



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

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## Committee on the Elimination of Racial Discrimination

### Concluding observations on the combined twentieth and twenty-first periodic reports of Denmark\*

1. The Committee considered the combined twentieth and twenty-first periodic reports of Denmark (CERD/C/DNK/20–21), submitted in one document, at its 2339th and 2340th meetings (CERD/C/SR.2339 and CERD/C/SR.2340), held on 6 and 7 May 2015. At its 2349th meeting, held on 13 May 2015, it adopted the following concluding observations.

#### A. Introduction

2. The Committee welcomes the timely submission of the combined twentieth and twenty-first periodic reports of the State party, which included responses to the concerns raised by the Committee in its previous concluding observations. The Committee wishes to commend the State party for the regularity with which it submits its periodic reports, which allows for a continuous dialogue on the implementation of the Convention and its impact on the ground. The Committee also welcomes the oral presentation given by the State party's delegation, which included representatives of various executive bodies and of the Governments of Greenland and the Faroe Islands, and the fact that the presentation took the Committee's list of themes into account. The Committee appreciates the open and constructive dialogue held with the State party.

#### B. Positive aspects

3. The Committee welcomes the accession by the State party to the Optional Protocol to the Convention on the Rights of Persons with Disabilities in September 2014.

4. The Committee also welcomes:

(a) The adoption of an action plan in 2010 aimed at promoting ethnic equality and respect for the individual;

(b) The establishment of an anti-discrimination unit in the Ministry of Children, Gender Equality, Integration and Social Affairs in April 2014 to combat discrimination based on ethnicity or disability in all spheres of society;

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\* Adopted by the Committee at its eighty-sixth session (27 April–15 May 2015).



(c) The decision by the Government to produce an annual report on human rights that will include the conclusions and recommendations of the United Nations treaty bodies, to be distributed to Parliamentarians and others, to facilitate the implementation of those recommendations.

5. Following its 2010 recommendation, the Committee welcomes the adoption of the Danish Parliament Act of 2014 aimed at improving the legal status of the “legally fatherless” of Greenland. The Committee notes with interest that, in connection with the passing of this law, the Greenland Committee in the Danish Parliament called for a number of initiatives, and that a joint Danish-Greenlandic working group has been established to follow up on this.

6. The Committee welcomes the additional financial resources provided to the Danish Institute for Human Rights and the cooperation extended to it by the State party.

## C. Concern and recommendations

### Monitoring racial discrimination

7. The Committee notes that the Danish Civil Registration System contains basic personal data about all persons legally residing in Denmark, but not on ethnicity, since the registration of ethnicity as a general rule is not in compliance with the Act on Processing of Personal Data. The Committee is therefore concerned that there are no nationwide statistical data on ethnicity, which renders it difficult for the State party to measure the results of its strategies and to assess the enjoyment of economic, social and cultural rights by the vulnerable groups protected by the Convention.

**In line with its revised reporting guidelines (CERD/C/2007/1, paras. 10 and 12), the Committee recommends that the State party revise its data collection system to include ethnicity. That would ensure that the system enabled the State party to monitor and evaluate the equal enjoyment by all of the rights enshrined in the Convention, including through disaggregated information, in full respect of the principles of confidentiality, informed consent and self-identification. The collection of data on ethnicity may be ensured through surveys, censuses or other appropriate methods.**

### The Convention in domestic legislation

8. The Committee notes that, despite the State party’s explanation that even without incorporation, the Convention is a relevant source of law for the judiciary and other law-enforcement authorities, the number of judgements referring to the Convention is limited. The Committee regrets the State party’s unwillingness to incorporate the Convention into its legislation despite the recommendation to that effect made by the majority of the members of an ad hoc expert committee. While the State party invokes the risk of shifting competence from the Parliament and the Government to the judiciary, the Committee notes that the State party has nevertheless incorporated the European Convention on Human Rights into its domestic law (arts. 1 and. 2).

