



THE DANISH  
INSTITUTE FOR  
HUMAN RIGHTS

PARALLEL REPORT  
DENMARK

UN Committee on the  
Elimination of Racial  
Discrimination (CERD)  
2021

# PARALLEL REPORT DENMARK

UN Committee on the Elimination of Racial

Discrimination (CERD) 2021

Parallel report to the UN Committee on the Elimination of Racial Discrimination on the 22nd to 24th periodic reports by the Government of Denmark on the implementation of the international convention on the elimination of all forms of racial discrimination.

**Graphic design:** Michael Länger

**Cover photo:** Preillumination SeTh, unsplash.com

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Wilders Plads 8K

DK-1403 Copenhagen K

Phone +45 3269 8888

[www.humanrights.dk](http://www.humanrights.dk)

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# PREFACE

This parallel report by the Danish Institute for Human Rights (DIHR) contains information on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). The report aims to assist the Committee on the Elimination of Racial Discrimination (CERD) in gaining a comprehensive picture when assessing the implementation of the ICERD in Denmark at its 105th session.

## **THE DANISH INSTITUTE FOR HUMAN RIGHTS**

The DIHR, which is an independent, self-governing institution within the Danish public administration, was established in accordance with the UN Paris Principles.<sup>1</sup> The Institute is accredited as an A status National Human Rights Institution (NHRI).

Since 2003, the DIHR has been the designated body for the promotion of equal treatment of all persons without discrimination on the grounds of racial or ethnic origin as set out in Article 13 of the EU Council Directive 2000/43/EC on Equal Treatment Irrespective of Race and Ethnic Origin.

The DIHR monitors the human rights situation in Denmark and conducts academic research, analyses and reports on human rights issues. Moreover, the DIHR writes public consultation memos in relation to new legislation and provides recommendations as to how human rights conventions can be implemented in Danish law. The monitoring work of the DIHR relies greatly on surveys and statistics provided by the Institute itself as well as by other organizations, including public authorities, universities and civil society organizations. In general, collaboration with key players and the inclusion of civil society are important parts of the work of the DIHR. Furthermore, the DIHR provides independent assistance to victims of discrimination.

Greenland is a self-governing part of the Kingdom of Denmark. The DIHR is the NHRI of Greenland, and it cooperates closely with the Human Rights Council of Greenland (HRCG) on promoting and protecting human rights and monitoring human rights challenges in Greenland. The Council is a politically independent council established by law with reference to the UN Paris Principles.<sup>2</sup> The information and recommendations concerning Greenland have been produced in cooperation with the HRCG. For all recommendations, it is important to note that the initiatives should not focus solely on the largest towns, but also include smaller towns and settlements. The DIHR's mandate does not extend to the Faroe Islands.

# ARTICLE 4

## HATE CRIMES

The National Police monitors the hate crime area. A recent annual report from the National Police on hate crimes shows that the police registered 569 cases of hate crime in 2019. Out of the 569 cases, 312 were motivated by racism and 180 were motivated by religious bias.<sup>3</sup> Furthermore, the Danish Ministry of Justice annually publishes a crime victim survey.<sup>4</sup> The survey is a result of the considerable underreporting of crimes in Denmark, particularly hate crimes motivated by racism. The National Police has acknowledged that the underreporting is significant.<sup>5</sup> Reports focussing on the victims' experiences rather than the number of crimes reported to the police can help elucidate this area.

The latest crime victim survey showed that 8 per cent of victims of violence believe that the violence against them was motivated by racism.<sup>6</sup> This translates into between 3,600 and 5,000 persons between the age of 16 and 74 years who annually experience racially motivated violence. This number differs significantly from the above-mentioned 569 cases registered by the police in 2019, where 312 were motivated by racism and 180 were motivated by religious bias.

It follows from the explanatory notes to the Criminal Code that it constitutes an aggravating circumstance when a crime is either wholly or partly motivated by hatred towards for instance the victim's race or religion. However, numbers show that the system tends to treat crimes as hate crimes only when they are wholly motivated by hatred, thus overlooking cases where hatred is only part of the motive.<sup>7</sup> Recently, a citizen initiative demanding a change in legislation to ensure that also crimes where hatred is part of the motive are convicted gained more than 50,000 votes.<sup>8</sup> This means that Parliament will consider whether the current legislation should be changed in the near future.

In 2020, the Danish Government initiated work on a national action plan to combat anti-Semitism, partly due to incidents of vandalism at Jewish cemeteries on Kristallnacht 2019.<sup>9</sup> However, no plans to introduce a general plan to combat hate crime have been announced, even though other groups, particularly Muslims, are overrepresented in the statistics.<sup>10</sup>

The Danish Government and a majority of the political parties in Parliament have entered into an agreement on the finances of the police and prosecution service that involves strengthening the efforts of the police and prosecution service towards hate crimes. The aim is to ensure better information on hate crimes as well as organizations advising victims. In addition, from 2022 police training on hate crime will be strengthened.<sup>11</sup>

### **The DIHR recommends that Denmark:**

- Develops a national action plan for combatting all ethnically and religiously motivated hate crime.
- Ensures that authorities prosecute hate crimes when crimes are only partly motivated by hatred towards one of the protected grounds.

