

ECRI REPORT ON DENMARK

(sixth monitoring cycle)



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The European Commission against Racism and Intolerance (ECRI), established by the Council of Europe, is an independent human rights monitoring body specialised in questions relating to the fight against racism, discrimination (on grounds of “race”, ethnic/national origin, colour, citizenship, religion, language, sexual orientation, and gender identity), xenophobia, antisemitism, and intolerance. It is composed of independent and impartial members appointed on the basis of their moral authority and recognised expertise in dealing with racism, xenophobia, antisemitism, and intolerance.

In the framework of its statutory activities, ECRI conducts country monitoring work, which analyses the situation in each of the member States of the Council of Europe regarding racism and intolerance and draws up suggestions and proposals for dealing with the problems identified.

ECRI’s country monitoring deals with all member States on an equal footing. The work takes place in 5-year cycles. The reports of the first round were completed at the end of 1998, those of the second round at the end of 2002, those of the third round at the end of 2007, those of the fourth round in the beginning of 2014, and those of the fifth round at the end of 2019. Work on the sixth round reports started at the end of 2018.

The working methods for the preparation of the reports involve documentary analyses, a visit to the country concerned, and then a confidential dialogue with the national authorities.

ECRI’s reports are not the result of inquiries or testimonial evidence. They are analyses based on information gathered from a wide variety of sources. Documentary studies are based on a large number of national and international written sources. The in situ visit provides the opportunity to meet with the parties directly concerned (both governmental and non-governmental) with a view to gathering detailed information. The process of confidential dialogue with the national authorities allows the latter to provide, if they consider it necessary, comments on the draft report, with a view to correcting any possible factual errors which the report might contain. At the end of the dialogue, the national authorities may request, if they so wish, that their viewpoints be appended to the final ECRI report.

The sixth round country reports focus on three topics common to all member States: (1) Effective equality and access to rights, (2) Hate speech and hate-motivated violence, and (3) Integration and inclusion, as well as a number of topics specific to each one of them.

In the framework of the sixth cycle, priority implementation is requested again for two specific recommendations chosen from those made in the report. A process of interim follow-up for these two recommendations will be conducted by ECRI no later than two years following the publication of this report.

The following report was drawn up by ECRI under its own responsibility. Unless otherwise indicated, it covers the situation up to 9 December 2021; as a rule, developments since that date are neither covered in the following analysis nor taken into account in the conclusions and proposals therein.

Since the adoption of ECRI's fifth report on Denmark on 23 March 2017, progress has been made and good practices have been developed in a number of fields.

ECRI welcomes positive developments as regards LGBTI equality. Based on 2019 data, Denmark performs better than the OECD average concerning laws addressing challenges faced by same-sex couples. On the Rainbow Europe Map 2020, Denmark has one of the highest scores and is ranked 5th among 49 countries surveyed, with an overall score of 68%. ECRI is pleased to note that in 2020 the Danish Government proposed legislative amendments to improve the respect of human rights of LGBTI people in different policy areas, divided into three focus areas, namely work against discrimination, hate speech and hate crime; family law; and legal gender recognition. The amendments were presented to the Danish Parliament in the autumn of 2021.

There has also been welcome action and plans drawn up to prevent hate speech. A political agreement was reached within the Government that took office in 2019 to establish a so-called digital unit to detect and prevent crimes perpetrated with the use of the Internet. The initiative, which forms part of a multi-year agreement for the police and the prosecution service to cover the years 2021-2023, is meant to also address online hate speech.

Danish civil society also provides examples of good practice against hate speech. Such an example is the code of conduct adopted by the Danish Football Union (DBU). This code, among other addresses racist or discriminatory statements by players or fans.

Moreover, in 2017-2018 a programme to prevent hate crimes in schools was implemented in a state school, using different tools to strengthen democratic skills such as tolerance, critical thinking, dialogue and reflection in order to prevent polarisation, prejudices, violent behaviour and hate crimes. Several projects directed at mobilising young voices in the prevention of online radicalisation and hate speech have received funding in 2017-2019 as part of the National Action Plan for Preventing and Countering Extremism and Radicalisation.

As a confidence-building measure aimed at encouraging the reporting of hate speech and

hate crimes against Muslims, the police have been conducting information meetings with Muslim communities and awareness-raising visits to a number of asylum-seeker reception centres. To this end, they have also maintained a dialogue with the Muslim Council of Denmark and visited mosques. ECRI further welcomes the publication in January 2022 of a national action plan against antisemitism.

ECRI is pleased to note that free Danish language lessons are offered to all immigrants and foreigners. In addition to language lessons, lessons on culture, labour market and Danish social conditions are also offered.