**The Committee reiterates its recommendation that the State party reconsider incorporating the core international human rights instruments, including the Convention, into its domestic legislation. That would ensure greater awareness of the Convention by the population in general and by law enforcement officials in particular. In the meantime, the Committee encourages the State party to amend its Criminal Code to bring it fully into line with the provisions of the Convention, including the definition of racial discrimination in article 1 (1) of the Convention, and to ensure that the judiciary is fully conversant with the provisions of the Convention.**

### **Enforcement of provisions on racial discrimination**

9. The Committee is concerned at information provided by the State party indicating that, according to the National Integration Barometer, 45 per cent of people with an ethnic minority background felt that they experienced discrimination based on their ethnicity. It is also concerned at the low number of court cases on hate crimes, despite the above-mentioned data and the guidelines issued by the Director of Public Prosecutions aimed at improving the way the police handle hate crimes. Furthermore, while taking note that section 78 (2) of the Constitution provides that associations promoting and employing violence against persons who hold other views shall be dissolved by the courts, the Committee is concerned at the lack of an explicit prohibition in the Criminal Code against organizations that promote racial discrimination, and participation in such activities (arts. 2, 4 and 6).

(a) **In view of its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee recalls that the marked discrepancy between the percentage of people being discriminated against and the low number of complaints may be indicative either of victims' lack of awareness of the availability of remedies or the competent authorities' unwillingness to institute legal proceedings. The Committee recommends that the State party intensify its efforts to raise awareness about legislation on racial discrimination and facilitate access to remedies for victims of racial discrimination, including by promoting the use of "testing" as admissible proof of discriminatory incidents. It also recommends that the State party include in its next periodic report comprehensive information on complaints, convictions and sentences, as well as the reasons for discontinuing investigations or withdrawing charges.**

(b) **The Committee recalls that the provisions of article 4 of the Convention are mandatory. States parties have not only to enact appropriate legislation, but also to ensure that it is effectively enforced. As set forth in general recommendation No. 15 (1993) on article 4 of the Convention, States parties should be vigilant and proceed against organizations that promote racial discrimination as early as possible, without waiting for their dissolution. These organizations, as well as organized and other propaganda activities, have to be declared illegal and prohibited. Participation in such organizations also has to be prohibited and punished. The Committee recommends that the State party amend its Criminal Code to bring it fully into line with article 4 (b) of the Convention and to clarify the application of sections 266 b and 81, No. 6, of the Criminal Code.**

### **Racist discourse and incidents**

10. In the run-up to the forthcoming general election, to be held in September 2015 at the latest, the Committee notes with concern the increase in xenophobia and political propaganda targeting non-citizens. The Committee is concerned about racist publications in the media, including online, the increase in Islamophobia, the terror attack against the Jewish community in Copenhagen in February 2015 and the stigmatization of the Roma community. Furthermore, the Committee expresses its deep concern regarding the exhibition in the Danish Parliament premises of racist pictures that appear to incite violence, by a Swedish artist who has been convicted of racist offences several times in Sweden, and the State party's reliance, in defence of the exhibition, on the argument that it protects and promotes the right to freedom of expression (arts. 4 and 5).

### **The Committee recommends that the State party:**

(a) **Redouble its efforts to combat racial prejudice and violence, xenophobia and intolerance in the country. It urges the State party to remind politicians about**

their responsibilities to ensure that they contribute to building tolerance and intercultural understanding among different groups;

(b) **Develop a national action plan on racism, as called for in the Durban Declaration and Programme of Action, including a particular focus on combating hate crimes, and provide detailed information on the initiative to map such crimes in Denmark, and on the new monitoring system in the Danish National Police, outlining concrete results achieved.**

**In view of its general recommendation No. 35 (2013) on combating racist hate speech, the Committee recalls that the right to freedom of expression is not unlimited, but may be subject to certain restrictions, such as with respect to racist hate speech in whatever form that rejects the core human rights principles of human dignity and equality and seeks to degrade the standing of individuals and groups in the estimation of society. While respecting the right to freedom of expression, the State party should take effective measures to combat racist hate speech, including racist messages on the Internet.**

#### **Family reunification**

11. The Committee is concerned by the State party's strict and restrictive conditions regarding family reunification, despite the Committee's repeated recommendations. It notes with concern that, in February 2015, the State party amended the Aliens Act, limiting the right of asylum seekers who are granted temporary subsidiary protection to family reunification with their spouse, partner or minor child of less than 15 years old, unless an extension of the temporary protection status with a one-year residence permit has been granted. The Committee remains concerned about these amendments, despite the State party's declaration that exceptions are still possible (arts. 2 and 5).

