



International Convention on the Elimination of All Forms of Racial Discrimination

Distr.: General
13 May 2015

Original: English

Committee on the Elimination of Racial Discrimination Eighty-sixth session

Summary record of the 2339th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 6 May 2015, at 3 p.m.

Chairperson: Mr. Calí Tzay

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The meeting was called to order at 3 p.m.

**Consideration of reports, comments and information submitted by States parties
under article 9 of the Convention** *(continued)*

*Combined twentieth and twenty-first periodic reports of Denmark
(CERD/C/DNK/20-21; CERD/C/DNK/Q/20-21)*

1. *At the invitation of the Chairperson, the delegation of Denmark took places at the Committee table.*
2. **Mr. Staur** (Denmark), introducing his country's combined twentieth and twenty-first periodic report, said that in Denmark, increasing cultural diversity presented both challenges and opportunities. In 2014, the Danish Government had established an anti-discrimination unit in the Ministry of Children, Gender Equality, Integration and Social Affairs to identify and combat discrimination based on ethnicity or disability by launching public campaigns, coordinating the work of municipal authorities and supporting efforts by the private sector. It had also introduced an action plan for integration that would provide new arrivals with improved opportunities to access actual workplaces and, for young people, better access to education. Migrants who had completed the three-year integration programme and received benefits for more than six months would also be given offers of job placements. The vision was of a society where all contributed what they could for the benefit of both individuals and society as a whole. According to the National Integration Barometer, some 45 per cent of persons with an ethnic minority background reported experiencing discrimination, a figure that had not changed since 2012.
3. An expert committee had been appointed by the Government to consider incorporating international human rights instruments into national law. Based on its recommendations, the Government had decided not to incorporate the Convention into domestic law, as that might shift some of the powers of the legislative and executive branches to the courts. The Government considered that it was important to maintain the responsibility of elected representatives for compliance with international obligations. The Convention nonetheless remained a relevant source of law that was invoked and applied by the courts and other authorities.
4. While the Director of Public Prosecutions had the power to discontinue a case, any such decision could be appealed before the Ministry of Justice. Under the Constitution, any association that employed violence or aimed to achieve a racist objective through the instigation of violence was subject to dissolution by court order. In 2015, the Danish Institute for Human Rights had been granted additional funding to enable it to take up cases on its own initiative. The Board of Equal Treatment issued decisions on cases exclusively on the basis of written information, so as to ensure that they were processed without delay.
5. Social housing was available to the population regardless of ethnic or national background, and the Government was working to combat the social and economic segregation of certain social housing neighbourhoods. Access to health care in Denmark was conditional on residency rather than citizenship, and persons staying in Denmark temporarily were entitled to free emergency hospital care. With regard to reports of involuntary admission to psychiatric institutions, the ethnicity of the persons thus admitted was not registered. An analysis of hate crimes conducted by the Ministry of Children, Gender Equality, Integration and Social Affairs would be published in 2015 and would provide the basis for assessing whether additional initiatives were needed in specific areas.
6. Following the terror attack in Copenhagen in February 2015, police protection had increased significantly around Jewish institutions. A long-term plan for the security of Jewish institutions was being developed, and money had been allocated to improve security at such premises. A new police monitoring system would soon be established to improve

the handling of hate crimes, and a smartphone app had been developed to allow citizens to report hate crimes and discrimination. The police force continued its efforts to recruit persons of non-Danish backgrounds, despite low numbers of applicants, in particular through individual mentoring arrangements, cooperation with ethnic community networks and the introduction of tests allowing for the use of electronic spelling checkers for entry to the National Police College.

7. The law governing the revocation of residence permits issued on the basis of spousal reunification had been amended. As a result, there had been a decline in the number of cases in which persons fleeing a violent spouse had had their residency permits withdrawn. Newly arrived refugees and migrants were offered Danish lessons and instruction to facilitate their understanding of Danish society, alongside programmes to help them access the labour market or obtain an education. The three-year integration programme included a health assessment. The new action plan for integration included peer-to-peer sessions in which new arrivals would learn from those who had preceded them. A campaign entitled “Yes! To Equal Treatment” targeted young people from ethnic minority backgrounds in an effort to raise their awareness of their right to equal treatment, and a project called “Your Faith, My Faith” helped students in primary education to develop greater respect for and understanding of their own and others’ religions. A collection of teaching material on diversity and prejudice focused on life in a democracy and the values of tolerance and equal treatment. That material specifically addressed the situation of the Roma in Denmark.