## ARTICLE 5

### **SOCIAL HOUSING AND 'GHETTOS'**

#### **USE OF THE WORD AND CATEGORY 'GHETTO'**

In 2018, the Government introduced a set of legal amendments, which it referred to as the 'ghetto plan', and which targeted social housing areas.<sup>12</sup> Some of the policies contained in the plan are described in the State Party's report.<sup>13</sup> The policies differentiate between residential areas categorized as 'vulnerable areas' and 'ghettos'. 'Vulnerable areas' are defined as meeting two or more of the following four characteristics:<sup>14</sup>

1. The share of residents aged 18-64 years who are neither active in the labour market nor the educational system exceeds 40 per cent, calculated as the average of the last two years.
2. The percentage of residents who have been convicted of a criminal offense<sup>15</sup> is equal to or bigger than three times the average of the entire country, calculated as the average of the last two years.
3. The percentage of residents aged 30-59 years who do not have an education, aside from primary school, exceeds 60 per cent.
4. The average gross income for citizens aged 15-64 years who are obliged to pay taxes, excluding those who have applied for a study programme, is less than 55 per cent of the average gross income for the same demographic group in the region in which the housing area is located.

'Ghettos' are defined by the same characteristics as 'vulnerable areas', but with the addition that more than 50 per cent of the residents are immigrants or descendants of immigrants from a non-Western country.<sup>16</sup>

The term 'hard ghetto' is used to describe an area which for the past four years has met the requirements for a 'ghetto' definition.<sup>17</sup>

The group 'immigrants and descendants of immigrants from a non-Western country' is not defined in the law, but by Statistics Denmark. Both descendants and immigrants are defined as persons who do not have at least one parent who is both a Danish citizen and was born in Denmark. Descendants are born in Denmark, while immigrants are born outside of Denmark. Countries defined as Western are: the EU27 countries, the United Kingdom, Andorra, Iceland, Liechtenstein, Monaco, Norway, San Marino, Switzerland, the Vatican, Canada, the United States of America, Australia, and New Zealand. Non-Western countries are all other countries.<sup>18</sup>

In October 2021 the Ministry of the Interior and Housing has submitted a bill that is going to remove the word 'ghetto' from current legislation and replace it with 'parallel societies'.<sup>19</sup>

## **DEMOLITIONS AND EVICTIONS**

Legislation requires that the social housing associations reduce the number of family dwellings to 40 per cent by 2030 in areas that have been categorized as 'hard ghettos'. Consequently, up to 60 per cent of the homes in 'hard ghettos' can be demolished, divested from or transformed into housing for other types of residents resulting in possible evictions of some of the residents living in family dwellings.<sup>20</sup>

Thus, residents in some housing areas have received a notice of eviction. In one area, some residents are being evicted because they live in a 'ghetto' that is in risk of being categorized as a 'hard ghetto', which the municipality wants to avoid.<sup>21</sup> Consequently, residents in buildings known to have a high number of residents with a non-Western background are being evicted.<sup>22</sup>

In other areas, buildings are being sold off to meet the legislative requirements concerning 'hard ghettos'.<sup>23</sup>

Legislation has severe consequences for many of the persons living in a 'ghetto' or 'hard ghetto'. And since both areas are defined as having more than 50 per cent non-Western residents, these laws target and affect ethnic minorities to a large extent.

The plan has been criticized for violating laws against ethnic discrimination. Currently, three court cases on the impact of the current legislation are pending. The DIHR has intervened in these lawsuits.

In October 2021, the Ministry of the Interior and Housing has submitted a bill targeting social housing areas. The bill will reduce the share of people of non-Western origin in all social housing areas to less than 30 per cent within 10 years. The ministry has categorized 58 new areas as 'prevention areas' defined as meeting two of four socioeconomic criteria and having a share of non-Western residents above 30 per cent. To attain this, tools to prevent vulnerable groups from leasing and being assigned such dwellings are expanded to 'prevention areas', which must prioritize more socioeconomically advantaged groups, for example people in employment.

Consequently, it will become harder for vulnerable groups to be assigned a dwelling since special criteria are now applied in around half of all social housing areas.

The DIHR raises a concern as to whether these measures are appropriate and proportionate about fostering mixed housing areas. Furthermore, the new agreement also leads to a sharpened focus on the ethnicity criteria.

Also, the ministry has proposed to remove the word 'ghetto' from current legislation and replace it with 'parallel societies'. Thus, the agreement equates the share of non-Western residents with the development of parallel societies without reference to scientific work.

### **MANDATORY LEARNING PROGRAMME FOR YOUNG CHILDREN**

The 'ghetto plan' also stipulates that children living in 'vulnerable areas' and who are at least one year of age must attend a mandatory learning programme 25 hours a week.<sup>24</sup> However, the law allows families who can provide a sufficient learning environment the chance to apply for home schooling.<sup>25</sup> The municipality is responsible for monitoring whether the home schooling lives up to the requirements.<sup>26</sup> The requirements focus on whether the parents and the learning environment they provide are suited for introducing the child to Danish norms, values and holidays,<sup>27</sup> and whether both parents have a sufficiently high level of Danish.<sup>28</sup>

The consequence for parents who do not enrol their children in the mandatory learning programme is withdrawal of child benefit.<sup>29</sup>

### **LANGUAGE TESTS IN SCHOOL**

Another initiative that came out of the 'ghetto plan' was rules regulating primary schools with a high percentage of students from 'vulnerable areas'. Students in these schools will now be subjected to a mandatory language test that will determine whether the student can proceed to the next grade.<sup>30</sup>