Some Danish municipalities have in 2021, in order to boost vaccine uptake against Covid-19 in the immigrant community as well, started to offer vaccinations in a number of easily accessible public places, without the requirement of advance registration, which could otherwise constitute an administrative hurdle for some less computer savvy or linguistically confident immigrants.

Since 2019 special support is provided to Greenlandic students in Denmark proper, in the form of intensive training in Danish language and culture.

ECRI welcomes these positive developments in Denmark. However, despite the progress achieved, some issues give rise to concern.

There are still some shortcomings in the mandate of the Board of Equal Treatment, measured against the standards provided by ECRI's General Policy Recommendation No. 2 on Equality Bodies to combat racism and intolerance at national level. Thus, the Board cannot oblige parties to disclose material, produce documents, give their opinion, or reveal the factual circumstances of a case in order to elucidate a case.

As concerns inclusive education, there are no overriding structural arrangements for ensuring human rights training for teachers, which in practice has resulted in a rather weak coverage of human rights in schools.

As regards hate speech, ECRI regrets to note that Muslims in Denmark, including guest workers and persons who have been granted asylum, are increasingly depicted, including by politicians of different political parties, as a threat to Danish values and culture. In the worst

manifestation of this trend, one political party has made it its main political platform to advocate the “cleansing” of Muslims and to threaten, scorn and insult Muslims and Black people in their own neighbourhoods, with almost no counter speech following from other politicians, and often under police protection provided in the name of freedom of expression.

As to the integration of migrants, a major concern of ECRI is what was described previously as the “ghetto” policy* pursued by the Danish authorities and which has a classification of migrants into “westerners” and “non-westerners”. According to this classification, “non-westerners” are people who do not originate in the European Union, the United States, Canada, Australia or New Zealand. The stated aim of this policy is to create a more even mix of “native Danes”, other EU nationals and “non-westerners” in all neighbourhoods in order to avoid the emergence of so-called parallel societies of “non-westerners”, which according to the authorities do not have much contact with the mainstream population and which score relatively low on certain defined scales measuring the levels of education, employment, income and crime rates in the neighbourhoods in question. However, the most decisive criterion is the share of “non-westerners” living in the neighbourhood. The neighbourhoods concerned are further divided into “vulnerable housing estates”, “parallel society” areas and “transformation” areas. This policy, which was extended in November 2021, though the official related terminology was changed at the same time, brings with it discrimination against persons with migration backgrounds in a number of areas, notably through targeted evictions from “parallel society” areas.

ECRI considers that the so-called “parallel society” policy is problematic in a number of respects, including that, in a stated attempt to boost employment among groups at risk of long-term unemployment, employment agencies in practice have access to information concerning whether an applicant is a “non-westerner”, which in reality may lead to further stigmatisation against “non-westerners” in the labour market.

As regards childcare and education, the Act on Social Housing contains a requirement for

children in the vulnerable (including “parallel society”) areas, who are at least one year of age, to attend mandatory day-care for 25 hours per week, unless their parents can ensure that they are adequately taught the Danish language. Non-compliance may result in the termination of child benefit payments, which parents in areas that are not considered as vulnerable are not at risk of.

In this report, ECRI requests that the authorities take action in a number of areas; in this context, it makes a series of recommendations, including the following.

ECRI recommends that the relevant legislation be amended to (i) give the Board of Equal Treatment the mandate to obtain evidence and information, including by means of an enforceable court order, as well as to address discrimination based on citizenship and religion, including outside the labour market, and (ii) explicitly prohibit segregation, discrimination by association, declared intention to discriminate and incitement or aid to discrimination.

The authorities should also develop a legal framework for cutting the funding of, and disbanding, racist organisations, including political parties.

ECRI recommends that the authorities introduce a national action plan against racism, with a particular emphasis on preventing anti-Muslim racism and discrimination. The action plan should take a holistic approach and include actions in, for example, the areas of education, public awareness, promotion of counter speech and the training of relevant professionals, such as law enforcement officials and teachers. Efforts to secure a proportion of staff from Muslim and other minority backgrounds in such professions should be among the elements of this action plan.**

In order to avoid forced evictions of families with a migration background for achieving the objectives of the so-called “parallel society” legislation as regards a more balanced composition between “non-westerners”, “native Danes” and other EU citizens in the so-called “parallel society” neighbourhoods, the authorities should introduce positive incentives for all population groups concerned in order to achieve the stated aim.**

* The terminology was changed when amendments to the Act on Social Housing were adopted in November 2021. As a result, “ghetto areas” are as of then formally called “parallel societies” and “hard ghettos” are called “transformation” areas. For more details, see paragraph 74.

** This recommendation will be subject to a process of interim follow-up by ECRI no later than two years after the publication of this report.

