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Committee on the Elimination of Racial Discrimination

Concluding observations on the combined twenty-second to twenty-fourth reports of Denmark*

1. The Committee considered the combined twenty-second to twenty-fourth periodic reports of Denmark (CERD/C/DNK/22-24), submitted in one document and presented by the State party during its sixteenth appearance before the Committee, at its 2849th and 2850th meetings (see CERD/C/SR.2849 and 2850), held on 23 and 24 November 2021. At its 2859th meeting, held on 30 November 2021, it adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the submission of the twenty-second to twenty-fourth periodic reports of the State party. It welcomes the constructive dialogue with the State party's delegation and thanks the delegation for the information provided during the consideration of the report and for the additional written information submitted after the dialogue.

B. Positive aspects

3. The Committee welcomes the following policy measures taken by the State party:

(a) The allocation of 26 million DKK (approx. 3.5 million euro) over four years to initiatives targeted at vulnerable Greenlanders in Denmark, and of 12.3 million DKK (approx. 1.6 million euro) to the Greenlandic Houses (2019), with the aim of improving inclusion and outreach services for Greenlandic newcomers in Denmark;

(b) The national strategy against bullying in Greenland, including on the grounds of nationality, ethnicity and language (2019);

(c) The "Stop Hate Speech" campaign in the Faroe Islands (2018);

(d) The agreement with social partners on more than 50 initiatives aimed at improving the employment and integration prospects for refugees and family reunified persons (2016);

(e) The development of a national action plan to combat anti-Semitism.

C. Concerns and recommendations

Data collection

4. While noting that the collection of information on ethnicity is not considered relevant by the State party, the Committee remains concerned that lack of data on ethnicity of persons

* Adopted by the Committee at its 105th session (15 November – 3 December 2021).

residing in Denmark impedes an accurate assessment of progress towards the equal enjoyment by all groups without discrimination of the rights protected under the Convention, and of efforts to elaborate effective public policies in line with the Convention (art. 1, 2).

5. **The Committee reiterates its previous recommendation (CERD/C/DNK/CO/20-21, para. 7) that the State party revise its data collection processes to ensure that it collects data on ethnicity, in light of the provisions of article 1 of the Convention and paragraphs 10 to 12 of the Committee's reporting guidelines (CERD/C/2007/1).**

The Convention in domestic law

6. While noting the position of the State party that the Convention is a relevant and valid source of law in the State party despite it not being incorporated into the domestic legal order, the Committee is concerned by the very limited number of examples that demonstrate the application of the Convention by domestic courts. The Committee is not convinced by the reasoning of the State party that incorporation of the Convention into the domestic legal order entails a risk of shifting powers conferred upon the Parliament and Government to the courts (art. 2).

7. **The Committee recommends that the State party fully incorporate the Convention into its domestic legal order. The Committee also recommends that the State party take steps to disseminate the provisions of the Convention among judges, prosecutors, lawyers and law enforcement officials, and train them on these provisions, so as to facilitate the citing and invocation of the Convention before, or its application by, domestic courts. The Committee further recommends that the State party provide updated information in its next periodic report on the number of cases or decisions in which domestic courts have invoked or applied the Convention, including for interpretative purposes.**

Enforcement of provisions against racial discrimination and evaluation of policies

8. The Committee is concerned that despite a reported increase of incidences of racial discrimination against persons with ethnic minority background in various areas of life in Danish society, the State party is not considering developing a comprehensive action plan against racism, as recommended in the Committee's previous concluding observations (CERD/C/DNK/CO/20-21, para. 10). The Committee is also concerned by the large gap between cases of racial discrimination registered officially and the much larger number of cases of racial discrimination indicated by surveys of people with ethnic minority background. The Committee is further concerned by the lack of comprehensive analysis on the impact of policies regarding eliminating racial discrimination (arts. 2, 4, 6).