### **REJECTING APPLICANTS IN NEED OF A HOME**

As a part of the 'ghetto plan' housing associations must reject applications for dwellings located in 'hard ghettos' from persons who receive one of three different kinds of welfare benefits.<sup>31</sup> One of them is the integration benefit, now called the self-support and return benefit or transition benefit – an unemployment benefit available to persons who have lived in Denmark for less than nine out of the last 10 years.<sup>32</sup> In 2019, more than 90 per cent of the persons on this benefit were immigrants or descendants of immigrants from non-Western countries.<sup>33</sup>

## **COMMENTS FROM THE COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

In November 2019, the Committee on Economic, Social and Cultural Rights expressed concern that elements in the new legislation could constitute discrimination, and the Committee recommended, among other things, that discriminatory elements in the 'ghetto plan' be repealed, that the definition of 'ghetto' with reference to residents from non-Western countries be removed, and that the impacts of the 'ghetto plan' on the affected communities be assessed.<sup>34</sup>

### **The DIHR recommends that Denmark:**

- Removes the terminology 'parallel societies' categorizing the current 'ghettos', so that no areas are categorized as 'ghettos' or 'parallel societies'.
- Removes the criteria used to define 'ghettos' and 'prevention areas' that refer to the share of residents from non-Western countries.
- Repeals all provisions that have a direct or indirect discriminatory effect based on race or ethnicity on residents in the affected areas, including ensuring that planned and future demolitions and evictions that follow from the legislation are not based on discriminatory criteria or have a discriminatory effect.
- Continually monitors the initiatives of the 'ghetto plan' that target children and their parents, including language tests and the mandatory learning programme, and ensures that they do not have a discriminatory effect.
- Ensures that the legislation on assignment of dwellings in social housing does not have a discriminatory effect.
- Documents the effects of the 'parallel society' initiatives in terms of changing the composition of residents as well as the consequences for vulnerable groups' chances of being assigned dwellings, including waiting time.

## **ARTICLE 5 (A)(E)**

### **INTERPRETING SERVICES IN PUBLIC INSTITUTIONS**

Inadequate interpreting services in minority languages is a general problem in situations where citizens interact with public institutions in Denmark. The interpreters available often lack linguistic and/or interpretation skills and professionalism.<sup>35</sup>

### **INTERPRETATION IN THE JUSTICE SYSTEM**

Several studies have shown that access to qualified and properly trained interpreters in refugee and migrant languages is limited in the Danish legal system.<sup>36</sup>

Danish lawyers and judges have described the problems they have encountered with interpreting services in the legal system. Some have indicated that incorrect or inadequate interpreting services have challenged the right to due process.

In December 2019, the National Police terminated a contract with the company EasyTranslate on interpreting services in the justice system due to violation of the rules on data protection, among other things. According to the Finance Act 2020, an inter-ministerial committee will be appointed and tasked with proposing ways of improving the interpreting services in the public sector. We are still awaiting their recommendations.

## **INTERPRETATION IN THE PUBLIC HEALTH SECTOR**

Interpreting services are essential in situations where a patient and a doctor would otherwise not be able to understand each other because of the patient's poor Danish language skills.

In 2018, the Government introduced a charge for interpreting services in the health sector aimed at persons who have resided in Denmark for more than three years. Consequently, the charge poses a barrier to equal access to physical and mental health for persons with an ethnic minority background, insufficient knowledge of Danish and a strained financial situation.<sup>37</sup>

The Committee on Economic, Social and Cultural Rights addressed this issue in its concluding observations on the sixth periodic report of Denmark from 2019. It recommended that the Danish State Party ensures that refugees have adequate access to health services, among other things by providing free interpreting services or reimbursement of transportation costs, as needed.<sup>38</sup>

It follows from the Danish State Party's report that the Danish Government introduced the interpreting service charge with the primary aim of enhancing foreigners' incentive to learn Danish and thereby strengthening integration into the Danish society.<sup>39</sup> The aim of strengthening integration into the Danish society is a legitimate aim. The question, however, is whether the imposition of a charge on interpreting services in the health sector for persons who have resided in Denmark for more than three years is an appropriate measure for achieving this aim, and whether the repercussions of the scheme are proportional. The DIHR finds it questionable whether the introduction of an interpreting service charge is an appropriate measure for increasing the incentive to learn Danish for persons who have resided in Denmark for more than three years.<sup>40</sup>

A study conducted by the Danish Medical Association and the DIHR in December 2019 provides documentation that the scheme on interpreting service charges restricts access to health services for the patients covered by the scheme. The study is based on a survey in which more than 600 doctors account for their experiences with the interpreting service charge and its implications after one year in force. The

results of the survey confirm that the interpreting service charge has a substantial negative impact on equal access to health services in Denmark.<sup>41</sup>

The study shows that, due to the scheme, more patients use their relatives as interpreters in healthcare situations, which is especially problematic if the relative is a child. The study demonstrates that 68 per cent of all general practitioners and 39 per cent of doctors employed at hospitals are in contact with patients who wish to use a relative under the age of 18 as interpreter either daily, several times a week or several times a month. This often leads to situations where the doctor must deny the patient the opportunity to use a relative under the age of 18 as interpreter.<sup>42</sup>

As part of the Danish Finance Act 2018, the Government decided to establish a certification scheme for foreign language interpreters in the health sector. The Government's intention of enhancing and ensuring the quality of the provided interpreting services is also described in the Danish State Party's report to the Committee on Economic, Social and Cultural Rights.<sup>43</sup> However, the certification scheme is not accompanied by the establishment of public interpreter training aimed at the most common refugee and migrant languages, or a requirement that public institutions employ certified and educated interpreters when available. Furthermore, the certification scheme is a voluntary scheme for the institutions in the health sector.<sup>44</sup>

In February 2019, the Danish Parliament passed a law that allows the Minister of Health to appoint institutions that can certify interpreters for use in the health sector. However, in September 2021, only one certification institution for Arabic interpreters had been appointed under the act, and therefore, the public health sector still has limited access to certified interpreters under this scheme.<sup>45</sup> Thus, the effects of the act remain to be seen.