**The Committee recommends that the State party ensure that beneficiaries of international protection enjoy the right to family reunification by revising the newly introduced provision in the Aliens Act that denies family reunification to beneficiaries of temporary subsidiary protection and their family members during the first year, and by ensuring family reunification for all children under 18, bearing in mind its general recommendation No. 30 (2005) on discrimination against non-citizens.**

#### **Refugees**

12. The Committee is concerned about changes made to the Aliens Act in 2012, which increased the requirements for obtaining an indefinite residence permit, pursuant to which the required period of residency was increased from 4 to 5 years, while the restrictive requirements concerning employment, self-reliance and language skills continue to apply. Exemptions from these requirements are available only if the applicant has resided in Denmark for 8 years. The Committee is concerned that this lengthy period is not conducive to the integration of refugees. The Committee is also concerned that the new temporary subsidiary protection status provides for only a one-year residence permit, which can be renewed for two years. This short period has a negative impact on a person's sense of belonging and motivation to integrate (arts. 2 and 5).

**Bearing in mind its general recommendation No. 30 (2005) on discrimination against non-citizens, the Committee:**

(a) **Recommends that the State party amend the Aliens Act to ensure that refugees and other beneficiaries of international protection and their families receive long-term residence rights at an early stage, either immediately or at the latest following the expiry of the initial permit;**

(b) **Requests that the State party provide it with information on the situation of non-citizens who have lost their right to a residence permit in Denmark but are, despite their willingness to cooperate with the Danish authorities, unable to return to their home country.**

#### **Adequate housing**

13. While noting the State party's efforts to eliminate segregation in housing and enhance the social mix of tenants, the Committee is concerned that these measures could potentially have an adverse effect on the access to adequate housing of persons belonging to minority groups and socially disadvantaged people. This is exemplified by information indicating that, based on the "combined letting" rule, out of 709 tenants precluded from moving to certain dwellings, only 28 were offered the obligatory substitute dwelling by their municipalities. As regards the private rental housing market, the Committee also expresses its concern at reports that, statistically, people with a Middle Eastern name have to send 27 per cent more applications in order to receive a positive response than people with a Danish name (arts. 3 and 5).

**The Committee recommends that the State party assess its policy on combating segregation in housing to ensure that there is no unintended indirect discrimination that may affect non-citizens, persons belonging to minority groups and other socially disadvantaged people, including Roma. The Committee also recommends that the State party combat racial discrimination in this area by facilitating access to adequate housing for such persons.**

#### **Education**

14. The Committee is concerned by reports that children in asylum centres experience discrimination in their access to education. They reportedly do not have the right to attend Danish government schools (Folkeskolen), which prevents them from accessing quality education. The Committee is also concerned by reports that Roma children experience discrimination in education. Moreover, while noting the experimental programme designed to examine the positive effects of different teaching modules in the mother tongue of minority students, the Committee is concerned about the high dropout rate of children of foreign origin, in particular non-nationals of European Union countries (art. 5).

**The Committee recommends that the State party guarantee asylum-seeking children equal opportunities to access quality education and address discrimination against Roma children in the field of education. The Committee also recommends that the State party continue with its experimental programme on access to mother tongue education for children belonging to minority groups, including vocational training, as well as ensuring supplies of school textbooks in minority languages.**

#### **Employment**

15. While welcoming the new action plan for integration aimed at improving the inclusion of immigrants in the labour market, through a more job-oriented integration programme for newly arrived refugees and persons reunited with their families, and job-oriented offers for unemployed third country nationals, the Committee remains concerned about the high level of unemployment and economic disadvantage of non-citizens and persons belonging to minority groups (arts. 2 and 5).

**The Committee recommends that the State party expand and strengthen its initiatives to improve the integration of non-citizens and persons belonging to minorities, including Roma, in the labour market and to address the structural discrimination they may face in this area. The Committee draws the State party's attention to its**

**general recommendations No. 30 (2005) on discrimination against non-citizens and No. 32 (2009) on the meaning and scope of special measures in the International Convention on the Elimination of All Forms of Racial Discrimination, which provide guidance in this regard.**

#### **Victims of domestic violence**

16. The Committee notes with interest that, in line with its previous recommendation, the January 2013 amendment to the Aliens Act allows foreign spouses and children who are victims of domestic violence to retain their residence permits regardless of cessation of cohabitation. Nonetheless, the Committee is concerned about the difficulties that victims of violence could face in obtaining a separate residence permit, given that their access to this permit could be hampered if they have received social benefits within the previous three years (art. 5).