8. According to the Danish Government, the only indigenous people in the Kingdom were the Inuit, the indigenous people of Greenland. The Inughuit people, of Uummannaq, were able to maintain their identity and use their own language in the same way as other communities, and the people of Avanersuaq (or Avannaa, in the extreme north) too were guaranteed the use of their language, one of the three Inuit dialects that formed the Greenlandic language.

9. Teaching at the National Police College aimed to prevent ethnic profiling, and courses on preventing racism and xenophobia and on the police and cultural diversity were mandatory. National law provided that the perpetrator of a hate crime could be sentenced to pay compensation to the victim. Victims of violations of the Criminal Code were entitled to compensation if they suffered a personal injury as a result of the crime.

10. **Mr. Worm** (Greenland, Denmark), speaking as a representative of the Government of Greenland, said that the Government was implementing the Act on Self-Government of 2009, in particular through a language policy and legislation recognizing Greenlandic — in its three dialects — as the country’s official language. A law had been passed by the Danish parliament in 2014 to improve the status of “legally fatherless children”, or persons born out of wedlock in Greenland prior to 1963. The new legislation established normal inheritance rights, without reopening the cases of closed estates. The Human Rights Council of Greenland would cooperate with the Danish Institute for Human Rights, whose mandate had recently been extended to cover Greenland. They had issued a joint report on human rights in Greenland in 2014.

11. **Ms. Nónklett** (Faroe Islands, Denmark) said that the possibility of the local Government assuming responsibility for immigration and border control, including the reception of refugees, was currently under discussion in the Faroe Islands. Discrimination on the basis of race was prohibited in the Faroe Islands under the European Convention on Human Rights and Danish and Faroese legislation. Various associations, including the Faroese Sports Federation, had introduced their own rules to ensure respect for all. The elementary school curriculum taught children to respect every human being, regardless of age, sex, ethnicity or religion.

12. **Mr. Staur** (Denmark) said that the Kingdom of Denmark was committed to implementing the Convention. Measuring the effectiveness of initiatives taken to eliminate racism, racial discrimination and xenophobia remained a difficult task, as recording an individual's ethnicity could amount to racial profiling. He asked the Committee for suggestions on how to address that challenge.

13. **Mr. Bossuyt**, acting as Country Rapporteur in the absence of Ms. January-Bardill, commended the State party's regular submission of reports to the Committee and encouraged it to update its common core document, which dated from 1995. The Committee welcomed the State party's publication of the periodic reports and the Committee's concluding observations, and also its inclusion of separate annexes on the implementation of the Convention in Greenland and the Faroe Islands. A large number of communications had been submitted by Danish citizens under article 14 of the Convention. The Committee welcomed the establishment of an anti-discrimination unit and the adoption of an action plan for integration emphasizing equal access to employment. A number of concerns remained, however, many of which related to recurring issues.

14. Noting that between 2001 and 2013 just three published judgements handed down by Danish courts had contained explicit references to the Convention, and that the Government had, in November 2014, decided not to incorporate the Convention in its domestic law, he asked why the Convention had been treated differently from the European Convention on Human Rights. That instrument had been incorporated, despite the fact that it was arguably more likely to shift power away from the legislative and executive branches.

15. He welcomed the provision of data on criminal cases involving racial discrimination. Noting that the number of charges and convictions was low in relation to the number of incidents, he urged the State party to reflect on the way in which cases of racial discrimination were handled, particularly given that victims reportedly faced considerable difficulties in providing evidence. The delegation should comment on the relatively high rate of discrimination against ethnic minorities and indicate what steps were being taken to address that problem. He also drew the delegation's attention to the Committee's general recommendations Nos. 31 and 35 on the prevention of racial discrimination in the administration and functioning of the criminal justice system and on combating racist hate speech. The State party must strike the right balance between protecting freedom of expression and preventing hate speech.