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

(a) Increase its efforts to prevent and to firmly combat incidences of racial discrimination in various areas of life, in particular by developing and implementing a comprehensive national action plan to combat all forms of racial discrimination including all its intersecting forms, address possible structural discrimination, and cooperate and engage with affected communities in developing and implementing this plan;

(b) Conduct research on the reasons for the large gaps between officially reported cases of racial discrimination and the number of cases of racial discrimination reported by people with ethnic minority background; intensify efforts to raise awareness on its legislation on racial discrimination and facilitate access to remedies for victims of such discrimination; and take steps to establish a mechanism which integrates various kinds of information collected by relevant agencies and authorities in the State party to easily identify how many violations of the laws prohibiting racial discrimination have taken place, and to ensure that such data is monitored and analysed on a regular basis.

Use of terms "Western" and "non-Western"

10. The Committee is concerned that the terms "Western" and "non-Western" as used in the legislation and policies of the State party without any reasonable grounds may lead to marginalization and stigmatization of those classified as "non-Western", and that it could create a distinction between those considered to be "real Danes" and the "others" (art. 2).

11. **The Committee recommends that the State party discontinue the use of the terms "Western" and "non-Western" in its policy and law and instead use terms that do not run the risk of conveying a distinction that could result in stigmatization, marginalization or indirect discrimination against any group of people.**

The "parallel society" plan

12. The Committee is concerned that the package of laws previously known as "Ghetto package" has a discriminatory impact on ethnic minorities. The Committee is also concerned that, under these laws, although areas classified as "vulnerable" have already met at least two of four detailed socio-economic criteria, the additional criterion of having at least 50 percent of "non-Western" residents leads to such vulnerable areas being classified as "parallel societies" and to the application of more restrictive rules, thus adding a discriminatory ethnic and racial element to these laws, which can result in stigmatization in various areas of life, such as employment, housing and access to services (art. 3, 5).

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

(a) Refrain from using the percentage of immigrants and their descendants from "non-Western" countries in a certain area as a basis for applying stricter laws and measures;

(b) Undertake a comprehensive review of the impact of the laws and regulations under its programmes to address "parallel societies" and amend or repeal any provisions that directly or indirectly discriminate against any groups under article 1 (1) of the Convention, including with respect to their right to housing, employment, education, or equality before the law.

Greenland

14. While the Committee notes that a strategy against bullying was adopted by the Parliament of Greenland in 2019, the Committee is concerned by the lack of progress in Greenland to enact a law that prohibits racial discrimination in a comprehensive manner. The Committee also continues to be concerned about the absence of a competent body to deal with complaints of discrimination based on race, colour, descent, or national or ethnic origin (arts. 2, 5).

15. **The Committee recommends that Greenland introduce comprehensive anti-discrimination legislation protecting from discrimination on all grounds listed in article 1 (1) of the Convention and covering all areas of life and set up a mechanism through which it can monitor hate speech and the impact of its campaign against bullying.**

Faroe Islands

16. While the Committee notes that a national campaign against hate speech has been conducted, the Committee is concerned that the government of the Faroe Islands has discontinued efforts to enact a law prohibiting racial discrimination and enforcing equality of treatment in the labour market. The Committee continues to be concerned by the lack of progress towards establishing a national human rights institution in the Faroe Islands despite the recommendations made in 2017 by a task force appointed by the Minister of Foreign Affairs and Trade (arts. 2, 5).

17. **The Committee recommends that the authorities of the Faroe Islands continue their efforts to enact a law to prohibit discrimination and to expedite the process of establishing a national human rights institution, and to ensure that its mandate covers racial discrimination and is in compliance with the principles relating to the status of**

national institutions for the promotion and protection of human rights (Paris Principles).

Hate crime and hate speech

18. The Committee is concerned by the magnitude of underreporting of racist hate crimes and incidents of hate speech in the State party and by the lack of a comprehensive mechanism to collect data on such incidents. The Committee is also concerned by the gap between hate crimes registered by the Police, those prosecuted and the number of convictions where Article 81 para (6) of the Criminal Code was explicitly applied by Courts. The Committee is also concerned by the lack of an explicit prohibition in the Criminal Code of organizations that promote racial discrimination, and of participation in such organizations. The Committee is further concerned by continuing reports of political discourse in the State party that contributes to prejudices and xenophobia (art. 4).