**The Committee recommends that the State party ensure that receipt of social benefits does not influence the State party's decision on whether to award residence permits to spouses and children who have been victims of domestic violence. The State party is encouraged to monitor this situation closely and continue its efforts in this area.**

#### **Right to remedies**

17. The Committee is concerned about the low number of complaints received by the Board of Equal Treatment and reiterates its concern that the Board can only receive written complaints. The Committee also expresses concern about the failure of the State party to provide compensation to victims who successfully submit individual complaints to the Committee (arts. 6 and 14).

(a) **The Committee reiterates its recommendation that the State party strengthen the procedure for lodging complaints with the Board of Equal Treatment by allowing complainants to provide oral testimonies, when necessary. It also recommends that the State party raise public awareness about the existence of the Board in order to increase the effectiveness of the Board, and reinforce its efforts to combat racial discrimination.**

(b) **Bearing in mind its general recommendation No. 26 (2000) on article 6 of the Convention, the Committee recommends that the State party ensure that victims of racial discrimination are able to obtain effective legal remedies, including compensation and reparation. The State party should guarantee the right of victims to seek just and adequate reparation or satisfaction for any damage suffered as a result of racial discrimination, and consider awarding financial compensation for damage, both material and moral.**

#### **Ethnic minorities in the police and in the administration of justice**

18. The Committee is concerned about reports of persistent ethnic profiling and the very low number of persons belonging to ethnic minority groups serving as police officers. The Committee also expresses concern about the unequal quality of the interpreters who assist refugees, immigrants and persons belonging to minority groups in the courts (art. 5).

**The Committee recommends that the State party intensify its efforts to facilitate the recruitment of persons belonging to minority groups to the police. It also recommends that the State party continue with its training programmes for law enforcement officials, such as the seminars organized in all police districts in 2011–2012 to help eliminate ethnic profiling and better tackle hate crimes. It encourages the State party to ensure that the interpretation provided in courts is of sufficient quality and, if**

necessary, establish education in interpretation, targeting the most widely spoken foreign and immigrant languages.

#### **Greenland and the Faroe Islands**

19. The Committee expresses its concern at the lack of legal provisions in Greenland and the Faroe Islands prohibiting racial discrimination in the labour market and the lack of data on, or a body to receive complaints about, racial discrimination. While noting that the mandate of the Danish Institute for Human Rights was extended to Greenland in 2014, the Committee regrets that there is no body with similar competence for the Faroe Islands. Also, the Committee is aware that Greenlanders living in mainland Denmark face prejudice and feel discriminated against in terms of access to economic, social and cultural rights (arts. 2 and 5).

**The Committee recommends that the State party:**

(a) **Encourage Greenland and the Faroe Islands to adopt relevant legislation on racial discrimination, develop tools to collect data on racial discrimination and consider establishing a competent body to deal with complaints of discrimination based on race, colour, ethnic or national origin;**

(b) **Consult the Faroe Islands on the possibility and the importance of establishing a human rights institution with a broad mandate on human rights, including on non-discrimination.**

**The Committee encourages the State party to consult with Greenlanders and Faroe Islanders living in mainland Denmark on possible prejudice and discrimination that they might experience.**

#### **Structural discrimination**

20. Despite the numerous initiatives taken by the State party, the Committee remains concerned at reports that persons belonging to minority groups and non-citizens, particularly non-nationals of European Union countries, face structural discrimination in Denmark regarding access to employment, housing, health services and quality education, as well as access to justice (arts. 1 and 5).