16. With regard to organizations that promoted racial hatred or discrimination, he urged the State party to bring its Constitution and Criminal Code fully into line with the Convention. The delegation should provide information on the coordination of the activities carried out by the Danish Institute for Human Rights, the Board of Equal Treatment and the anti-discrimination unit established in 2014, particularly those related to tackling racial discrimination. The Board should be competent to receive oral testimonies when necessary. Had the mandate of the Institute been extended to the Faroe Islands as well as Greenland?

17. Regarding education, he would appreciate information on the initial results of the experimental programme designed to examine the effects of different teaching methods that developed or built on the mother tongue of minority students. As to housing, while welcoming efforts to eliminate segregation, he expressed concern about the adverse effects that measures taken by the State party could have on access to adequate housing for ethnic minorities and socially disadvantaged persons, particularly those who did not receive any housing benefit.

18. The Committee was concerned about the recent increase in xenophobia and political propaganda targeting non-citizens and about racist publications in the media and acts or expressions of hostility against members of the Muslim, Jewish and Roma communities. Of particular concern was the decision to allow Swedish artist Dan Park, who had been

convicted several times for racist acts, to hold an exhibition in Christiansborg Palace, the Danish seat of government.

19. The Committee would like to know whether it was an official policy to show the country of origin rather than the city of birth in the passports of Danish citizens of foreign origin and, if so, whether that policy applied to persons from all foreign countries. The delegation should comment on reports that law enforcement officers received inadequate training in identifying and dealing with hate crimes, that such acts were poorly documented and that the courts did not always invoke the proper section of the Criminal Code when sentencing offenders. He encouraged the State party to intensify efforts to recruit members of ethnic minorities in the police force and to combat ethnic profiling and hate crime, for example by organizing further seminars for the police in all districts.

20. Foreign nationals who were victims of domestic violence and subsequently ceased to cohabit with Danish citizens reportedly faced particular difficulty in obtaining residence permits, especially if they received social benefits. The delegation should comment on reports that children in centres for asylum seekers were not entitled to attend State schools and should provide an assessment of the most recent action plan to promote the inclusion of immigrants in the labour market, including information on the beneficiaries.

21. The Committee was concerned about the restrictive conditions that continued to be applied to family reunification, particularly the minimum age and the requirement that spouses must have aggregate ties with Denmark that were stronger than their ties with any other country. In that connection, he wished to know what options, if any, were available to foreigners who lost their Danish residence permits but were unable to return to their home countries.

22. He asked whether the State party had consulted the Thule tribe on their self-identification as an indigenous people. Could the delegation provide information on cases in which compensation had been granted to victims of racial discrimination? It was regrettable that the State party had not implemented the Committee's opinions awarding compensation to certain victims who had submitted individual complaints. The delegation should describe any measures to raise public awareness of the remedies available to victims of racial discrimination and to allow non-governmental organizations (NGOs) to represent victims in court.

23. Lastly, he would appreciate further details on any discrimination or stigmatization faced by citizens of Greenland and the Faroe Islands when accessing health, employment and education. Did persons from those countries learn their mother tongue at school? Should those living in Denmark be recognized as national minorities?

24. **Mr. Avtonomov** asked whether Denmark was moving towards a monist approach to the incorporation of international law. Had references to the Convention been made in the reasoning or in the operative parts of the judgements handed down by Danish courts?

25. He wished to know whether the introduction of a system of self-rule in Greenland in 2009 had affected the ratification status of the Convention. The delegation should indicate whether Greenlandic was a monocentric language and whether the three main dialects spoken in the country differed significantly. The delegation should update the Committee on the Government's position with regard to the Thule tribe's claim to be an indigenous people. He also enquired about the status of the Danish language in Greenland and asked whether Greenlandic language courses were provided free of charge to persons of foreign origin.

26. Did Greenland have a customary law and, if so, was it applied by the courts? The delegation should also indicate whether appeals court judges in Greenland were recruited from among the local population and whether there was a supreme court in the country.

27. **Mr. Diaconu** recalled that policies for integration should not promote assimilation and requested information on the results achieved through the Roma Inclusion Strategy. He encouraged the State party to redouble its efforts to guarantee that members of the Roma community had equal access to health, education, housing and employment.

