

**UNITED
NATIONS**

**ADVANCE UNEDITED
VERSION**

CERD



**International Convention on
the Elimination
of all Forms of
Racial Discrimination**

Distr.
GENERAL

CERD/C/DEN/CO/17
__ August 2006

Original: ENGLISH
UNEDITED VERSION

COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Sixty-ninth session
31 July-18 August 2006

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION**

**Concluding observations of the Committee on the
Elimination of Racial Discrimination**

DENMARK

1. The Committee considered the sixteenth and seventeenth periodic reports of Denmark, submitted as one document (CERD/C/496/Add.1), at its 1772nd and 1773rd meetings (CERD/C/SR.1772 and 1773), held on 9 and 10 August 2006. At its 1785th meeting (CERD/C/SR.1785), held on 18 August 2006, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the timely submission of the report, and notes with appreciation that it included responses to the concerns raised in the Committee's previous concluding observations. The Committee also expresses appreciation for the frank dialogue held with the delegation and for the comprehensive and thorough answers given orally to the list of issues and to the wide range of questions raised by members. It appreciates the opportunity thus provided to pursue the constructive dialogue with the State party.

B. Positive aspects

3. The Committee welcomes the adoption, in November 2003, of a National Action Plan to promote Equal treatment and Diversity and to combat Racism, as a follow-up to the Durban Declaration and Programme of Action.
4. The Committee welcomes the adoption, in May 2003, of the Act on Equal Ethnic Treatment, prohibiting discrimination on the grounds of racial and ethnic origin as regards access to social protection, access to and supply of goods and services, and including also a prohibition of harassment on the grounds of race and ethnic origin.
5. The Committee notes with appreciation the activities undertaken by the Danish Institute for Human Rights in the fight against racial discrimination, as well as their useful participation in the dialogue with the State party.
6. The Committee notes with appreciation that Section 81 of the Criminal Code, which entered into force on 2 April 2004, introduced an aggravating circumstance for offences based on another's ethnic origin, faith, sexual orientation or the like.
7. The Committee welcomes the decision of the State party to establish two new reporting systems on decisions in criminal cases where the crime has been committed on account of the victim's race, nationality, ethnic background, religious belief or sexual orientation on the one hand, and concerning the implementation of the Danish Act of Prohibition against Discrimination on the Basis of Race on the other hand.
8. The Committee notes with satisfaction that Roma children in Denmark are no longer subject to classes established only on the basis of their ethnicity.
9. The Committee welcomes the awareness campaigns carried out in the State party, in particular the campaign "Show Racism the Red Card", which involves the participation of professional football players in the fight against racial discrimination.

C. Concerns and recommendations

10. The Committee, while acknowledging the practice of national courts to directly apply the provisions of the Convention, regrets the State party's decision not to incorporate the Convention in the domestic legal order, particularly in light of the fact that the State party has incorporated other international instruments in domestic law. (article 2)

The Committee encourages the State party, in order to give full effect to the provisions of the Convention, to reconsider its decision not to incorporate the Convention in the domestic legal order.

11. The Committee, while taking note of the State party's efforts to combat hate crimes, is concerned about the increase in the number of racially motivated offences and in the number of complaints of hate speech. The Committee is also concerned about hate speech by some politicians in Denmark. While taking note of the statistical data provided on complaints and prosecutions launched under Section 266 b of the Criminal Code, the Committee notes the refusal by the Public prosecutor to initiate court proceedings in some cases, including the case of the publication of some cartoons associating Islam with terrorism. (articles 4 (a) and 6))

The State party should increase its efforts to prevent racially motivated offences and hate speech, and to ensure that relevant criminal law provisions are effectively implemented. The Committee recalls that the exercise of the right to freedom of expression carries special duties and responsibilities, in particular the obligation not to disseminate racist ideas, and recommends that the State party take resolute action to counter any tendency to target, stigmatize, stereotype or profile people on the basis of race, colour, descent, and national or ethnic origin, especially by politicians. Bearing in mind its General Recommendation 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee also requests the State party to remind public prosecutors and members of the prosecution service of the general importance of prosecuting racist acts, including minor offences committed with racist motives, since any racially motivated offence undermines social cohesion and society as a whole.