The DIHR endorses the important step towards ensuring proper conditions for interpreting services in the health sector. As mentioned above, though, we are still awaiting similar actions when it comes to securing qualified interpretation in the justice system.

#### **The DIHR recommends that Denmark:**

- Appoints certification institutions and establishes a public training programme for interpreters aimed specifically at the most important refugee and migrant languages.
- Demands that public institutions employ certified and educated interpreters when available.
- Repeals legislation that implements interpreting service charges in the health sector.
- Ensures an adequate quality of interpretation in institutions under the Ministry of Justice and the courts.

## ETHNIC PROFILING

Figures from Statistics Denmark covering the period 2014-2016 show that persons with a non-Danish ethnic background are more likely to be charged and arrested for a crime for which they are subsequently not convicted than persons of Danish ethnic background. Among non-Western immigrants and descendants detained in custody, the risk that their arrest does not lead to a conviction is 34 per cent higher than for persons of ethnic Danish origin. Non-Western immigrants and descendants who are charged are 78 per cent and 129 per cent more likely not to be convicted than persons of Danish ethnic origin.<sup>46</sup> At the moment, there are no guidelines or measures addressing discriminatory ethnic profiling within law enforcement in Denmark.

Ethnic profiling by the police can constitute racial or ethnic discrimination and be in violation of the administrative principle of equality. However, there is no specific ban on ethnic profiling by the police in Danish legislation. The act on ethnic equal treatment prohibits discrimination based on race or ethnicity in relation to social benefits, education, housing, goods and services etc. However, routine checks, arrests and other measures performed by the police are not likely to be covered by this act since such measures are not seen as services. In situations where the police offers services such as issuance of a driver's license, acts by the police are covered by the law.

Introducing a ban could not only have an actual effect, but a symbolic one as well, underscoring the importance of avoiding ethnic profiling.

The State Party notes that it has not introduced any new initiatives for combatting ethnic profiling since the last examination, but that it intends to survey the amount and types of complaints regarding ethnic profiling in the police.<sup>47</sup>

The DIHR welcomes this but emphasizes that an overview of the complaints can only be expected to give insight into a fraction of the incidents of ethnic profiling. To gain full insight into the problem and to combat it, other methods of monitoring and tackling the problem are called for. The United Kingdom, for instance, has introduced stop and search forms, where any search that does not lead to an arrest results in a record of the search. These forms can be accessed by the person who was searched in connection with a complaint, and they are regularly monitored by senior officers in order to check whether the stop and search was based on stereotypes or inappropriate generalizations.<sup>48</sup>

The DIHR further notes that the Independent Police Complaints Authority, which handles complaints about police conduct, falls under the jurisdiction of the Ministry of Justice, as does the police force. This potential conflict of interest can be seen as a barrier to the independence of the Complaints Authority.

### **The DIHR recommends that Denmark:**

- Takes initiative to add a ban on discrimination, including ethnic profiling, to the Danish Police Act.
- Creates national operational guidelines for police conduct during stops and identity checks for the purpose of preventing ethnic profiling, including a guide describing which legitimate aims a police operation can pursue.
- Takes initiative to combat ethnic profiling by systematically registering the ethnicity of arrested persons to obtain statistical knowledge of ethnic profiling. This should of course be done in accordance with the data protection regulation.
- Considers placing the Independent Police Complaints Authority under the jurisdiction of another ministry than the Ministry of Justice to ensure the independence of the Complaints Authority.
- Considers giving the Independent Police Complaints Authority the competence to enforce decisions through means likely to lead to a change of conduct on a structural level, including disciplinary measures for individuals or fines to police departments and possibly awarding reparations to persons subjected to ethnic profiling.

## ARTICLE 5 (D)(I)

### **ADMINISTRATIVE DETENTION OF FOREIGNERS**

In January 2020, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) expressed concern after its visit to Denmark in April 2019.<sup>49</sup> One of the concerns is related to foreigners who live at the Ellebæk Centre for Foreigners. The foreigners who live at Ellebæk are not criminals serving a sentence, but persons administratively detained according to the Danish Return Act. Administrative detention can take place for several reasons, one being when rejected asylum seekers refuse to cooperate with the police on their return and are consequently detained. Thus, the Danish authorities consider a stay in Ellebæk a way to motivate the rejected asylum seekers to cooperate on their return. According to the Return Act, administrative detention of rejected asylum seekers should only be enacted and continued if the detention is considered necessary.<sup>50</sup>

In its report, the CPT criticizes several aspects of the living conditions at Ellebæk, such as lack of access to activities, mobile phones, Internet and open air. Furthermore, the Committee states several times that the strict prison rules are not appropriate for the migrants held in administrative detention.<sup>51</sup> In this regard, the Committee expresses concern about the rules in Ellebæk regarding possession of mobile phones, which led to a situation where the migrants concerned were punished with 15 days of solitary confinement.<sup>52</sup>

The DIHR notes that according to statistics from the Danish Prison and Probation Service solitary confinement as a disciplinary measure was used 36 times in Ellebæk in 2020 (January-November) with nine of the solitary confinements being 15 days or more.<sup>53</sup>

The DIHR notes that in several areas, including in Ellebæk, Danish prison laws and practices are not fully in accordance with Denmark's human rights obligations and related recommendations, including the United Nations Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules).

