

**Recommendations from:
Documentation and Advisory Centre on Racial Discrimination (DaCoRD),
European Network Against Racism (ENAR-Denmark)
SOS against Racism, Denmark**

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SOS mod Racisme



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DACoRD is an independent institution founded in Denmark in 1993. Its aims are to prevent and counter racial discrimination in Denmark. DACoRD offers counselling, advice, help and legal assistance to victims of racial discrimination and racism. Furthermore DACoRD takes cases through the court system in Denmark and further to the European Court of Human Rights and to the UN Human Rights Committees. Coordinator: Niels Erik Hansen, participating in this submission.

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ENAR is a pan-European anti-racist network that combines advocacy for racial equality and facilitating cooperation among civil society anti-racist actors in Europe. The organisation was set up in 1998 by grassroots activists on a mission to achieve legal changes at European level and make decisive progress towards racial equality in all EU Member States. ENAR Denmark was founded in 2012. Bashy Quraishy is chair person in ENAR Denmark and participates in this submission.

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SOS mod Racisme (SOS against Racism) SOS is an NGO, which was founded in 1988 inspired by SOS Racisme in France. In 1991 the organisation merged with "The People's Movement against Racism", which was set up in 1985 – also inspired by SOS Racisme in France. The aims of the NGO is to combat racism and xenophobia. For that end education, information, dialogue, debate and other non-violent means are used. President: Jette Møller, Vice president: Anne Nielsen, both participating in this submission.

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Implementation of international human rights obligations

Equality and non-discrimination

As mentioned in the first circle of the UPR, Denmark was – and still is - the country that has generated most communications under Article 14 of ICERD. As NGOs in Denmark working to combat racial discrimination we are alarmed that we can again report that Denmark is totally devoid of willingness to implement and respect the decisions of the ICERD Committee with regard to providing redress for the victims.

We also note that while Denmark accepted a number of recommendations from the first UPR circle, when it comes to the human rights of ethnic minorities and foreigners, rejections have been massive. Consequently, already at this early state we would like to highlight the need for the support from other countries in order to put pressure on the Danish authorities to secure the human rights for those countries' citizens while residing in Denmark. By way of example we note that France recommended the abolition of the 24-year rule regarding family reunification, which in fact also prevents Danish/French couples from living in Denmark.

1. The Establishment of a board against ethnic and religious discrimination

Recommendations, numbered as to OCHRC July 2011: 106.107, 106.54 – 106.57, 106.59, 106.61, 106.64, 106.67 – 106.71, 106.96 accepted, and 106.58 not accepted. ICERD Art. 2./CEDAW/CCPR article 26/CESCR article 2

In Denmark much discrimination is directed at Muslims and Jews and other minority groups. Nevertheless the Danish Board for Ethnic Equality was dismantled in 2002 and the same year the UN Women's Committee stated that: "323. *The Committee is concerned at the closure of the Danish Board for Ethnic Equality, which had been established in June 1997, inter alia, to provide advice on the question of discrimination and ethnic equality for the Danish Parliament, the Government, the central and local administration and private organizations, and the Danish National Centre for Research and Information on Gender Equality, which had been established in May 2000 under the Act on Gender Equality. The Committee notes that some of the work of the former Centre will be done without State funding under different institutional arrangements. 324. The Committee recommends that the State party reconsider its decision to close these two institutions and continue.*" (CEDAW A/57/38, October 8, 2002)

The Danish Governments has established the Institute for Human rights, however as NGOs we do not see the Institute fulfilling the tasks carried out by the Board dismantled in 2002.

Recommendation:

-The State party should establish an independent and State subsidised board comprising representatives of anti-racist and ethnic minority NGOs. The board should work with discrimination cases based on religion, culture, nationality, racial or ethnic background and language and furthermore be pro-active in order to promote equal treatment and mutual respect in the same way as the former Board of Ethnic Equality, which was dismantled in 2002.