In the field of employment, the authorities should review their use of the STAR profiling tool to make sure that the categorisation of some jobseekers as “non-western” does not unintentionally result in stigmatisation of such applicants as being considered more difficult to employ than native Danes or other EU citizens with the same qualifications. They should take measures to prevent that employers make themselves guilty of any direct or indirect racial discrimination in their recruitment.

The authorities, and in particular law enforcement agencies, should pay particular attention not to use racial profiling in their work. In this context, the authorities should review the relevant current legislation to make sure that it is not, explicitly or in its practical application, discriminating against foreign members of a particular ethnic group.

FINDINGS AND RECOMMENDATIONS

I. EFFECTIVE EQUALITY AND ACCESS TO RIGHTS

A. Equality bodies¹

1. The legislation regulating the functioning of the Board of Equal Treatment remains as described in ECRI's fifth report on Denmark.² Thus ECRI's fifth report recommendation to amend the Act on Ethnic Equal Treatment to include (i) colour, language, religion and citizenship as enumerated grounds; and (ii) a prohibition of acts of segregation, discrimination by association, announced intention to discriminate and inciting or aiding another to discriminate, has not been implemented and is still valid. Nonetheless, as noted in the fifth report, the Board interprets its mandate broadly and in practice also adjudicates cases of alleged discrimination on the grounds of language and of skin colour both inside and outside the employment market,³ a practice which ECRI welcomes. However, the Board still does not act in cases of discrimination based on religion outside the labour market. While Denmark does not formally register ethnic origin, the Board may address alleged discrimination on this ground based on information from the applicant.⁴
2. The Board of Equal Treatment cannot oblige parties to disclose material, produce documents, give their opinion, or reveal the factual circumstances of a case in order to elucidate a case.⁵ This is not in full conformity with § 21 of ECRI General Policy Recommendation (GPR) No. 2 on equality bodies to combat racism and intolerance at national level, according to which the equality bodies should apply for an enforceable court order or impose administrative fines if an individual or institution does not comply with the request for provision of evidence and information. The Board is not empowered to hear oral testimonies.⁶ Nonetheless, evidence can be submitted in the form of audio recordings, video clips or text messages, which ECRI welcomes as a pragmatic and modern approach.
3. ECRI recommends that the Danish authorities amend the relevant legislation to (i) give the Board of Equal Treatment the mandate to obtain evidence and information, including by means of an enforceable court order, as well as to address discrimination based on citizenship or, outside the labour market, religion, and to (ii) explicitly prohibit segregation, discrimination by association, declared intention to discriminate and incitement or aid to discrimination.
4. In line with § 36 of GPR No. 2, the Board is consulted when new legislation of relevance to the Board's mandate is being drafted, which occurs about five times a year on average. As a rule, those drafting the legislation adhere to the opinions of the Board.
5. In 2020, the Board received 630 complaints, whereas the number was 363 in 2019, 341 in 2018 and 297 in 2017. The much higher number in 2020 can partly be explained by the fact that 222 of the complaints related to the same issue, namely the planned eviction from, and demolition of, flats inhabited by "non-westerners" in

¹ The term "national specialised bodies" was updated to "equality bodies" in the revised version of GPR No. 2 which was published on 27 February 2018.

² Paragraphs 14 and 15.

³ By way of illustration, a mother complained that a child expert's statement included information about the mother's place of birth, language and upbringing but the Board did not find evidence of any resulting discrimination (<https://www.retsinformation.dk/eli/accn/W20191016225>).

⁴ For further details, see <https://www.retsinformation.dk/eli/accn/W20190962025>.

⁵ If parties do not collaborate to disclose material, produce documents, give their opinion, or reveal the factual circumstances of a case in order to elucidate it, the Board will make its decision based on the available material and documents.

⁶ EU Commission, European network of legal experts in gender equality and non-discrimination, Denmark country report on non-discrimination, (2020), p.89

“parallel society”⁷ or “transformation” areas (see paragraphs 71-81). Before acting on these complaints, the Board has to wait for the decisions from ongoing cases about the same matter from the civil courts. As regards other cases in 2020, many related to disability due to a change in the law. By way of example concerning discrimination grounds under ECRI’s mandate, the Board in 2020 decided in 68 cases about “race” and ethnic origin. In 18 of these cases, the Board found in favour of the complainant and awarded compensation. Typical cases concern alleged discrimination in access to nightclubs and the compensation in such cases usually amounts to between 5 000 and 10 000 DKK (€ 670 to 1 340). The Board’s decisions may not be appealed to another administrative authority but may be brought to civil courts. By and large the decisions of the Board are respected, but as of June 2021, there were some 30 decisions waiting to be enforced in civil courts, a process in which the Board supports the applicants free of charge. Some 5-10% of all Board decisions are left unimplemented.