**The DIHR recommends that Denmark:**

- Reduces the length of administrative detention of rejected asylum seekers and other foreigners to as short a period as possible and only use detention as a measure of last resort.
- Amends the rules and practices in Ellebæk on solitary confinement as a disciplinary measure to comply in full with the United Nations Standard Minimum Rules for the Treatment of Prisoners, here administratively detained foreigners, including by prohibiting the use of isolation for more than 15 days.

## ARTICLE 5 (D)(III)

### ACCESS TO CITIZENSHIP FOR PEOPLE WITH DISABILITIES

In Denmark, immigrants as well as persons born or raised in Denmark without a Danish citizenship must meet a long list of requirements to obtain citizenship. Pursuant to the Convention on the Rights of Persons with Disabilities and other human rights conventions, Denmark is obligated to grant exemptions from citizenship requirements that applicants with a disability are unable to meet due to their disability, including knowledge of the Danish language and Danish society.

Exemption is granted by the Parliamentary Committee on Citizenship, and decisions can differ between similar cases. The practice of granting exemption due to a disability has been significantly tightened, and fewer exemptions are granted today. Regarding applications for dispensation from the language and knowledge requirement, rejections have increased from 3 per cent in 2014 to 26 per cent in 2015 and 96 per cent in 2017. In 2019 and 2020, the dispensation percentage had dropped to 2.3 per cent (six out of 258 and two out of 86 of the presented cases).

In February 2020, the High Court of Western Denmark issued a judgement in a case involving a person with a disability who had not been granted exemption from the

requirement on self-support when applying for Danish citizenship. The court found that the fact that the applicant was not granted exemption constituted a breach of Denmark's international obligations not to discriminate.

**The DIHR recommends that Denmark:**

- Ensures that the Parliamentary Committee meets its obligation under international human rights conventions not to discriminate when deciding whether to grant exemptions to applicants with a disability.

## ARTICLE 5 (IV)

### FAMILY REUNIFICATION WITH REFUGEES

Most refugees in Denmark can apply for family reunification with family members outside Denmark immediately after they have been granted asylum.

However, in 2016, the Danish Parliament decided that refugees who are granted protection according to Section 7(3) of the Aliens Act (temporary protection status)<sup>54</sup> should have a further reduced right to family reunification because their stay in Denmark is considered more temporary than that of other refugees. Consequently, this group of refugees and their family members can only apply for family reunification three years after the refugees have been granted asylum.<sup>55</sup> The three-year rule includes family reunification with children.<sup>56</sup>

The DIHR believes that the three-year rule on family reunification violates the right to family life according to the European Convention on Human Rights (ECHR) article 8, and that the family reunification procedure is neither prompt nor flexible or effective.

When it is not an option to have a family life in the country which the refugee has fled, it is crucial for the individual to have access to family reunification. When refugees are unable to be together with their partner, they cannot be said to have the same freedom as other members of society to choose their own spouse.

On 9 July 2021, the European Court of Human Rights handed down its judgement on Denmark's legislative tightening of the family reunification rules for temporary protection holders in the case *M.A. v. Denmark*.<sup>57</sup> The case concerned a Syrian man who had fled to Denmark and was granted temporary protection status under Section 7(3) of the Aliens Act. The man was rejected family reunification with his wife because of the statutory waiting period. The DIHR intervened in the case.

The Court declared that the statutory requirement of three years' waiting time for family reunification for the Syrian man with temporary subsidiary protection status in Denmark breached his right to respect for family life under Article 8 of the ECHR.

So far, the judgement has not led to any legislative amendments to Section 7(3) of the Aliens Act. However, it is expected that the government will introduce a bill in the beginning of 2022 that will amend the three-year rule.<sup>58</sup>

**The DIHR recommends that Denmark:**

- Takes the initiative to repeal the rules in the Danish Aliens Act that reduce the right to family reunification for refugees with temporary protection status and their families.

## ARTICLE 5 (E)

### ETHNICITY AND COERCION IN PSYCHIATRIC TREATMENT

In September 2020, the DIHR published a report on ethnic minorities' experiences with coercion in psychiatric treatment. The report found that ethnic minorities are 40 per cent more likely to experience coercion in the psychiatric system compared to ethnic Danish patients. The findings are based on data collected between 2005 and 2018. The pattern is seen across different types of coercive practices, including involuntary commitment, involuntary detention and forced medication. The report suggests that the difference in treatment can be explained by linguistic and cultural barriers as well as prejudice and negative attitudes towards patients with ethnic minority background. The problem is also linked to the challenges with interpretation in the public health sector.<sup>59</sup>

**The DIHR recommends that Denmark:**

- Ensures a reduction in coercive practices against ethnic minorities and provides data on the use of coercion in psychiatric treatment.
- Secures access to better training on prejudice and cross-cultural healthcare in psychiatry to raise cultural awareness among health professionals.
- Recruits health professionals with multilingual competences.