2. Legislative Discrimination in Housing

Recommendations: 106.60, 106.61, Accepted. Re: CERD/C/DNK/CO/20-21 Art. 13, May 15 2015

There are discriminatory rules allowing discrimination against the disadvantaged in certain marginalised housing areas (Legislation concerning the so-called 'ghettos'). While the law was intended to counteract segregation in social housing areas, the *ghetto* label in reality stigmatises the inhabitants. Furthermore, the most disadvantaged people and families face more difficulties in finding appropriate housing due to this legislation. Thirty-one publicly subsidised housing areas have been labelled 'ghettos'. If an applicant for a tenancy falls outside the ghetto criteriaⁱ, he or she will be given priority.

Furthermore, municipalities may use a rule about "combined letting", i.e. they can bar applicants who have been on public benefits for the past 6 months from flats in marginalised housing areas and instead offer them another flat. However, an analysis from the Department of Housing showed that of 709 persons denied housing only 28 got a substitute tenancy.

Recommendation:

-The State party should repeal all negatively discriminatory legislation in housing concerning the disadvantaged.

3. Anti-discrimination campaigns

Recommendations 106.107, 106.54 - 106.57, 106.59, 106.61, 106.64, 106.67 - 106.71, accepted.

The public discourse in Denmark, especially during the recent general election campaign, has been hard and directed at Muslims and refugees in particular. Especially Muslim girls and women wearing headscarves are accosted or assaulted in the street. Thus focused campaigns are needed to try to reverse negative attitudes.

Recommendation:

-The State party should ensure that campaigns against discrimination of minorities and people of colour are waged at regular intervals in order to counter racial tensions.

4. Legislation on the use and monitoring of hate speech on social media

Recommendations 106.107, 106.54 - 106.57, 106.59 - 106.62, 106.64, 106.66, 106.68 - 106.70, 106.96, accepted

Hate speech on the social media is rampant and efforts should be made to control it. E.g. Facebook has very strict rules concerning nudity although pornography is legal in Denmark, whereas the freedom of expression seems to be almost limitless.

Recommendation:

-The State party should monitor hate speech on the social media and put a Danish law in place for a system of treating complaints of hate speech on the social media and for addressing the owners of the social media and acting promptly after having found hate speech that would possibly be an offence of Section 266b in the Criminal Code.

5. Discriminatory party platform

Recommendations 106.54 - 106.57, 106.59, 106.60, 106.64, 106.71, accepted

In August 2014 *Venstre*, the Danish Liberal Party, whose leader is expected to become the next prime minister, drafted an immigrant policy, in which they plan to divide immigrants into two groups: Those who can and will integrate into the Danish society (those "integratable") and those who will not and cannot integrate (those "possibly integratable"). The former group comprises EU citizens and EEA citizens plus the nationalities listed in the UNDP's "very high human development index" excluding countries where visas are required (but including all western countries plus e.g. Argentina, Brunei Darussalam, Chile, Israel, Japan, Singapore, and South Korea). All other nationalities are regarded as not willing and unable to integrate into the Danish society. ⁱⁱ

Recommendations:

-The State party should sensitize political parties on how to avoid discriminatory party policies.

-The State party should not introduce discriminatory legislation based upon unfounded prejudice against people from most of the world's nations.

6. Discriminatory door policies at nightclubs

Recommendations 106.54 - 106.57, 106.59 - 106.61, 106.64, 106.65, 106.67 - 106.71, accepted, and 106.58 not accepted. /ICERD Art. 2.

In many cities there are nightclubs with unlawful, unofficial quotas for how many people of colour or foreigners to admit. In a few cases such discrimination has resulted in minor fines to the bouncer, and in even less cases also to the owner of the nightclub.

In many cases police have insufficient manpower to investigate the offence or neglect to do so, and the victims feel badly treated by the bouncer as well as by the police.