28. He asked whether changes introduced during the period under review had helped to limit the powers of the Director of Public Prosecutions to stop investigations, withdraw charges or discontinue cases. The delegation should indicate whether the new guidelines contained in Instruction No. 2/2011 were used to inform the application of article 266 (b) of the Criminal Code, which covered offences such as hate speech, and, if not, why. He sought clarification of the meaning of the term “non-Western” as used in the report and asked what steps, if any, were being taken to reduce the number of disadvantaged neighbourhoods that were classified as deprived.

29. He wished to know whether children in Greenland were taught both Danish and Greenlandic at school and whether Greenlanders living in Denmark suffered discrimination, particularly in employment and education. What was being done to combat racial discrimination online? The delegation should comment on reports that some nightclubs in Copenhagen discriminated against foreign nationals, including through the use of quotas. In response to the delegation’s concerns that gathering data on ethnic origin might lead to racial profiling, he said that any risk could be avoided by ensuring anonymity during the data-collection process.

30. **Ms. Hohoueto** asked whether any legislative, judicial or administrative changes had been adopted since the period covered by the report to implement the Committee’s previous concluding observations (CERD/C/DNK/CO/18-19). Had the national strategy to combat honour crimes been evaluated? Why did that strategy target only young people? The delegation should indicate whether the campaign to stop hate crimes had been assessed. She would welcome up-to-date statistics on the number of hate crimes and a description of how hate crimes were defined in Denmark. The delegation should explain whether the lack of a specific definition in the Criminal Code was a consequence of the State party’s decision not to incorporate the Convention in its domestic law.

31. According to the State party report, municipalities were responsible for the integration of the Roma and migrants. How effective was that policy? The Committee had noted the State party’s efforts to combat racial hatred and discrimination. However, such efforts would not be effective unless racial hatred was clearly defined as an offence. The Committee therefore recommended that the Convention should be incorporated into the legal order and that any act motivated by racial hatred should be criminalized in the Criminal Code. Noting that the report referred to “descendants of immigrants”, she asked how that term was defined and what status such persons had. In the report, the State party had alluded to racial discrimination in the allocation of State supported housing, indicating that it remained a challenge to establish a mix of strong and vulnerable groups of persons in social housing. What was meant by “strong” groups? The disadvantaged neighbourhoods characterized as deprived had a concentration of low-income families and often suffered from high unemployment, crime and insecurity. In such neighbourhoods, more than 50 per cent of the inhabitants were reportedly of non-Western origin. What measures was the State party taking to tackle those issues? Were those neighbourhoods shrinking?

32. **Ms. Dah** asked why the Convention had not been incorporated into the Constitution and why the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which had considerable bearing on the work of the Committee on the Elimination of Racial Discrimination, had not been ratified. According to the report, 89 per cent of the inhabitants of Greenland had been born there. The delegation should describe the ethnic composition of that 89 per cent. Denmark had ratified the Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International

Labour Organization (ILO), which provided for self-identification by indigenous peoples. That notwithstanding, some groups were evidently granted indigenous status by the authorities, while others were not. Why were people not asked how they wished to be identified? Why had the Thule tribe not been allowed to self-identify?

33. **Mr. Murillo Martínez** asked what steps Denmark was taking to address the actions of politicians who preached racist ideologies. While efforts had been made to recruit and include more ethnic minorities in public administration, there was still a high dropout rate among ethnic minorities enrolled in police academies. Why was the dropout rate so high? What sort of impact had the work of the Danish Centre against Human Trafficking had? Did the Government have any information on sexual tourism targeting children in Greenland? Referring to the recent deaths of hundreds of migrants in the Mediterranean, he asked how Denmark could help to address that problem, for example by contributing to a structural solution. Lastly, did the State party have any plans of action or policies focusing on persons of African descent in commemoration of the International Decade for People of African Descent?