6. Victims of discrimination can be awarded compensation for non-pecuniary damages directly by the Board. The level of compensation for discrimination in the labour market seems effective, proportionate, and dissuasive. By contrast, outside the labour market context the sanctions seem to be too mild to be considered as adequate.⁸ This was highlighted by the United Nations Committee on the Elimination of Racial Discrimination (CERD) in an opinion issued in December 2018, concerning a case of discrimination on the grounds of “race” and ethnic origin, which was previously dealt with by the Equal Treatment Board.⁹
7. Contrary to what is provided by § 27 of GPR No. 2, the Board does not decide independently on its internal structure, management of its budget, or recruitment and deployment of staff. The Head of the Board is appointed on the recommendation of the courts. The other members are nominated by three different ministries¹⁰ and the nominations need to be approved by the Minister of Employment, who also determines the rules of procedure of the Board. The National Board of Appeal employs the case officers in the Board’s Secretariat. The financial framework is determined in the Finance Act. In 2020, the expenses for the Board of Equal Treatment were around 6 750 000 DKK (approximately € 900 000). The expenses covered the treatment of approximately 300 complaints.
8. ECRI recommends that the Danish authorities amend the relevant legislation in order to strengthen the independence of the Board of Equal Treatment, notably by giving it the authority to manage its own budget, the amount of which should be reviewed to ensure sufficient means for the effective functioning of the Board, as well as by ensuring that the members of the Board are elected fully in line with ECRI’s standards on Equality Bodies, in addition to which the Board should be allowed to freely decide on the recruitment and deployment of its staff.
9. The *Danish Institute for Human Rights (DIHR)* is a multi-mandate institution, which through its equality mandate promotes equal treatment of all persons without discrimination on grounds of gender, “race” or ethnic origin. Although the Act on the Institute for Human Rights only covers three grounds of discrimination, the

⁷ The terminology was changed when amendments to the Act on Social Housing were adopted in November 2021. As a result, the areas previously referred to as “ghetto” areas are since then formally called “parallel societies” and “hard ghettos” are called “transformation” areas. For more details, see paragraph 74.

⁸ EU Commission, European network of legal experts in gender equality and non-discrimination, Denmark country report on non-discrimination, (2020), p.89.

⁹ In this 2010 case, the Board assessed that the applicant had been discriminated against due to race or ethnic origin in connection with a municipality’s refusal to grant cash assistance. The Board awarded 2 000 DKK (about 270 Euros) as compensation, emphasising that the municipality corrected the error, granted cash benefits and apologised for the error to the applicant. The applicant brought the issue of insufficient compensation to court. The courts upheld the Equal Treatment Board’s decision. Board of Equal Treatment, Annual report 2019, available in Danish, p.31

¹⁰ Three nominated by the Minister of Employment, three nominated by the Minister of Gender Equality and three nominated by the Minister of Immigration and Integration.

DIHR declares on its website that the principle of equal treatment and non-discrimination is a cornerstone of human rights advocacy and that it frequently in its work applies a horizontal perspective, meaning that it addresses all grounds for discrimination in any domain, taking into account gender, age, disability, sexual orientation, religion and faith, ethnicity and “race”.¹¹ The DIHR can take up cases about discrimination on its own initiative or, since 2016, bring a discrimination complaint on behalf of an individual to the Board of Equal Treatment if the case is about a matter of principle or of general public interest. Since 2016, DIHR has filed five discrimination complaints on matters of principle,¹² three of which were linked to discrimination based on ethnicity.

10. The DIHR also has the possibility to intervene as a third party in litigation cases, as manifested by its proactive role as a third party in support of the plaintiffs in a litigation concerning evictions of “non-westerners” in the Mjølnerparken, a neighbourhood of Copenhagen.
11. As regards its budget, in 2020, DIHR received 128 000 000 DKK (approximately € 17 000 000) in total funding, of which approximately 11 000 000 DKK (approximately € 1 500 000) was allocated to the Institute’s work on equal treatment. Regarding its budget, DIHR is technically accountable to the Ministry of Finance. ECRI is pleased to note that as of 14 May 2021, the mandate of the DIHR covers Greenland as well, although the extension of the DIHR mandate did not come with an increased budget, except that in 2021 DIHR was awarded a one-off lump sum of 14 000 000 DKK (about € 1.9 million) in extra funding, explicitly earmarked for Greenland. The DIHR has established an office in Nuuk and co-operates with the Human Rights Council of Greenland.¹³ The mandate of the DIHR does not extend to the Faroe Islands, the other self-governed part of the Kingdom of Denmark.