Recommendation:

- The State Party should not tolerate this kind of discrimination but take responsibility in monitoring, prosecuting and punishing discriminatory door policies.

Administration of justice, including impunity, and the rule of law

7. Registration of all cases of hate crimes based on the perception of the victim

Recommendations 106.54 - 106.57, 106.61, 106.64, 106.67 - 106.70, accepted, and 106.58 not accepted.

Since few cases are registered as hate crimes, the police need to be sensitized and trained. However, in e.g. Sweden hate crimes are categorised according to the perception of the victim and not the police officer making the report.

Recommendation:

- The State party should ensure police registration of all hate crimes as perceived by the victims, thus leaving it to the courts to decide whether a crime is a hate crime.

8. Public prosecution of hate crimes

Recommendations 106.54 - 106.57, 106.59, 106.61, 106.64, 106.67 - 106.70, 106.96, accepted, and 106.58 not accepted. ICERD Art. 4 and 6, Recommendation 9a of CERD/C/DNK/CO/20-21 of 15 May 2015

The Public Prosecution very often does not press charges in cases perceived by the victims as hate crimes, which leaves the victims without effective remedies. As it is up to the Public Prosecution whether to press charges for hate speech (Section 266 b of the Criminal Code) or for increasing the sentence (section 81 No. 6 of the Criminal Code) for a hate crime.

Recommendations:

*-In all cases perceived by the victims as **hate crimes** the State party should ensure registration of the perceived discrimination ground for the crime, and reasons for discontinuation of investigations and withdrawal of charges.
-The State party should allow victims to institute criminal proceedings on the hate crime aspect if the Public Prosecutor declines to press charges under the Criminal Code section 81.*

9. Public prosecution of hate speech

Recommendations 106.54 - 106.57, 106.59, 106.61, 106.64, 106.67 - 106.70, 106.96, accepted, and 106.58 not accepted. ICERD Art. 4 and 6, Recommendation 9a of CERD/C/DNK/CO/20-21 of 15 May 2015

Often the Public Prosecutor does not press charges in cases perceived by the victims to be hate crimes, which leaves the victims without effective remedies. As it is up to the Public Prosecution whether to press charges for hate speech (Section 266 b of the Criminal Code) or to press charges for increasing the sentence (section 81 of the Criminal Code) regarding e.g. a violent crime that may be a hate crime.

Recommendations:

*-In all cases perceived by the victims as **hate speech** the State party should ensure registration of the perceived discrimination ground for the crime, and reasons for discontinuation of investigations and withdrawal of charges.
-The State party should allow the victim to institute criminal proceedings on the hate speech aspect if the Public Prosecutor declines to press charges under section 266b of the Criminal Code.*

10. Court registration of hate crimes

Recommendations 106.54 - 106.57, 106.59, 106.61, 106.64, 106.67 - 106.71, accepted, and 106.58 not accepted.

Only in 2011 did the Danish courts report cases involving hate crimes. Although Denmark is obliged to report on hate crimes, the Danish courts do not register such crimes and consequently no statistics are available.

Recommendation:

-The State party should ensure court registration of acquittals, convictions and sentences in cases involving Sections 266b and 81 No. 6 of the Danish Criminal Code.

11. Ethnic profiling by the police

Recommendations 106.55, 106.63, 106.64, and 106.80 accepted.

In 2007-2008 ethnic profiling by the police was widely used in search and stop zones in Denmark. Ethnic minority men were frisked much more frequently. This created tensions, feelings of discrimination and animosity towards the police among ethnic minorities.

A Bill on immigration control in border areas expected to be passed and a proposal to establish border control on the German border while searching for illegal migrants will presumably increase ethnic profiling.

Recommendation:

-The State party should prohibit ethnic profiling and sensitize police to use relevant non-discriminating methods.