19. **The Committee recommends that the State Party:**

(a) Take measures to remove barriers that prevent victims from reporting racist hate crimes and hate speech incidents, including by creating awareness among potential victims of what constitutes hate crime and which forms of hate speech are punishable under criminal law and of available remedies, and by building trust in the legal system and in the competent authorities' willingness to investigate, prosecute and punish effectively hate crimes and hate speech;

(b) Take measures to ensure that all racially motivated crimes, including crimes with mixed motives, are effectively investigated and prosecuted, including by adopting concrete operational measures and by examining potential gaps in investigating, prosecuting and applying the legislation on hate crimes by the courts;

(c) Set up a comprehensive data collection system in which racist hate crime and hate speech incidents are registered separately with fully disaggregated data, including category of offense, type of hate motivation, target group, judicial follow-up and outcome, taking into consideration General Recommendation 35 on combating hate speech;

(d) Continue the dialogues of the Danish National Police with the communities most affected by hate crime and hate speech and take concrete and regular trust-building follow-up actions;

(e) Fully implement the provisions of article 4 of the Convention, including by explicitly prohibiting organizations and propaganda activities that promote and incite violence and racial discrimination, and by enhancing its efforts to provide clear evidence-based data and counter-narratives in response to propaganda and fake news on issues related to public policies.

Racial profiling

20. The Committee notes that the likelihood that an arrest does not lead to a conviction and that charges for a crime are subsequently dropped are higher for persons of ethnic minority background as compared with persons of Danish ethnic origin, which may be the result of the police more readily suspecting persons with ethnic minority background of committing a crime. The Committee is concerned about the lack of a clear prohibition of racial profiling and operational guidelines for police and other law enforcement officers to prevent and combat racial profiling as well as other policy measures to combat racial profiling, and about the low proportion of police officers with a non-Danish ethnic background, which is only at 2.3 per cent (art. 4).

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

(a) Ensure that racial profiling is clearly defined and prohibited in legislation and that clear operational guidelines to prevent racial profiling during police stops, identity checks and other police measures are available to police and other law enforcement officers;

(b) Put in place a mechanism to systematically register the ethnic origin of arrested persons in order to obtain statistical data with regard to ethnic profiling, while ensuring that no data protection regulations are violated;

(c) Monitor the number of complaints of ethnic profiling against the police and other law enforcement agencies and effectively follow-up on these complaints;

(d) Intensify efforts to include persons with non-Danish ethnic background in front-line posts as police officers to increase their visibility and contribute to reducing potential unconscious racial profiling practices.

Discrimination in the labour market

22. While noting the State party's initiatives to integrate persons with immigrant and minority background into the labour market, the Committee regrets the lack of information on measures to improve labour market integration of other minorities, including of Roma. The Committee also regrets the lack of official statistics on the court cases about employment discrimination, which could give an indication of possible discrimination in the labour market (art. 5).

23. **The Committee reiterates the recommendation from its previous concluding observations (CERD/C/DNK/CO/20-21, para. 15) 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 also recommends that the State party collect data on court cases about discrimination in the labour market in order to get a clear picture of this situation.**

Interpretation in health care

24. The Committee notes that the State party has implemented an interpreter certification scheme to ensure and enhance the quality of interpretation services in the health care system, under which companies are able to apply for authorization as certification institutions. However, it is concerned by reports that access to quality interpretation in languages spoken by refugees and migrants continues to be limited in the health care system, thus jeopardizing the right to health for the affected persons (art. 5).