### CHILDREN OF NON-WESTERN MINORITIES LIVING IN POVERTY

In recent years there has been a significant increase in the number of children living in poverty in Denmark. By the end of 2018, the families of 64,500 children in Denmark had an income lower than Statistics Denmark's indicator for relative poverty.<sup>60</sup> Children with ethnic minority background are affected the most, since children of non-Western ethnic minorities make up 56 per cent of all children living in poverty in Denmark.<sup>61</sup>

The integration benefit,<sup>62</sup> now called the self-support and return benefit or transition benefit, is the primary reason for this ethnic disproportion in child poverty. The benefit is for unemployed persons who have not lived in Denmark for at least nine of the past 10 years.<sup>63</sup> Consequently, the primary recipients of the benefit are refugees or immigrants who have recently arrived in Denmark. In 2019, more than 90 per cent of the persons on this benefit were immigrants or descendants from non-Western countries.<sup>64</sup> Families with more than one child do not receive a greater benefit than families with one child, despite higher costs of living. As a result, the more children a family has, the more strained their financial situation is.<sup>65</sup>

In November 2019, the Committee on Economic, Social and Cultural Rights noted that it was worried about the increasing number of children living in poverty due to the social security reforms,<sup>66</sup> and that the integration benefit might marginalize persons rather than promote their integration.<sup>67</sup>

In December 2019, a commission was established to provide recommendations on how to reform the current system of social security benefits. In May 2021, the Commission reported on its work suggesting a new system based on two different rates of social security benefits depending on residency, previous employment and educational level. This would mean that most families with ethnic minority background receiving social security benefits would receive the lowest rate, which is slightly higher than the integration benefit, but lower than cash benefits. As a result, 34,000 persons with ethnic minority background would thus receive a higher benefit than today, while 25,000 would receive less.<sup>68</sup> The recommendations will be negotiated in the Parliament this autumn.

The DIHR endorses the potential positive impact for some of the families but raise a concern when it comes to families with more than two children as well as families who do not qualify for additional child and youth benefits. If the Commission's work is implemented in its current form, children from these families will still receive less than Statistics Denmark's indicator for relative poverty as well as the 'minimum budget', which is a minimum level of consumption for a decent living in Denmark calculated by the Rockwool Foundation.<sup>69</sup> As a result, Denmark will continue to have a high and disproportional share of children with ethnic minority background living in poverty.

**The DIHR recommends that Denmark:**

- Secures subsistence income for families with young children receiving benefits.
- Ensures that children of non-Western immigrants are not disproportionately living in poverty after the reform of the unemployment benefit system.

## ARTICLE 5 (E)(F)

### CRIMINALIZATION OF HOMELESSNESS TARGETING FOREIGNERS

The current Danish legislation prohibits persons from establishing camps of a 'permanent nature' in public spaces that create a sense of insecurity. Violation of the ban can lead to the issuance of a zonal ban, prohibiting the person from residing in the entire community for up to two years.<sup>70</sup>

If a person violates the zonal ban, they are sentenced to seven days' imprisonment for the first violation, 14 days for the second and 40 for the third. If mitigating factors are present, the sentence can be reduced to a fine.<sup>71</sup>

It is explained in the guidelines for the implementation of the executive order that the police should only sanction those who are deemed likely to repeat the behaviour of camping in the streets, for example because they do not have a home.<sup>72</sup> The law is, in this sense, mainly aimed at homeless and travellers.

In addition, tougher sanctions on begging in pedestrian streets, outside railway stations, inside or outside supermarkets or on public transportation were introduced.<sup>73</sup> Persons convicted of begging at one of these locations now get 14 days' imprisonment for a first-time offence.<sup>74</sup>

The fact that these measures were targeted at foreigners was confirmed at a hearing at the Parliamentary Committee for Legal Affairs, where the Minister of Justice at the time said: 'I'm very sorry that I can't protect the Danish homeless person. I can't. The foreigners who come here to beg in large numbers and the camps etc., are the ones we would like to see go. But we just have to say that we can't make a law that only applies to some and not to all people. [...] That's why I trust that our people can do this the right way'.<sup>75</sup>

It is apparent from this comment as well as the remarks from the legislators following the introduction to the laws that the adopted measures target homeless foreign nationals. Even though the police have not been instructed to discriminate in their conduct,<sup>76</sup> the laws disproportionately affect foreign citizens. Approximately 97,4 per cent of the persons who received a zonal ban between April 2017 and December 2020 were foreigners.<sup>77</sup>

In November 2019, the Committee on Economic, Social and Cultural Rights noted that the Danish legal provisions criminalizing begging and rough sleeping caused concern in relation to article 11 of the International Covenant on Economic, Social and Cultural Rights. In the concluding observations on the sixth periodic report of Denmark, the Committee recommended that the legal provisions criminalizing begging and rough sleeping be repealed.<sup>78</sup>

**The DIHR recommends that Denmark:**

- Repeals legislation that prohibits homeless persons from establishing or residing in camps that create a sense of insecurity and legislation that prohibits begging.
- Introduces further measures to ensure that the regulation is not enforced in a discriminatory manner and ensures that it does not have a discriminatory effect.

