

Advance unedited versionDistr.: General
15 May 2015

Original: English

Committee on the Elimination of Racial Discrimination**Concluding observations on the 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, 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 regularity in reporting to it which allows a continuous dialogue with the State party on the implementation of the Convention and its impact on the ground. Also, the Committee welcomes the oral presentation given by the State party's delegation consisting of representatives of various executive bodies as well as representatives of the Governments of Greenland and Faroe Islands, taking into account the list of themes identified by the Rapporteur. The Committee also 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, Equality, Integration and Social Affairs in April 2014 to combat discrimination based on ethnicity or disability in all spheres of society;

^{*} 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 which will include treaty bodies' conclusions and recommendations to be distributed to Parliamentarians among others and to facilitate their implementation.

5. Following its recommendation in 2010, the Committee welcomes the Danish Parliament Act of 2014 aiming at improving the legal status of the "legally fatherless" of Greenland and notes with interest that in connection with the passing of this law, the Danish Parliament's Greenland Committee 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 cooperation extended to it by the State party.

C. Concern and recommendations

Monitoring racial discrimination

7. The Committee notes that the National 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 countrywide statistical data on ethnicity which renders it difficult for the State party to measure results of its strategies as well as assess the enjoyment of economic, social and cultural rights of 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 also include ethnicity to ensure that it allows the State party to monitor and evaluate the equal enjoyment by all, protected by the Convention, of rights enshrined therein including through disaggregated information in full respect of the principles of confidentiality, informed consent and self-identification. The collection of data on ethnic groups in the country 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-applying authorities, the number of judgements referring to the Convention is limited. It regrets the State party's unwillingness to incorporate the Convention into its legislation despite the recommendation made by a majority of the members of an ad hoc expert committee to this effect. While the State party invokes "a risk of shifting competence from the Parliament and the Government to the Judiciary", the Committee notes that the State party has nevertheless incorporated into its domestic law the European Convention on Human Rights (arts 1 and 2).

The Committee reiterates its recommendation that the State party reconsider the incorporation of international human rights core instruments, including the Convention, into its domestic legislation to 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 make it fully in line with the provisions of the Convention, including a definition of racial discrimination as provided for by article 1 (1) of the Convention and to ensure that the judiciary are fully conversant with its provisions.

Enforcement of provisions on racial discrimination

9. The Committee is concerned about the information by the State party that 45% of people with ethnic minority background felt they experienced discrimination based on their ethnicity according to the National Integration Barometer. It is further concerned about the low number of court cases on hate crimes, despite the abovementioned data and the guidelines issued by the Director of Public Prosecutions for the Police to better handle hate crimes. Furthermore, while taking note that Section 78, Subsection 2, of the Constitution provides that associations promoting and employing violence on persons holding other views shall be dissolved by courts, the Committee is concerned by the lack of explicit provisions in the Criminal Code prohibiting organizations that promote racial discrimination as well as 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' ignorance as to the availability of remedies or of unwillingness by competent authorities to institute legal proceedings. The Committee recommends that the State party intensify its efforts to raise awareness about legislation on racial discrimination, facilitate access to remedies for victims of racial discrimination, including 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 indicates that the provisions of Article 4 of the Convention are of a mandatory character. 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 in proceeding against organizations promoting racial discrimination as early as possible, without waiting for their dissolution in the future. These organizations, as well as other propaganda activities, should be declared illegal and prohibited. Participation in such organizations should also be prohibited and punished. The Committee recommends that the State party amend its Criminal Code to bring it fully in 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. On the eve of the incoming general election to be held in September 2015 at the latest, the Committee notes with concern the increase of xenophobia and political propaganda targeting non-citizens. It is also concerned about racist publications in the media, including online, and by the increase of Islamophobia, by the terror attack against the Jewish community in Copenhagen in February 2015 and by the stigmatization of the Roma community. Furthermore, the Committee expresses its deep concern regarding the exhibition in the Danish Parliament premises of racist pictures appearing to incite violence from a Swedish artist several times convicted in Sweden for racist offenses, relying on the argument that the State party 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 as well as 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 Durban including a particular focus on combating hate crimes and provide detailed information on the initiative mapping such crimes in Denmark and on the new monitoring system in the Danish National Police, outlining concrete results achieved;**

In view of its General Recommendations 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 forms which rejects human dignity and equality and seeks to degrade the standing of individuals and groups. 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 its repeated recommendations. It notes with concern that the State party amended in February 2015 the Aliens Act limiting the right of asylum seekers granted temporary subsidiary protection to family reunification with their spouse, partner or minor child 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 declaration by the State party that exceptions are still possible (arts. 2 and 5).

The Committee recommends that the State party ensure family reunification of the beneficiaries of international protection, 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 in light of its General Recommendation no. 30 (2005) on discrimination against non-citizens.