25. **The Committee recommends that the State party take measures to ensure that the new interpreter certification scheme is implemented in a manner in which it effectively enhances and ensures the quality of the interpretation services in the health care system for persons in need. In particular, it recommends that the State party provides access to qualified and properly trained interpreters in the languages most frequently used by refugees and migrants, and ensures the scheme's evaluation to this end.**

Situation of the COVID-19 pandemic

26. The Committee is concerned that persons from ethnic minority communities in the State party have been more vulnerable to and disproportionally affected by the COVID-19 pandemic, both in terms of infection and severity of impact on their health status afterwards. It is also concerned that, despite the efforts of the State party, the vaccination uptake and testing rates have been lower in these communities (art. 5).

27. **The Committee recommends that the State party further enhance its targeted efforts to protect ethnic minorities from the COVID-19 pandemic and its effects, in particular by increasing vaccinations uptake and testing among persons from ethnic minority communities, and taking measures to build trust within these communities in the health care measures in place to address the pandemic, including by engaging with a diverse and broad range of representatives of these communities in the development of such trust-building measures.**

Situation of Roma

28. While noting the State party's view that Roma benefit from its welfare system on an equal footing with other persons living the State party, the Committee is concerned that the lack of statistics disaggregated by ethnicity does not allow the Committee to evaluate the degree of enjoyment by Roma of their economic, social and cultural rights, including through the State party's welfare system. While acknowledging that the provision criminalizing the establishment of and staying in camps that qualify as a disturbance to public order is not drafted with reference to nationality or ethnicity, the Committee notes reports that 453 out of the 459 persons charged under this provision by 1 July 2019, were non-Danish nationals (arts. 2 and 5).

29. **The Committee recommends that the State party take measures to evaluate the enjoyment of Roma to their economic, social and cultural rights on equal footing with the rest of the population in the State party. The Committee also recommends that the State party devise any possible Roma-specific strategy based on such an evaluation in close collaboration with members of the Roma community. The Committee further recommends that the State party take measures to ensure that its provision criminalizing the establishment of and staying in certain camps is not applied or enforced in a discriminatory manner.**

Discrimination of persons of African descent

30. The Committee welcomes current and planned activities in the State party to raise awareness of the slave trade and of Danish colonial history, including drafting a report on possible steps to strengthen dissemination of knowledge about Danish colonial history due in 2022. The Committee is however concerned by a survey of the EU Fundamental Rights Agency (2019) according to which the majority of persons of African descent who responded felt discriminated in the State party in the five years prior to the survey. The Committee is also concerned by the lack of information provided by the State party about the levels of discrimination and social exclusion of people of African descent (arts. 2 and 5).

31. **The Committee recommends that the State party ensure the carrying out of an independent study into the situation of and discrimination against people of African descent in the State party, in dialogue and collaboration with the affected community, and that it devise a strategy and actions to address discrimination against persons of African descent. The Committee also recommends that the State party strengthen its efforts to disseminate knowledge of Danish colonial history. The Committee further recommends that the State party provide an update on strengthening dissemination of knowledge of Danish colonial history and on concrete actions taken.**

Refugees and asylum seekers

32. The Committee is concerned that the law in the State party allowing police to confiscate valuable belongings from asylum seekers can have a negative impact on their relationship with the Danish state and their long term integration prospects in the country. The Committee is also concerned that the State party revoke or deny extension of residence permits for persons from Damascus and Rif Damascus that no longer enjoy temporary protection status despite the reported risks they may face upon return in such areas, which may amount to a violation of the principle of non-refoulement. The Committee is further concerned by the recent amendment to the Danish Aliens Act (L226) that constitutes the legal framework for transferring asylum application processing and subsequent protection to a third country outside of the European Union and by its potential detrimental impact on the effective protection of refugees (arts. 2 and 5).

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

(a) Reconsider the law that allows police to confiscate valuable belongings from asylum seekers that may lead to an excessive intervention in individual's right to property;

(b) Revisit its evaluation of designating Damascus and Rif Damascus as safe zone to return persons whose temporary protection status has been revoked or whose request for extension of temporary protection status has been denied;

(c) Be mindful of its obligation under relevant international law regarding the protection of asylum seekers and the Committee requests that the State party include in its next periodic report specific information on the development on its law (L 226).