B. Inclusive education

12. ECRI’s GPR No. 10 on combating racism and racial discrimination in and through school education calls for human rights education to be an integral part of the school curriculum at all levels and across all disciplines, from nursery school onwards. In this connection, the Danish authorities informed ECRI that human rights education is a mandatory part of the basic education of all children in Denmark. The preamble to the Act on Danish primary and lower secondary schools states Denmark’s commitment to including human rights education in primary and lower secondary education. The preamble states that these schools “shall prepare the pupils for participation; rights and duties in a society based on freedom and democracy. The teaching of the school and its daily life must therefore build on intellectual freedom, equality and democracy”.¹⁴ However, in practice individual schools enjoy very large freedom to decide about their curriculum and teachers only need to possess basic knowledge of human rights conventions.
13. Contrary to the provisions of GPR No. 10 (Chapter III, § 5 in particular), there are no overriding structural arrangements for ensuring human rights training for teachers, which in practice has resulted in a rather weak coverage of human rights in schools. This has been confirmed by several studies and reports. For instance, according to a 2020 study carried out by the DIHR and UNICEF, not only are children and young people unaware of human rights issues, but some are also

¹¹ <https://www.humanrights.dk/about-us/mandate> Furthermore, the Danish Parliament has requested the DIHR to promote and monitor the implementation of the United Nations Convention on the Rights of Persons with Disabilities (CRPD).

¹² EU Commission, European network of legal experts in gender equality and non-discrimination, Denmark country report on non-discrimination, (2020), p. 79

¹³ [Forside - Rådet For Menneskerettigheder \(humanrights.gl\)](https://www.humanrights.dk/forside)

¹⁴ Danish Institute for Human Rights (2013), Mapping of Human Rights Education in Danish Schools, abstract and p. 5.

reluctant to support particular human rights.¹⁵ The studies suggested that there was a strong link between gaps and inconsistencies in delivering human rights education in schools and shortcomings in teacher training programmes.

14. ECRI recommends, in line with its General Policy Recommendation No. 10 on combating racism and racial discrimination in and through school education, that teachers in Danish schools be provided with initial and ongoing training in issues relating to human rights, including the prohibition of discrimination, which should cover, inter alia, international and European standards, in addition to which teachers should be encouraged to use teaching materials specifically intended for teaching human rights, including the right to equality.
15. A 2018-2021 National Action Plan for the promotion of security, well-being, and equal opportunities for LGBTI persons, focused on combating bullying and violence and prejudice in the education system.¹⁶ LGBTI guidance materials, including for teachers, have recently been developed and published by the LGBTI entity of the Gender Quality Department of the Ministry of Employment. ECRI encourages the authorities to take further action at national level for the period 2022-2025.
16. In its fifth report, as a priority recommendation, ECRI called on the authorities to take urgent measures to end ethnic segregation in the Langkaer Gymnasium¹⁷ in Aarhus and prevent any such practices in Danish schools in the future. Following a complaint by the DIHR to the Board of Equal Treatment in this matter of principle, a friendly settlement ensued, which included a public statement in which the school undertook to refrain from using names as a criterion when creating school classes in the future. ECRI considered its priority recommendation as having been fully implemented.
17. The so-called “parallel society”¹⁸ legislative package (see paragraphs 79-81) has several provisions that impact inclusive education. It has introduced new provisions pertaining to primary schools with a high percentage of pupils from “vulnerable areas”. These schools have a mandatory language test that decides whether each pupil can proceed to the next grade.¹⁹ There is further a requirement for children in the “vulnerable”, including “parallel society” areas, who are at least one year of age, to attend mandatory day-care for 25 hours per week. Parents can apply for permission to instead care for their children at home if they can provide for their children’s language development in Danish.
18. If a child attending school in a “parallel society” area reaches an absence rate of 15 % or more, this may lead to a reduction of, or complete end to, the family’s child benefits (see also paragraph 99).²⁰ Such absences are often due to, as explained to ECRI by the management of one school, longer visits by families with an immigrant background to their countries of origin. This runs counter to ECRI’s approach of stressing incentives to promote integration, while avoiding the threat of withdrawal of social benefits as a sanction.²¹

¹⁵ Danish Institute for Human Rights (2020), Human Rights in Denmark 2020, Annual Report to the Danish Parliament, p. 31. Furthermore, the 2017 concluding observations on Denmark by the Committee on the Rights of the Child, refer to a possible weakening of the status of human rights education in schools in Denmark.

¹⁶ Ministry of Foreign Affairs, Denmark (2019, Comprehensive national review report, Beijing 25+, p. 12. and Ministry of Foreign Affairs of Denmark (2018), Action plan to promote security, well-being and equal opportunities for LGBTI people, 2018-2021.

¹⁷ Upper secondary school.

¹⁸ See paragraph 74 as regards legal terminology issues.

