **Mr. Thornberry** was aware that the fact that travellers were less well protected than ethnic minorities in general was not the result of a deliberate policy pursued by the State party and considered that it would be desirable for that population group to be recognized as an ethnic minority. In that connection, he noted with satisfaction the open-mindedness of the delegation.

53. He wondered to what extent the judiciary referred to the imperatives of general international law and, in particular, the norms established by the United Nations bodies and the principles laid down in the Convention on the Elimination of All Forms of Racial Discrimination. Moreover, he wished to know what would be the attitude of a head teacher if a Muslim pupil wore an Islamic headscarf in class and, in particular, if wearing the veil might be judged to be incompatible with the school uniform. He would also like to know whether Sikhs could wear a turban in any circumstances in the State party.

54. **Mr. Amir** wondered whether, when it created a commission of enquiry, the State party made sure that its members came from different backgrounds and ethnic groups and represented different ways of thinking, in order to permit the adversarial discussion indispensable for taking a decision that was "the least unfair possible". He noted that the fact that the State party had given the floor to the national NGOs within the context of the consideration of its periodic report confirmed Ireland's attachment to freedom.

55. **Mr. Kjaerum** wondered whether the members of the traveller, refugee and migrant communities were involved with the national poverty reduction strategy and, if not, whether the State party intended to ensure that those population groups were represented within the bodies working in that field. He would like to know if the Government was providing the NGOs protecting the rights of migrants and refugees with the support they needed to operate.

56. He also wished to know why, where hiring was concerned, the law provided for the employer to be authorized to hire a migrant worker rather than for a work permit to be issued to the employee concerned, which amounted to tying the work permit to a given workplace. He asked the delegation to please indicate whether the State party intended to amend that legislation.

57. In addition, he wanted to know whether asylum-seekers and persons in the process of being expelled were detained with ordinary criminals – in which case it would be

imperative to amend the legislation – or were placed in separate quarters, and what the State party was doing to prevent persons whose case had for some reason been put on hold from being detained until the proceedings, which might last several years, were complete.

58. **Mr. Doyle** (Ireland) thanked Mr. de Gouttes for clarifying the Committee's suggestion that the law should include a general provision to the effect that racist motivation would constitute an aggravating circumstance. He added that the position with regard to Ireland's reservation with respect to article 4 of the Constitution had not evolved, since Ireland continued to consider that the provisions of that article constituted an impediment to freedom of expression. However, he undertook to advise the competent Irish authorities of the Committee's opinion on that point.

59. Irish judges sometimes invoked the rules of international law but, in general, referred first to the Constitution, then to the European human rights conventions and, finally, to the United Nations treaties.

60. **Mr. Mccutcheon** (Ireland) said that, to the best of his knowledge, Irish case-law did not mention any case relating to the wearing of the Islamic headscarf at school, and any sanction imposed by a head teacher on those grounds would be contrary to the provisions of the Equal Status Act and would constitute discrimination based on religion and sex. At the same time, it would be preferable for the headscarf to be of the same colour as the school uniform.

61. **Ms. Faughnan** (Ireland) said that by bringing together the members of NGOs, the social partners, and persons from civil society and other sectors, as well as persons for whom poverty was a reality, the forum for social integration organized within the framework of the poverty reduction strategy was facilitating consultation at national level and making it possible to involve the participants in the process. Numerous groups of NGOs representing ethnic minorities, such as Hungarians and Filipinos, had participated in the last forum, which had been held on 26 January 2005.

62. **Mr. Murray** (Ireland) recalled that Ireland had adopted an immigration policy that was one of the most liberal in Europe. He acknowledged that the legislation did in fact authorize the employer to hire a migrant worker rather than issue a work permit to the employee concerned, but that was primarily for purposes of "traceability" and efficiency, since the formalities could be completed more quickly when the employer submitted the application for a permit directly to the competent authorities. If the employee concerned fell victim to discrimination in the workplace and wanted to change employer, there was nothing to prevent him from seeking a new job, since he was not bound to that employer.

63. **Mr. Costello** (Ireland) said that, in order to support the activities of the groups working on behalf of asylum-seekers and refugees, the Department of Justice, Equality and Law Reform was paying the Irish Refugee Council an annual subsidy of €100,000.

64. He went on to say that, where expulsion procedures were concerned, the competent authorities ordered refugees and asylum-seekers to be placed in detention only as a last resort. Everything was done to ensure that detention was not unduly prolonged, with the 1999 Immigration Act setting the maximum period of detention at eight weeks, unless the person concerned applied for judicial review. Moreover, the persons concerned were held separately in preventive detention centres.

65. **Mr. Fabey** (Ireland) said that the Irish Government would reflect on the possibility of granting travellers ethnic group status, as suggested by the Committee, but pointed out that the community in question had never asked for that.

66. **Ms. Connelly** (Ireland) explained that the law on the establishment of a commission of enquiry expressly stipulated that the membership of the commission should reflect Irish society. Thus, the Irish Human Rights Commission had among its members a representative

of the traveller community and a person of the Jewish faith. At present, it was the members of the Commission who were responsible, in cooperation with the competent authorities, for investigating complaints referred to the Commission. The procedures to be followed by the Commission when hearing witnesses, where necessary, had still to be defined. She took note of Mr. Amir's remarks concerning the composition of the commission of enquiry.

67. **Mr. Herndl** congratulated the delegation on the completeness of its report, which addressed all the issues mentioned in the Convention. He noted with satisfaction the changes that Ireland had made in its legislation to bring it into conformity with the provisions of the Convention, as well as the establishment of the Irish Human Rights Commission, which should be adequately funded.

68. In its concluding observations, the Committee should draw attention to the situation of the travellers, who deserved to be given full-fledged ethnic minority status and who should be involved in the adoption of decisions that affected them, or indeed form part of the legislative bodies. The Committee could recommend the elimination of all discriminatory treatment of travellers and the amendment of a number of laws such as the Traveller Accommodation Act.

69. He noted that the Committee and Ireland seemed to have a difference of opinion concerning the incorporation of the Convention into the domestic legal system and the country's reservation with respect to article 4 of the Convention. Finally, he recalled that it was not the Committee's role to criticize or sanction States parties but to offer them advice calculated to help them implement the provisions of the Convention in the best way possible.

70. **Mr. Fabey** (Ireland) thanked the members of the Committee for the interest they had shown in the implementation in Ireland of the rights embodied in the Convention, as well as the Irish Human Rights Commission and all those who had participated in the discussions.

71. **The Chairperson** declared that the Committee had thus concluded its consideration of the initial and second periodic reports of Ireland.

72. *The Irish delegation withdrew.*

The meeting rose at 1.05 p.m.