Citizenship

34. The Committee is concerned that the increasingly restrictive provisions to obtain Danish citizenship have resulted in lowering the number of young people born and raised in the State party who obtain Danish citizenship. The Committee is concerned that such a situation may create barriers to their full belonging to and identification with Danish society. The Committee is also concerned that people are excluded from acquiring citizenship if they have an unpaid debt due to penalty fares to the State in excess of 400 euros, which appears excessively restrictive, disproportionate and may disadvantage persons who pursue an education. The Committee is further concerned by the amendments to the State party's nationality legislation according to which a child born to a Danish parent who unlawfully entered or stays in a 'conflict zone' can be barred from obtaining the Danish citizenship by birth (art. 5).

35. **The Committee recommends that the State party evaluate the proportionality of citizenship rules that prevent persons born and raised in the State party from obtaining citizenship and assess their impact, in particular on young people. It also recommends that the State party ensure that penalty fares on education-related debts do not result in excessive barriers to access to citizenship. The Committee further recommends that the State party reconsider any laws that can lead to de facto deprivation of citizenship by birth for children whose parents unlawfully enter or stay in a 'conflict zone', as it may lead to establishing further barriers for these children's integration into Danish society.**

Remedies

36. Noting that the Board of Equal Treatment investigated a total of 116 cases from 2019 to 2020 of which only 18 were upheld, the Committee is concerned that victims of racial discrimination do not have sufficient knowledge or willingness to bring cases before the Board. While also noting that the State party is exploring ways of improving access to qualified and properly trained interpreters in the languages most frequently used by refugees and migrants in the Danish justice system, the Committee is concerned that access to such quality interpretation is currently not secured (art. 6).

37. **The Committee recommends that the State party increase its efforts to raise awareness about the possibility to lodge complaints to the Board of Equal Treatment including by reaching out to potential victims of racial discrimination. The Committee also recommends that the State party expedite its efforts to ensure access to qualified and properly trained interpreters in the languages most frequently used by refugees and migrants in its justice system.**

D. Other recommendations

Ratification of other treaties

38. **Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties that it has not yet ratified, in particular treaties with provisions that have direct relevance to communities that may be subjected to racial discrimination, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.**

Follow-up to the Durban Declaration and Programme of Action

39. **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

40. **In the light of General Assembly resolution 68/237, in which the Assembly proclaimed 2015-2024 the International Decade for People of African Descent, and Assembly 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 in collaboration with organizations and peoples of African descent. The Committee requests that the State party include in its next report precise information on the concrete measures adopted in that framework, taking into account its general recommendation No. 34 (2011) on racial discrimination against people of African descent.**

Consultations with civil society

41. **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 those working to combat racial discrimination, in connection with the preparation of the next periodic report and in follow-up to the present concluding observations.**

Dissemination of information

42. **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 made available to all State bodies entrusted with the implementation of the Convention, including municipalities, and publicized on the website of the Ministry of Foreign Affairs in the official and other commonly used languages, as appropriate.**

Follow-up to the present concluding observations

43. **In accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, the Committee requests the State party to provide, within one year of the adoption of the present concluding observations, information on its implementation of the recommendations contained in paragraphs 19 (b) (hate crime and hate speech), 27 (situation of the COVID-19 pandemic) and 31 (discrimination of persons of African descent) above.**

Paragraphs of particular importance

44. **The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 11 (use of terms "Western" and "non-Western"), 13 (c) (the "Parallel society" plan) 19 (c) (hate crime and hate speech) and 21 (a) (racial profiling) above and requests the State party to provide detailed information in its next periodic report on the concrete measures taken to implement those recommendations.**

Preparation of the next periodic report

45. **The Committee recommends that the State party submit its combined 25th to 28th periodic reports, as a single document, by 8 January 2027, 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.**