**The Committee recommends that the State party adopt special measures to combat structural discrimination and promote equal opportunities for all national and other minority groups and others affected by such discrimination. While implementing the Roma strategy and the integration action plan, the State party is encouraged to introduce strategies to address racial discrimination in other programmes, to allocate sufficient resources for the implementation of such programmes and to systematically evaluate their effectiveness in reversing structural discrimination.**

#### **Indigenous peoples**

21. The Committee notes that the State party maintains its view that there is only one indigenous people in the Kingdom of Denmark, the Inuit in Greenland, according to the 2003 Supreme Court ruling that the Thule Tribe is not a distinct indigenous people coexisting with the Greenlandic people. However, the Committee regrets that, despite its previous recommendations, there has been no consultation with the Thule Tribe of Greenland on this issue (art. 5).

**In view of its general recommendations No. 8 (1990) concerning the interpretation and application of article 1, paragraphs 1 and 4, of the Convention and No. 23 (1997) on rights of indigenous peoples, the Committee recommends that the State party engage in consultations with those concerned on matters of importance to them, keeping in**

**mind the principle of self-identification as a fundamental criterion in the identification of people as a distinct indigenous people.**

#### **Awareness-raising**

22. The Committee takes note of a number of initiatives regarding the implementation of article 7 of the Convention, such as the “YES! To equal treatment” campaign, the project “Your faith, My faith” and the new teaching materials entitled “Diversity and prejudice” published in January 2015. However, the Committee regrets the lack of information on the impact of these programmes on the fight against racism and is of the view that additional measures are still needed to raise public awareness about racial discrimination (art. 7).

**The Committee recommends that the State party intensify its efforts to raise the awareness of the public, civil servants and law enforcement officials of the importance of cultural diversity, tolerance and inter-ethnic understanding in order to combat stereotypes, prejudices and discrimination against refugees, migrants and persons belonging to the Roma, Muslim, Jewish and African communities. The State party should evaluate the effectiveness of its programmes and activities in this area.**

### **C. Other recommendations**

#### **Ratification of other treaties**

23. Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying the international human rights treaties which it has not yet ratified, in particular treaties with provisions that have direct relevance to communities that may be subjected to racial discrimination, such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Domestic Workers Convention, 2011 (No. 189) of the International Labour Organization.

#### **Follow-up to the Durban Declaration and Programme of Action**

24. In the light of its general recommendation No. 33 (2009) on the follow-up to the Durban Review Conference, the Committee recommends that, when implementing the Convention in its domestic legal order, the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference, held in Geneva in April 2009. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

#### **International Decade for People of African Descent**

25. In the light of General Assembly resolution 68/237 proclaiming 2015–2024 the International Decade for People of African Descent and resolution 69/16 on the programme of activities for the implementation of the Decade, the Committee recommends that the State party prepare and implement a suitable programme of measures and policies. The Committee requests that the State party include in its next report precise information on the concrete measures adopted in this framework, taking into account its general recommendation No. 34 (2011) on racial discrimination against people of African descent.

#### **Consultations with civil society**

26. The Committee recommends that the State party continue consulting and increasing its dialogue with civil society organizations working in the area of human rights protection,



in particular in combating racial discrimination, in connection with the preparation of the next periodic report and follow-up to the present concluding observations.

#### **Dissemination**

27. The Committee recommends that the State party's reports be made readily available and accessible to the public at the time of their submission, and that the concluding observations of the Committee with respect to those reports be similarly publicized on the website of the Ministry of Foreign Affairs in the official and other commonly used languages, as appropriate.

#### **Common core document**

28. The Committee encourages the State party to update its core document, which dates back to 1995, in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted at the fifth inter-committee meeting of the human rights treaty bodies held in June 2006 (HRI/GEN/2/Rev.6, chap. I). In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 42,400 words for the common core document.

#### **Follow-up to concluding observations**

29. In accordance with article 9 (1) of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of the present concluding observations, on its follow-up to the recommendations contained in paragraphs 10 and 15 above.

#### **Paragraphs of particular importance**

30. The Committee also wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 11, 13, 14 and 19 above and requests the State party to provide detailed information in its next periodic report on concrete measures taken to implement those recommendations.

#### **Preparation of the next periodic report**

31. The Committee recommends that the State party submit its twenty-second to twenty-fourth periodic reports, in a single document, by 8 January 2019, taking into account the reporting guidelines adopted by the Committee during its seventy-first session (CERD/C/2007/1) and addressing all the points raised in the present concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports.

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