Right to marriage and family life - Family reunification

12. The 24-year age limit

*Recommendations 106.102, 106.103, 106.116, 106.127, 106.129, 106.130 not accepted.
CEDAW A/57/38 October 8, 2002*

In 2002 Denmark introduced a ban on family reunification for spouses under the age of 24 years. The UN Women's Committee concluded that: "...the Aliens Act, which although gender-neutral, indirectly discriminates against women. And thus recommended that the State party review the Aliens Act and revoke those provisions that are incompatible with the provisions of the Convention". (A/57/38 October 8, 2002) This was repeated by the Committee in 2009 and in 2015, and also by other international bodies – most recently by ECRI as of 9 June 2015.

Recommendation:

-The State party should abolish the rule that both spouses must be aged 24 years before they can be reunified.

13. The combined attachment requirement and the 26-year exception

Recommendations 106.102, 106.103, 106.116, 106.129, 106.130 not accepted. CEDAW A/57/38 October 8, 2002

A couple applying for family reunification must fulfil the requirement that their combined connection to Denmark must be greater than their combined connection to another country. However, this does not apply if one spouse has been a Danish citizen for 26 years or has grown up and resided in Denmark for 26 years.

Recommendation:

-The State Party should abolish the discriminatory family reunification rule that the couple's combined attachment to Denmark must be greater their combined attachment to another country

Freedom of religion

13. No ban on ritual circumcision

Recommendations: 106.61, 106.64, 106.67 - 106.71, accepted.

A very aggressive campaign against boys' circumcision is running in Denmark and seems to receive popular support. The campaign calls for a ban on non-therapeutic circumcision/the introduction of an age limit for male circumcision

and the arguments used centre on the right of the child to an intact body. However, since prophylactic health-related circumcision is practically non-existent in Denmark and only Jews and Muslims circumcise their sons - for religious reasons – the campaign *de facto* calls for a ban on ritual circumcision.

Recommendation:

-The State party should refrain from legislating against ritual male circumcision but preserve the freedom of belief of religious minorities in accordance with the conclusions of the Danish Health and Medicines Authority of April 2013ⁱⁱⁱ.

14. Lifting of the ban on religious slaughter

Recommendations: 106.61, 106.64, 106.67 - 106.71, accepted.

Since the religious rules for both halal slaughter and kosher slaughter stress the need for the procedure to be compassionate and respectful towards the animals, the Danish ban on the slaughter of animals without pre-stunning violates the right of religious freedom of Jews and Muslims. The fact that kosher meat may be imported underlines the double standards. Furthermore, the factory farming in Danish agriculture does not take the welfare of the animals into consideration, and castration and tail cutting of pigs can be performed without pain relief.

Recommendation:

-The State party should lift the ban on slaughter without pre-stunning and abandon all ideas of prohibiting all forms of halal slaughter.

15. No ban on ritual circumcision

Recommendations 106.61, 106.66, 106.67, 106.71, accepted.

A very aggressive campaign against boys' circumcision has been launched in Denmark and seems to receive popular support. The campaign calls for a ban on non-therapeutic circumcision or the introduction of an age limit for male circumcision and the arguments used centre on the right of the child to an intact body. However, since prophylactic health-related circumcision is practically nonexistent in Denmark and only Jews and Muslims circumcise their sons - for religious reasons – the campaign *de facto* calls for a ban on ritual circumcision.

Recommendation:

The State party should not legislate against ritual circumcision in boys but preserve the freedom of belief of religious minorities in accordance with the conclusions of the National Board of Health of April 2013.^{iv}

Right to social security and to an adequate standard of living

16. Right to an adequate standard of living

Recommendations 106.55, 106.61 accepted. 1951 UN Convention of Refugees Art. 23

Following the recent general election there will be a change of government. During the election campaign the introduction of very low introductory benefits for refugees was advocated with the specific goal of attracting fewer asylum seekers. In 2002 – 2011 refugees got an introductory benefit of only about half the amount of ordinary benefits. Then the aim was to get refugees to work and become financially independent of the State. An analysis showed that only 14% succeeded in getting jobs.