¹⁹ 2020 Selected List of Themes on ICERD by the Danish Institute for Human Rights, page 6.

²⁰ This policy stems from a government decision, based on a political agreement in 2018, to strengthen efforts against “parallel societies”. C.f. CERD/C/DNK/22-24, paragraph 211.

²¹ Cf. ECRI (2012): § 134.

19. GPR No. 10 (Chapter I, § 1) calls for studies to be made on the situation of children from minority groups in the school system, by compiling statistics on: attendance and completion rates; drop-out rates; results achieved, and progress made. The result of some such surveys conducted suggest that among the main difficulties pupils and students from minority groups face are prejudice and low expectations.²²
20. ECRI recommends that the Danish authorities carry out regular surveys on the situation of children from minority groups in the school system, especially in so-called “parallel society” areas with a large proportion of “non-western” children, as a basis for preparing, monitoring, and evaluating school policies aimed at continuously improving the situation in school of children from minority groups.
21. ECRI is pleased to note that all schools in Denmark are required to draw up an anti-bullying strategy that is accessible publicly. If parents or the school report bullying or similar cases, the school should also prepare a targeted action plan. Failure to prepare a strategy or, when required, an action plan, may result in sanctions regardless of whether the school is public, independent, or private.²³ ECRI considers the deployment of such strategies and action plans as a **good practice**.
22. At the same time, in the view of some pedagogic experts met by ECRI, there is a strong focus in Denmark on freedom of expression,²⁴ which may result in a lack of sufficient action against hate speech among pupils and students in schools. ECRI encourages the Danish authorities to strengthen the training of teachers and other educational professionals to address this matter.

C. Irregularly present migrants

23. In its GPR No. 16 on safeguarding irregularly present migrants from discrimination, ECRI calls for the creation of effective measures (“firewalls”) to ensure that the fundamental human rights of irregularly present migrants are respected in fields such as education, health care, housing, social security and assistance, labour protection and justice. Such “firewalls” should decouple the activities of state authorities that provide social services from immigration control and enforcement obligations to make sure that irregularly present migrants are not deterred from accessing their rights due to fear of deportation.
24. ECRI notes with concern that under the Aliens Act, Article 59 (8), intentionally and knowingly aiding an irregularly present migrant is illegal and can lead to up to two years in prison (contrary to §14 of GPR No.16).
25. There are no official data on irregularly present migrants in Denmark. However, in a 2019 study²⁵, based on police data on apprehensions for irregular work and stays, research²⁶ results show that there were about 26 000 irregularly present migrants in Denmark in 2018 and that the number was on the rise. In late 2020, the Danish Return Agency had about 1200 pending cases regarding rejected asylum seekers and about 900 cases regarding other migrants with an irregular status. Civil society representatives estimate that there were about 500 irregularly

²² In 2017, a survey was conducted concerning two schools in the Copenhagen area, namely the Tingbjerg and Brønshøj schools respectively. The former was at that time located in a so-called vulnerable area and was later classified as a “transformation” area (see definition in paragraph 80), whereas the Brønshøj is not considered a vulnerable neighbourhood.

²³ If the strategy or the action plan is not considered appropriate by custodians or students over 18, it is possible for them to complain. If the school does not wish to react, it is ultimately the National Appellate Body against Bullying (NKMM), which is part of the Danish Centre for Education Environment (DCUM), that will process the complaint. If the strategy or the action plan is considered inadequate, it is possible for DCUM to issue injunctions. If NKMM issues injunctions, the school must document its compliance with the injunctions and send it to NKMM. For public schools, it is possible to issue penalty payments to the municipal council if the school does not abide by the injunction. Similarly, for private schools it is possible to withhold grants. Both of these financial sanctions are considered a last resort.

²⁴ For example, the Mohammed caricatures feature in many schools’ teaching about freedom of expression.

²⁵ 2019 Flere illegale indvandrere i Danmark by the Rockwool Foundation.

²⁶ Rockwool Foundation.

present migrants in Copenhagen before the outbreak of Covid-19 and that the resourceful among them returned to their home countries after the outbreak, whereas weaker ones, including those with mental health issues, remained.