## GREENLANDERS IN DENMARK

Greenland, which is a part of the Kingdom of Denmark, has a long colonial history. With Danish citizenship, Greenlanders enjoy the same fundamental rights as other Danish citizens. According to numbers published by Statistics Greenland in 2020, the number of Greenlanders living in Denmark amounts to 16,780 persons.<sup>79</sup> This includes persons born in Greenland who now live in Denmark. As Danish citizens, this group usually is not registered separately.

However, Greenlanders in Denmark are met with prejudices. Surveys show that they feel discriminated against or stigmatized in their encounter with public authorities, the healthcare system, employers and the educational system.<sup>80</sup>

Furthermore, Greenlandic students have a higher drop-out rate than Danish students. According to numbers from the Danish Ministry of Higher Education and Science from 2016, 27 per cent of Greenlandic students in Denmark drop out of higher education during the first year. For Danish students, the equivalent number is 15 per cent.<sup>81</sup>

Via the integration councils found in some municipalities, ethnic minorities have access to advice and can influence policy initiatives and decisions relevant to them as a group. These integration councils must ensure that the respective municipalities receive qualified advice in carrying out integration tasks. This is also true of the Council for Ethnic Minorities, which advises the Government. However, since Greenlanders are not formally regarded as an ethnic minority, they are not represented in these forums.<sup>82</sup>

A study made by the DIRH in 2015 shows that less than one fifth of Greenlanders in Denmark are members of a Greenlandic association. At the same time, 25 per cent of those surveyed experience a lack of recognition by the Danish authorities in relation to the effort Greenlanders exert in society. The DIHR encourages the Danish state to support the establishment of a nationwide interest organization for Greenlanders in Denmark including already existing organizations – both to support the representation of Greenlanders in Denmark at the civil society level and to increase the possibility of influence on issues of particular interest to Greenlanders.<sup>83</sup>

Greenlandic culture, traditions, language and identity are based on the indigenous culture, traditions, language and identity of the Inuit, an Arctic indigenous people. A large percentage of Greenlanders self-identify as Inuit. Thus, indigenous peoples' rights are essential human rights instruments that apply to the people of Greenland, also those who live in Denmark. Denmark endorsed the UN Declaration on the Rights of Indigenous Peoples along with 143 other UN member states at its finalization in 2007.<sup>84</sup>

The ILO 169 Convention Concerning Indigenous and Tribal Peoples' Rights in Independent States is also relevant for Greenlanders residing in Denmark, especially

in relation to issues of integration, language education and knowledge of Greenland and Greenlandic conditions in Denmark. The Convention requires states to ensure a systematic effort to protect indigenous peoples from discrimination and to facilitate the involvement of indigenous people when administrative decisions or legislation pertaining to them are adopted. Furthermore, the Convention ensure rights in relation to employment and working conditions, education and social security.<sup>85</sup>

Special attention should also be paid to Greenlanders' rights access to practising traditional Inuit culture, including facial and hand tattooing, which is prohibited by Danish law, and to cultural appropriation of Greenlandic and Inuit cultures and traditions in Denmark, including in national museums.

**The DIHR recommends that Denmark:**

- Supports a stronger organization and hereby representation of Greenlanders residing in Denmark.
- Ensures the rights of Greenlanders in Denmark under the ILO 169 Convention Concerning Indigenous and Tribal Peoples' Rights in Independent States.

## GREENLAND

Greenland is a self-governing part of the Kingdom of Denmark. The people of Greenland is – according to the Act on Self-Government, which was passed by the Danish and Greenlandic Parliaments in 2009 – recognized as a people pursuant to international law.<sup>86</sup> The majority of the population in Greenland is Inuit, an indigenous people of the Arctic, and a large percentage of the population self-identifies as indigenous, parallel to the self-identification as Greenlandic. Denmark's ratification of the ICERD (1971) applies to Greenland with no reservations. The DIHR has been the NHRI for Greenland since 2014 and cooperates closely with the HRCG on monitoring the promotion and protection of human rights in Greenland.<sup>87</sup>

Together, the Council and the DIHR publish reports on the status of human rights in Greenland in different areas, including equal treatment, children, disability, rule of law, education and natural resources. They published their latest status report on equal treatment in Greenland in 2019.<sup>88</sup> The report focusses on important issues concerning equal treatment and non-discrimination, e.g. inadequate legislation, the need to establish redress procedures for victims of discrimination, hate speech and violence in close relationships.

The following topics and recommendations have been prepared in cooperation with the Council:

## **LEGISLATION AND COMPLAINTS MEASURES ON ANTI-DISCRIMINATION (ARTICLES 2 AND 6)**

Current legislation against racial discrimination applicable in Greenland includes section 100 in the Criminal Code (act no. 306/2008) on the prohibition of hate speech and the Danish act on prohibition of discrimination due to race etc. in access to services etc. (put into force in Greenland by Royal Order no. 27/1972). The last-mentioned act does not cover discrimination in the labour market, for instance, and it thus does not provide for effective protection against discrimination.

Greenland has no civil anti-discrimination legislation or administrative complaints measures, e.g. a complaints board or the like, to which individuals can bring cases of racial discrimination. Civil anti-discrimination legislation, including effective mechanisms for addressing discrimination, is important to ensure effective protection as well as effective remedies against any acts of racial discrimination. Thus, recommendation 19(a) in the Committee's concluding observations from 2015 is still relevant.