Recommendation:

-The State party should not discriminate against refugees but use all positive means to introduce those able to work to the labour market in Denmark in order to secure their integration and preserve their dignity.

Right to health

17. Right to use of interpretation in the health care system

ICESCR Art. 12

Persons who do not master Danish are not entitled to an interpreter in the health care system. The doctor may request an interpreter, paid by the health system, but this is very time-consuming. Often language problems prevent patients from understanding diagnoses or treatment. Minority patients and doctors often mention language problems as the main barrier to a successful treatment.

Recommendation:

-The State party should ensure patients with insufficient knowledge of Danish the right to request a competent interpreter or interpretation by Skype or other electronic media.

Migrants, refugees, and asylum-seekers

18. Right for asylum children to attend government schools

CRC Article 28

Municipalities may allow children in asylum centres to attend government schools, but they have no legal right. By the end of 2014, only 120 out of 1,100 school age children attended government schools while the rest attended asylum schools. Of the children in government schools only 70 were integrated into ordinary classes. Moreover, the education of asylum children is interrupted frequently when the family is moved to other centres. Attending government schools will facilitate the children's learning of the Danish language and allow them to get an education on a level corresponding to that of Danish children.

Recommendation:

-The State party should provide children in asylum centres with a legal right to attend government schools.

19. Non-discrimination regarding citizenship applications

CCPR Article 26, "Q vs. Denmark" CCPR Communication no. 2001/2010

The UN Committee on Human Rights recently found Denmark in violation of CCPR article 26 with regard to a disabled applicant for Danish citizenship. A refugee suffering from PTSD had been unable to pass the Danish tests and was refused dispensation. Consequently, the Committee found Denmark in violation of the covenant (See "Q vs. Denmark" CCPR Communication no. 2001/2010).

Recommendation:

-The State party should give disabled refugees and other foreigners applying for citizenship dispensation for requirements they cannot fulfil because of their handicap.

20. Right to record asylum interviews with the authorities

CCPR article 13

As part of the right to fair trial all asylum interviews by the Danish Immigration Service should be recorded at the asylum seekers' request this since too often incorrect information from the first interview is later used to exclude applicants from receiving refugee status.

Recommendation:

-The State party should ensure that with the asylum seeker's consent interviews with the Danish Immigration Service are recorded and a copy of the interview is stored by the Danish immigration Service and a copy given to the asylum seeker.

(2991 words)

Notes:

ⁱ **Ghettos** are social housing areas of more than 1,000 inhabitants fulfilling 3 or more of the following criteria:

1. More than 50% are migrants or descendants of non-western background.
2. More than 40 % of inhabitants aged 18-64 are not employed without labour market attachment and not in education or training.
3. More than 50% of inhabitants aged 30-59 have lower secondary education only or have no registered education.
4. More than 2.7% of inhabitants aged 18 years or older have been convicted of violation of the Criminal Code or of the arms or drugs legislation.
5. More than 55% of inhabitants aged 18-64 have low incomes.

ⁱⁱ For the “integratable” nationalities, the annual pay must be 215,000 DKK if they immigrate in order to work, and regarding family reunification no requirements will apply as far as the 24-year age limit, the couple’s combined attachment to Denmark, active participation in civic society, and language are concerned. For the “possibly integratable” nationalities, the annual pay must exceed 400,000 DKK, family reunification can only be obtained after 12 years, the couple’s combined attachment to Denmark must be considerably greater than their attachment to the other country etc.

ⁱⁱⁱ The Danish Health and Medicines Authority’s Note on **Circumcision of Male Infants** of April 2013: “...There is not sufficient medical documentation for a general recommendation of circumcision of male infants. At the same time such risks are not associated with the procedure when performed correctly and by competent doctors that [the Danish Health and Medicines Authority] sees reason to recommend a ban on ritual circumcision of male infants...”