12. The Committee regrets that the State party has not provided sufficient information on the Roma population in Denmark, nor on the enjoyment of their rights under the Convention. (articles 2 and 5)

The Committee recommends that the State party provide relevant information in this regard. It would like to be informed about the reasons why the Roma do not enjoy the status of national minority under the Framework Convention for the Protection of National Minorities, with all the rights this entails.

13. The Committee notes with concern that decisions by the Refugee Board on asylum requests are final and may not be appealed before a court. It is also concerned about information according to which asylum seekers may live with their children in centres for several years, do not have the right to engage in social, professional, educational and cultural activities outside these centres except to a limited extent, and may be transferred many times from one centre to another, thereby weakening established relationships. (article 5)

The Committee recommends that asylum-seekers be granted the right to appeal against the Refugee Board's decisions. It also recommends that the

State party review its policy in relation to centres for asylum seekers so as to ensure that their rights under the Convention are fully respected.

14. While noting that the State party is currently studying the matter, the Committee is concerned that foreign women who are victims of domestic violence may not seek assistance or ask for separation or divorce for fear of expulsion, although they may obtain a permit to stay for two years in Denmark. (article 5 (b))

The Committee, drawing the attention of the State party to its General Recommendation 25 (2000) on Gender related dimensions of racial discrimination, recommends that the State party take into consideration the specific vulnerability of foreign women victims of domestic violence, and take all appropriate steps to remove deterrents to their seeking assistance or taking steps to seek separation or divorce.

15. The Committee reiterates its concern regarding the restrictive conditions in Danish legislation regarding family reunification. In particular, the conditions that both spouses must have attained the age of 24 to be eligible for family reunification, and that their aggregate ties with Denmark must be stronger than their ties with any other country unless the spouse living in Denmark has been a Danish national or has been residing in Denmark for more than 28 years, lead to a situation where persons belonging to ethnic or national minority groups are discriminated in the enjoyment of their right to family life, marriage and choice of spouse. The Committee also regrets that the right to family reunification is restricted to children below the age of fifteen. (article 5 (d) (iv))

The Committee recommends that the State party review its legislation to ensure that the right to family life, marriage and choice of spouse is guaranteed to every person without discrimination based on national or ethnic origin. It also recommends that the right to family reunification be allowed to children below the age of eighteen. The State party should ensure that the measures it adopts to prevent forced marriages do not impact disproportionately on the rights of persons belonging to ethnic or national minorities. It should also assess the extent to which the condition for spousal reunification: that the spouse residing in Denmark must provide a bank guarantee and may not have received any public assistance for sustenance within the last year before the reunification, amounts to indirect discrimination on minority groups who tend to suffer from socio-economic marginalization.

16. The Committee is concerned that unemployment among “immigrants” and “descendants” from countries outside the European Union, North America, and the Nordic countries, continues to be significantly higher than among persons of Danish descent, a phenomenon which is acknowledged by the State party. (article 5 (e) (i))

The Committee recommends that State party assess the extent to which the disproportionate level of unemployment among persons coming or originating from countries outside the European Union, North America, and the Nordic countries, is the result of discrimination they face in accessing jobs, and that it take measures to combat this phenomenon.

17. The Committee, while welcoming the State party's willingness to prevent processes of "ghetto-isation", regrets that it has not received sufficient information on the impact of such policy on the right to freedom of residence of persons belonging to ethnic or national minorities, as well as on the enjoyment in practice of their cultural rights. (article 5 (d) (i), and (e) (iii) and (vi))

The Committee wishes to receive more detailed information on this issue, in particular on measures adopted by the State party to strike an adequate balance between the prevention of "ghetto-isation" and the right to freedom of residence and cultural rights of persons belonging to ethnic or national minorities. The Committee wishes to be informed about the extent to which concerned persons participate in the decision-making affecting them.