26. According to officials of the Ministry of Social Affairs and Senior Citizens, only those who are lawfully staying in Denmark are entitled to assistance under Section 2 in the Consolidation Act on Social Services. This applies to shelters, as well as “night cafés”. It is the manager of any shelter who is responsible for assessing if a person resides lawfully in Denmark and fulfils the requirements for temporary accommodation. Some shelters interpret lawful residence as having a Danish civil registration number.²⁷
27. Civil society actors who provide services to homeless people, some of whom are migrants in an irregular situation, reported that social workers do not have the right to ask about their residence status. That said, the service provider does inform them that only regularly present migrants are legally entitled to services, such as legal advice, help with job applications, as well as with temporary accommodation and subsistence.
28. The attention of ECRI was drawn to the fact that the applicable rules for such service providers remain unclear and breaches risk resulting in the loss of state funding for such services. In this context, ECRI notes with concern that contradictory instructions were at times given to shelters by different authorities, including during the Covid-19 pandemic. Some shelter representatives complained that the police at times come to the shelter for the apparent sole purpose of apprehending irregularly present migrants, which is in contradiction with § 13 of GPR No. 16. Such practices constitute a major disincentive for irregularly present migrants to access such shelters, for fear of arrest and possible deportation, with negative consequences for the individuals concerned, as well as for the wider public health and security situation.
29. The NGO Gadens jurister (Lawyers of the Street), which took over the tasks carried out by the then NGO Gadejuristen (Street Lawyers) in previous years, provides legal advice, including to undocumented homeless migrants. ECRI was informed that it received a small government grant for 2022.
30. According to various interlocutors met during the visit, access to health services is one of the main challenges facing irregularly present migrants. Sometimes shelters are approached by irregularly present migrant pregnant women. The shelters are obliged to refer such women as well as any children to municipal services, where they cannot receive support services anonymously. Irregularly present migrants too are entitled to emergency health care. However, for them, this does not include mental health problems. Non-residents in Denmark are in theory charged payment for emergency hospital treatment and any subsequent non-emergency hospital treatment received during their temporary stay in Denmark. In practice, nobody is denied emergency hospital treatment in the public healthcare system with reference to payment claims.
31. The Danish Red Cross operates fully privately funded health clinics for irregularly present migrants in Copenhagen, Aarhus, and Odense respectively.²⁸ These three clinics, which offer basic medical services to patients without CPR-numbers²⁹ are mainly staffed by volunteer health professionals. ECRI notes that the Red Cross is

²⁷ Known as CPR-number, which all Danish citizens possess, and which is also issued on application to, for instance, other EU citizens staying for more than three months in Denmark.

²⁸ The 2020 annual report for these clinics is available at <https://www.rodekors.dk/sites/rodekors.dk/files/2021-06/rsrapport%20%202020%20Sundhedsklinikken.pdf> (in Danish language).

²⁹ A CPR number is a personal civil registration number which, among other things, facilitates accurate linkage between all Danish national registers.

not obliged to report the names and other details of the irregularly present migrants it is treating at its clinics to the authorities.

32. In the field of employment, it is in practice not possible for irregularly present migrants to perform day labour without any work permits or control of residence status. In the absence of other ways of securing subsistence, irregularly present migrants reportedly remained involved in informal jobs such as food deliveries.
33. In the light of the above, ECRI recommends that the authorities set up “firewalls” formally prohibiting housing, social security and assistance providers from sharing data on the legal status of migrants with the immigration authorities and eliminate, including at legislative level where appropriate, the obstacles limiting migrants’ access to basic services, in particular in the fields of education, employment and health care, including psychiatric support.

D. LGBTI equality

34. As of 2018, Denmark is one of 15 countries of the Organisation for Economic Co-operation and Development (OECD) that have included in a nationally representative survey a question on self-identification as heterosexual, homosexual, or bisexual, and one of only three OECD countries that collect information on gender identity in such a survey. Based on 2019 data, Denmark performs better than the OECD average concerning laws addressing challenges faced by same-sex couples.³⁰ On the Rainbow Europe Map 2020, Denmark has one of the highest scores and is ranked 5th among 49 countries surveyed, with an overall score of 68%.³¹
35. The latest EU FRA survey indicates that the highest share of respondents who are very open about being LGBTI is found in Denmark (45 %). Denmark is one of the countries with the highest proportion of LGBTI respondents raising children with a partner. According to the survey, the share of respondents who felt discriminated against at work is one of the lowest (14%).³² However, despite these figures, research carried out in Denmark shows that a significant number of LGBTI people are still reluctant to be open at work regarding their sexual orientation or gender identity. They frequently experience discriminatory situations ranging from jokes and insults to harassment, non-promotion or being fired. Furthermore, victims tend not to report these cases. Transgender persons also indicate that they experience discrimination at higher rates and are even less likely to report such incidents.³³
36. According to a recent survey published in 2019,³⁴ LGBTI people scored significantly worse than the rest of the population on health and well-being, including self-rated health, anxiety, loneliness, suicidal thoughts, and attempts, than the general population. They also experienced more discrimination and violence.³⁵ Furthermore, 60% of transgender women and 63% of transgender men said that they have been bullied or harassed, and 42% of transgender women and 46% of transgender men indicated that they have experienced discrimination.³⁶ “Challenges and stigma in relation to having an LGBTI identity in Denmark”, published by the Ministry of Equality in July 2020, found that 58% of transgender

³⁰ OECD, Over the Rainbow? The road to LGBTI Inclusion (June 2020): <https://oe.cd/lgbti-2020>

³¹ <https://www.ilga-europe.org/rainboweurope/2020>

³² EU FRA, LGBTI Survey II: A long way to go for LGBTI equality, Country data- Denmark

³³ FRA Fundamental Rights report 2019, p.74

³⁴ The Danish SEXUS Survey gathered responses from 200,000 Danes between 2017 and 2018.