34. **Mr. Vázquez** asked the delegation whether it saw any gaps between the Convention and domestic legislation, and what those gaps might be. Article 81 of the Criminal Code established that racist motivation should be cited by the courts as an aggravating circumstance in criminal cases. How often had that section been invoked? With respect to the principle of objectivity, was the State party considering changing judicial procedures so as to make public the prosecution service's reasoning for not initiating a prosecution? He asked why there was a distinction between persons of Nordic and non-Nordic origin with regard to the right to Danish nationality. It was difficult to understand why the Board of Equal Treatment based its decisions purely on written evidence and did not accept oral testimony. Noting that under the Greenland Criminal Code racist motivation of an offence was not considered an aggravating circumstance, he said that the Committee had heard that such a provision had been excluded because it might be inconsistent with local tradition. If that was true, in what way were they at odds?

35. **Mr. Kemal** said that Denmark was a democratic and welcoming country that defended human rights. It had attracted many immigrants from Muslim countries and areas of conflict, which had placed certain strains on society, but was trying to overcome the challenges by passing anti-discrimination legislation. He emphasized the Government's responsibility to protect vulnerable groups and to monitor hate speech and the activities of certain organizations; the authorities tended to give perpetrators the benefit of the doubt. He expressed concern at the strict standards applied to applicants for refugee status and the long waiting period involved. If refugees were left in limbo for too long, they would no doubt be adversely affected and would not make as much of a contribution to Danish society.

36. **Mr. Lindgren Alves** asked whether marriages between persons from different cultural backgrounds was common and whether the State party had any data on such intermarriage. Noting that the report referred to a "holistic and inclusive" approach to integration, he asked what was meant by holistic. The State party should elaborate on why it did not register ethnicity. The collection of such information did not necessarily amount to racial profiling. The report referred to "honour-related conflicts", but did not explain the meaning of that term. He also asked for clarification of the reference by the report to the "responsibility to protect".

37. **Mr. Amir** asked whether the "Show Racism the Red Card" campaign was still being conducted in Denmark, as it appeared to have been successful in reducing the number of racist incidents in football. He would also like to know whether there was a particular reason why the passports of Danish nationals born abroad indicated the country, and not the city, where they had been born.

38. **Mr. Khalaf** asked whether the remedies available in cases of violence also applied to hate speech and how the Government addressed the disturbing phenomenon of hate speech online. He wondered what the concept of integration meant for the State party. He asked the delegation to comment on whether the value of tolerance was still considered sufficient, or whether in combating discrimination the focus should increasingly be placed on respect for others.

39. **Mr. Yeung Sik Yuen** said that the law on family reunification imposed strict conditions which could be a deterrent to migrant workers applying to have their spouses join them. He wondered whether such conditions violated the Danish Constitution, which provided that laws should not be in breach of morality. He expressed concern that the Convention had not been incorporated into municipal laws and that in a number of cases Denmark had not complied with the Committee's recommendations when it had issued opinions calling for the payment of compensation.

40. **Ms. Crickley** said that, while she understood the State party's position on the collection of disaggregated data, she would be interested to hear how, in practice, it was able to quantify the issues that needed to be addressed and develop effective strategies without such data. Noting that the European Union framework tended to obfuscate the barriers to integration, including racial discrimination, she wondered whether the Danish approach explicitly included targets to address racial discrimination and, if so, what they were and how they were measured.

41. Noting that a total of 20 million Danish kroner had been allocated for initiatives to promote civic citizenship and to combat ethnic discrimination between 2012 and 2015, she asked what proportion of that total had been allocated to activities to combat ethnic discrimination and why the State party used the term "ethnic discrimination" rather than "racial discrimination". She wondered whether the Government would reconsider its position on ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and whether it had ratified the ILO Domestic Workers Convention, 2011 (No. 189).

42. **Mr. Kut** said that he had some concerns in relation to the incorporation of the Convention into Danish law and the conspicuous rise in racist discourse in public life, politics and the media.

43. **The Chairperson** asked whether the passports of the children of foreigners also stated their parents' country of origin rather than the Danish city in which they had been born. What travel documents did the children of foreigners use while they were waiting to be eligible for a Danish passport?

44. **Mr. Avtonomov** asked the delegation to comment on the fact that the Ombudsman did not usually deal with complaints of discrimination in private enterprises.