Refugees

12. The Committee is concerned about changes in the Aliens Act in 2012 placing additional restrictions on obtaining an indefinite residence permit, pursuant to which the required period of residency was increased from 4 to 5 years, while additional restrictive requirements dealing with employment, self-reliance and language skills continue to apply. Exemptions from these additional 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 further 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:

(a) **The Committee 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) **The Committee requests that the State party provide it with information on the situation of non-citizens who have lost their 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 about potential adverse effects that these measures may have on persons belonging to minority groups and socially disadvantaged people to access adequate housing. This is exemplified by information 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 regarding the information that people with a Middle Eastern name statistically have to send 27 percent 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 persons affected.

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 the Danish government schools (Folkeskolen) which prevents them from accessing quality education. The Committee is further concerned by reports that Roma children also 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 however concerned about the high dropout rate of children of foreign origin, in particular non-EU nationals (art. 5).

The Committee recommends that the State party guarantee to asylum seeking children equal opportunities to access quality education as well as to address discrimination against Roma children in the field of education. The Committee further 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 ensure supplies of school textbooks in minority languages.

Employment

15. While welcoming the new action plan for integration aiming at improving inclusion of immigrants in the labour market, through a more job-oriented 'integration programme' for newly arrived refugees and family unified persons 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 so as 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 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 amendment to the Aliens Act of January 2013 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 difficulties which victims of violence may face in obtaining a separate residence permit, considering the fact that having received social benefits within the last three years may hamper their access to this permit (art. 5).

The Committee recommends that the State party assess and closely monitor that receipt of social benefits, if linked to the circumstances generated by domestic violence does not influence the State party's decision to award a residence permit to the concerned spouse or children. The State party is encouraged to 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 expresses concern about the failure of the State party to provide compensation to victims who successfully submitted individual complaints to the Committee (arts. 6 and 14).

(a) The Committee reiterates its recommendation that the State party strengthen the Board's complaint-lodging procedure by allowing complainants to provide oral testimonies, when deemed necessary. It also recommends that the State party raise public awareness on the existence of the Board among other measures to increase the efficiency of the latter and to 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 can 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 uneven quality of interpreters assisting 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 recommends the State party to continue with its training programmes of 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 further encourages the State party to ensure that interpretation provided in courts is of sufficient quality and, if necessary, establish education in interpretation targeting the most spoken foreign and immigrant languages.

Greenland and Faroe Islands

19. The Committee expresses its concern at the lack of legal provisions prohibiting racial discrimination in the labour market, and at the lack of data as well as of a body to

receive complaints on racial discrimination in Greenland and the Faroe Islands. While noting that the mandate of the Danish Institute for Human Rights has been 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 Faroe Islands to adopt relevant legislation on racial discrimination, develop ways and 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 Faroe Islands on the possibility and the importance of having 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 might be experienced by them.

Structural discrimination

20. Despite numerous initiatives taken by the State party, the Committee expresses its concern at the structurally differential treatment in Denmark, in particular reports that persons belonging to minority groups, non-citizens, particularly non-EU nationals, face structural discrimination regarding access to employment, housing, health services, 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. While implementing the Roma strategy and the Integration action plan, the State party is encouraged to also introduce strategies to address racial discrimination in other programmes, allocate sufficient resources for the implementation of such programmes and systematically evaluate their impact on 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 Supreme Court 2003 ruling that the Thule Tribe are not a distinct indigenous people co-existing with the Greenlandic people. However, the Committee regrets the lack of consultation with the Thule Tribe of Greenland on this issue despite its previous recommendations (arts. 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 distinct indigenous.

Awareness-raising

22. The Committee takes note of a number of initiatives regarding the implementation of Article 7 such as the campaign “YES! To equal treatment,” the project “Your faith, My faith” and the new teaching material “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 awareness of the public, civil servants and law enforcement officials of the importance of cultural diversity, tolerance and interethnic understanding, in order to combat stereotypes, prejudices and discrimination against mainly refugees, migrants, persons belonging to Roma, Muslim, Jewish and African communities and evaluate the effectiveness of 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 international human rights treaties which it has not yet ratified, in particular treaties with provisions that have a direct relevance to communities that may be the subject of racial discrimination, such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990) and the ILO Convention No. 189 on Domestic Workers.

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 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, when implementing the Convention in its domestic legal order. 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 the International Decade for People of African Descent for 2015-2024 and resolution 69/16 on the program of activities for the implementation of the Decade, the Committee recommends that the State party prepare and implement a suitable program of measures and policies. The Committee requests as well that the State party includes in its next report precise information on the concrete measures adopted in this framework, taking into account its General Recommendation N°34 (2011) on racial discrimination against people of African descent.

Consultations with civil society

25. The Committee recommends that the State party continue consulting and expanding its dialogue with organizations of civil society 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 the follow-up to these concluding observations.

Dissemination

26. The Committee recommends that the State party's reports to be made readily available and accessible to the public at the time of their submission, and that the 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).

Follow-up to concluding observations

29. In accordance with article 9, paragraph 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 22nd to 24th 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 the General Assembly resolution 68/268, the Committee urges the State party to observe the word limit of 21,200 for periodic reports and 42,400 for the common core document.