18. The Committee is concerned that under Act No 361 of June 2002, social benefits for persons newly arrived in Denmark are reduced in order to entice them to seek employment, a policy which has reportedly created social marginalization, poverty and greater dependence on the social welfare system for those who have not become self-sufficient. The Committee, while understanding that the new regulation applies to both citizens and non-citizens, notes with concern that it is foreign nationals who are mainly affected by this policy. (article 5)

The Committee recommends that the State party review its policy in order to ensure that foreigners newly arrived in Denmark are not pushed into poverty and social marginalization.

19. The Committee, while welcoming the municipalities' obligation to offer mother tongue teaching to bilingual students coming or originating from the European Union and European Economic Area countries, as well as from the Faroe Islands and Greenland, regrets that in 2002, the municipalities' obligation to do so for bilingual students from other countries was repealed and that municipalities no longer receive financial support for such purpose. (articles 5 (e) (v) and (vi))

The Committee recommends that the State party review its policy, taking into consideration its obligation under the Convention not to discriminate against persons on the basis of their national or ethnic origin nor against any particular nationality. The Committee recalls that differential treatment based on nationality and national or ethnic origin constitutes discrimination if the criteria for such differentiation, judged in the light of the objectives

and purposes of the Convention, are not applied pursuant to a legitimate aim, and are not proportional to the achievement of this aim.

20. The Committee notes with concern that the Supreme Court decision of 28 November 2003 relating to the case of the Thule Tribe of Greenland, did not consider the Thule Tribe as a distinct indigenous people despite the tribe's perception to the contrary, on the ground that today they share the same conditions as the rest of the Greenlandic people.

The Committee, drawing the attention of the State party to its General Recommendations 8 (1990) on identification with a particular racial or ethnic group and 23 (1997) on indigenous peoples, recommends that the State party pay particular attention to the way in which indigenous peoples identify themselves.

21. The Committee, while welcoming the power granted to the Complaints Committee for Ethnic Equal Treatment to review individual complaints on the grounds of racial and ethnic origin, notes with concern that the Complaints Committee cannot recommend that free legal aid be granted to alleged victims when an assessment before the courts is desirable, but where the Committee cannot reach a conclusion that discrimination has occurred through its own investigation of the case. (article 6)

The Committee recommends that the State party ensure that the Complaints Committee has adequate powers to fulfill its task to combat racial discrimination, in particular by granting it the power to recommend that free legal aid be granted to the alleged victim where it sees fit.

22. The Committee, while welcoming the State party's efforts to enhance the economic and social participation of persons belonging to national or ethnic minorities, notes that integration policies and programmes seem to discourage them from expressing and developing their culture. It notes with concern that the school curriculum, at all levels of education, does not seem to include sufficient information on their culture and that the cultural diversity of Denmark is reportedly not sufficiently reflected in the fields of culture and information. (articles 5 and 7)

The State party should adopt immediate and effective measures to reflect the cultural diversity of Denmark in the fields of education, culture and information. The Committee also recommends that the State party ensure that its integration policies and programmes have neither the purpose nor the effect of restricting cultural rights of persons belonging to national or ethnic minorities in a disproportionate manner. The Committee further encourages the State party to ensure the participation of these groups in the design and implementation of integration policies and programmes, at both national and local levels.

23. The Committee recommends that the State party's reports be made readily available to the public at the time of their submission, and that the observations of the Committee with respect to these reports be similarly publicized.

24. The State party should within one year provide information on the way it has followed up on the Committee's recommendations contained in paragraphs 11, 13 and 15, pursuant to paragraph 1 of rule 65 of the rules of procedure.

25. The Committee recommends that the State party submit its eighteenth periodic report jointly with its nineteenth periodic report in a single report on 8 January 2009, and that it address all points raised in the present concluding observations.