45. **Mr. Staur** (Denmark) said that the information on the responsibility to protect had been included in the periodic report because two of the crimes identified in that context — genocide and ethnic cleansing — could be seen as the ultimate forms of racial discrimination. The State party's efforts in respect of the responsibility to protect focused not only on the international context, but also on situations that could arise in Denmark and Europe.

46. **Mr. Jørgensen** (Denmark) said that the expert committee tasked by the Government with considering the appropriateness of incorporating a number of human rights instruments in domestic law, including the Convention, had highlighted that incorporation entailed the risk of a shift in the powers conferred on the parliament and the executive branch to the courts. In the Government's view, it was important for elected representatives to maintain responsibility for compliance with the State's international obligations. The

Government had wished to base its decision on a thorough examination of the committee's report and had thus refrained from taking a premature stance on the matter. The majority of the members of the committee had been in favour of the incorporation of such instruments into Danish law. Although the Convention had not been incorporated, it could be, and was indeed, invoked before and applied by the courts. The Convention was thus considered a relevant source of law in Denmark.

47. The decision of the Director of Public Prosecutions to prosecute or dismiss a case was always based on an objective assessment of the merits, taking into account the relevant case law in relation to article 266 (b) of the Criminal Code, the section of the Code addressing hate speech. An alleged offender should not be indicted if, based on the evidence of the case, the prosecution service believed that prosecution would not result in conviction. A decision of the Director of Public Prosecutions to discontinue a case covered under article 266 (b) could be appealed to the Ministry of Justice. The Government firmly believed that cases concerning hate speech should be given special attention, and to that end a special reporting scheme had been set up to ensure efficient and consistent practice in that area. During the last interactive dialogue with the Committee in 2010, the Danish Institute for Human Rights had expressed the view that the powers of the Director of Public Prosecutions should not be circumscribed. The Government agreed with that position and had thus decided not to follow the Committee's recommendation on that matter.

48. Some alleged incidents of racially motivated hate speech targeting members of Muslim, Jewish and Roma communities by politicians and in the media had not been tried because they had not passed the relevant legal test or because of a lack of evidence. Some of the complaints that had been dismissed had concerned statements made by politicians during political debates. In those cases, the Director of Public Prosecutions had primarily based his decision on the nature of the statement and the context in which it had been made. According to the jurisprudence and practice of the Supreme Court, tolerance of others' opinions was a precondition for an open debate in a democratic society. At the same time, freedom of expression must, of course, be exercised with the necessary respect for other human rights, and statements that did not conform to those principles should be penalized. Some politicians had been convicted for violating article 266 (b) of the Criminal Code, which the Government had no plans to abolish.

49. Victims of violations of the Criminal Code, including victims of hate crimes and racism, were entitled to compensation. Several steps had been taken to improve the support and protection of victims in general, including the establishment of a fund to financially support activities by NGOs, public bodies and private institutions to improve the situation of victims of crime. The Administration of Justice Act provided for free legal aid by a private counsel for the victims of what could be characterized as hate crimes, including racially motivated violent assault.

50. **Mr. Jørgensen** (Denmark) said that, in general, it was a condition for family reunification that neither the spouse living in Denmark nor the foreign spouse should be in receipt of certain social benefits. If it was learned that such benefits were being received or that the couple was no longer married, a residence permit could be revoked. Residence permits were only revoked after the Immigration Service had individually assessed whether revocation would have disproportionate consequences on the individual. In the assessment of the situation, domestic violence was one of the factors that could be considered.

51. The Government believed that successful school attendance was one of the most important factors in a child's life. Therefore, it attached high priority to offering the children of asylum seekers access to education to prepare them for their future, regardless of whether they were granted a residence permit in Denmark. Children between the ages of 7 and 16 were provided with schooling corresponding to the education given to bilingual students in Danish primary and lower secondary schools. They were taught Danish and

English and, if possible, also their native language. The teaching was carried out at ordinary primary and lower secondary schools, independent schools or the asylum centre operators' own schools. Leisure activities were provided after school and during the school holidays. When refugees were granted residence permits and moved to a municipality, their children were no longer in the asylum system and attended ordinary schools. The case processing time in the asylum system was approximately six months. Most children did not speak Danish on arrival at the asylum centres, so it was difficult to integrate them directly into public schools.

The meeting rose at 6 p.m.