### **The DIHR and the HRCG recommend that Greenland:**

- Introduces a civil law that prohibits discrimination in all areas of society on the grounds of race or ethnic origin as well as other grounds of discrimination recognized in international human rights law.
- Establishes a complaints body to which individuals can – at no cost – bring cases of discrimination on the grounds of race or ethnic origin.

## **RACIALLY MOTIVATED HATE SPEECH (ARTICLE 4)**

There is little evidence and knowledge of the extent of hate speech in Greenland, but there is a general harsh tone based on for example race, ethnicity and language on social media and in other social arenas in Greenland.

### **The DIHR and the HRCG recommend that Greenland:**

- Provides analyses or funds research on hate speech based on race/ethnicity/language on social media and in other social arenas.

## **AWARENESS RAISING ON THE ICERD IN GREENLAND AND KNOWLEDGE GATHERING (ARTICLE 5)**

Knowledge of ICERD-based rights among individuals as well as within authorities is crucial for promoting non-discrimination and equal treatment of all persons in Greenland irrespective of race, national or ethnic origin. Greenland is home to people from a range of countries. Around 6,000 of the approximately 56,000 persons who live in Greenland were born outside of Greenland,<sup>89</sup> predominantly in Denmark. In

2020, 2.4 per cent of the population were foreign nationals. Larger groups are from the Philippines, Thailand and Iceland.<sup>90</sup>

Greenland must ensure the full enjoyment of every person's political and other rights under the Convention (article 5c and d). To meet this obligation, sufficient and relevant information in other languages than Greenlandic and Danish can be important.

There is little evidence and research on discrimination on the grounds of race etc. For instance, there is a lack of knowledge on working conditions for migrant workers in the service and mining industries.

There is also a lack of knowledge on the challenges of moving within Greenland, e.g. moving or resettling from East Greenland to West Greenland and to the capital, Nuuk, and to which extent the use of different dialects of Greenlandic might create challenges and an increased risk of discrimination or marginalization. Finally, there is a lack of information on the challenges for persons who do not speak Greenlandic, including Greenlanders whose mother tongue is Danish.

At the same time, Greenland faces structural challenges regarding for example access to higher education for citizens who do not speak Danish or English, as most higher education systems and institutions in Greenland are conducted in Danish or English.

**The DIHR and the HRCG recommend that Greenland:**

- Takes initiatives to raise awareness of the rights covered by the ICERD among migrant workers in English and other languages, if relevant.
- Provides analyses or funds research on the prevalence of discrimination on the grounds of race, ethnic origin, descent etc. to obtain a planning base for necessary actions.

**FINAL REMARKS**

Referring to the situation of indigenous peoples (article 5) mentioned in recommendation 21 of the Committee's concluding observations, the DIHR and the HRCG would like to inform the Committee that there seems to be no new development in the follow-up on the recommendations provided by the Committee on whether the Thule Tribe of Greenland has been consulted on being considered a distinct indigenous people.

## COVID-19 – RACIAL DISCRIMINATION

There is evidence that hatred towards minorities has been exacerbated during the pandemic. In June 2020, the DIHR published a report on minorities' experiences of hate in the public sphere during COVID-19 in Denmark. The findings presented in the report were based on data collected between 15 May and 10 June via a questionnaire shared on social media with approximately 2,000 respondents. The report showed that ethnic minorities had been particularly exposed to hatred at the beginning of the COVID-19 crisis in Denmark. Experiences ranged from people shouting 'go home', spitting and threatening behaviour through derogatory words about Asians and accusations about being 'disease spreaders' to what the minority persons experienced as a general distancing by people in the public sphere.<sup>91</sup>

The spread of COVID-19 in Denmark and the high infection rates among ethnic minorities in social housing areas have emphasized the importance of precise and timely translation. Inadequate Danish skills and lack of education may limit this group's access to information about the risk of transmission and precautionary measures, for example how and where to get tested, how to self-isolate and what treatment is available. Timely and adequate translation of the mass of information, advice, guidelines and rules that were issued throughout the period by the Government is an important task that must be taken seriously.

## ENDNOTES

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- 24 Consolidation Act No. 2 of 6 January 2020 on Daycare (Lovbekendtgørelse nr. 2 af 6. januar 2020, dagtilbudsloven), section 44 a. Available in Danish at: <https://www.retsinformation.dk/Forms/R0710.aspx?id=212438>.
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- 32 Consolidation Act No. 981 of 23 September 2018 on the Act on an Active Social Policy (Lovbekendtgørelse nr. 981 af 23. september 2018 om aktiv socialpolitik), section 11. Available in Danish at: <https://www.retsinformation.dk/Forms/R0710.aspx?id=209997#K4>. The integration benefit is now called the self-support and return benefit or transition benefit; see Act No. 74 of 27 February 2019 on Amendments to the Act on Foreigners, the Act on Integration, the Act on Repatriation and Other Laws (Lov nr. 174 af 27. februar 2019 om ændring af udlændingeloven, integrationsloven, repatrieringsloven og forskellige andre love). Available in Danish at: <https://www.retsinformation.dk/Forms/R0710.aspx?id=207366>.
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- 34 Committee on Economic, Social and Cultural Rights, 'Concluding observations on the sixth periodic report of Denmark', 12 November 2019, E/C.12/DNK/CO/6, para. 52.
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