³⁵ ILGA Europe, Annual review of the human rights situation of LGBTI people in 2019, Country data- Denmark.

³⁶ TransAktion’s observations on the effect of the COVID-19 pandemic on the trans communities in Denmark, available: <https://www.ohchr.org/Documents/Issues/SexualOrientation/IESOGI-COVID-19/CSOs/TransAktion-Denmark.docx>

and 36% of intersex respondents experienced discrimination in the past 12 months. Half of the incidents took place in healthcare.³⁷

37. There was a National Action Plan for the years 2018-2021 adopted by the government to promote security, well-being, and equal opportunities for LGBTI people. According to the Danish authorities, the government is developing a national action plan for the promotion of security, well-being and equal opportunities for LGBTI people for the years 2022-2025.
38. Denmark depathologised transgender identities before the World Health Organisation (WHO) did. Transgender-specific health care is provided by three public sector clinics for adults and by one public sector clinic for children under 18 years of age. Such specific transgender healthcare is provided according to the "Guidelines on healthcare related to gender identity" that establishes the division of responsibilities between the health professionals involved in the treatment (whether with hormones or surgery). These guidelines provide that before any kind of transgender treatment can be offered to a patient, a multidisciplinary team must assess the need for such treatment.
39. Due to the Covid-19 pandemic, several interlocutors indicated to ECRI that many transgender people lost their jobs and that they were denied access to spaces and services due to their gender identity. Some were also reportedly harassed in public. While schools are required to have general anti-bullying action plans, these do not address LGBTI grounds explicitly.
40. ECRI is pleased to note that in 2020 the Danish Government proposed ten legislative amendments to improve the respect of human rights of LGBTI people in different policy areas, divided into three focus areas, namely work against discrimination, hate crime and hate speech; family law; and legal gender recognition.
41. In the first focus area, amendments were adopted on 21 December 2021 and entered into force on 1 January 2022, thereby strengthening the protection against discrimination on the grounds of sexual orientation outside the labour market³⁸ and introducing an explicit ban on discrimination of transgender and intersex persons both inside³⁹ and outside⁴⁰ the labour market, and explicit protection of transgender and intersex people against hate speech and hate crime (see, in this connection, paragraph 55).
42. In the second focus area, the aim is to make it easier to change first names to match the gender identity⁴¹ and to make it possible for transgender persons to become parents according to their legal gender.⁴²
43. In the third focus area, the proposed amendments aim to give children under 18 the option to change their legal gender;⁴³ to make it possible for intersex persons as well as persons, including children, who identify as neither male nor female (fluid

³⁷ ILGA Europe, Annual review of the human rights situation of LGBTI people in 2021, Country data- Denmark.

³⁸ The protection is strengthened in a new independent chapter in the Gender Equality Act.

³⁹ The explicit ban is enacted by inserting gender identity, gender expression and sex characteristics into the Discriminations Act as illegal grounds of discrimination.

⁴⁰ The explicit ban is enacted by inserting gender identity, gender expression and sex characteristics as grounds of discrimination in a new chapter in the Gender Equality Act.

⁴¹ The change is to be made by amending the Act on Names.

⁴² The change is to be made by amending the Act on Children.

⁴³ For children under 15 years of age only with the agreement of their parents or guardian. The change was to be made by amending the Civil Registration System Act.

gender identity) to have X as a gender marker in their passports;⁴⁴ and finally to abolish the six-month reflection period related to legal gender change for adults.⁴⁵

44. As regards the asylum process for LGBTI asylum seekers, some civil society actors met by ECRI are of the opinion that the asylum interviews are increasingly conducted in a more considerate manner, with less strict requirements for evidence of sexual orientation. Nonetheless, the same interlocutors are alarmed about the government's plans to externalise the asylum process in the sense that asylum seekers would have to wait in third, non-European, countries, while their asylum claims are being examined, thereby putting them at risk of (further) abuse on the grounds of their sexual orientation and/or gender identity.⁴⁶ Another concern the NGOs met by ECRI expressed is that asylum seekers in Denmark at present tend to be placed in geographical locations, often smaller towns, where there is often already a larger community from the same country, though the Danish authorities emphasise that citizenship is not a criterion when deciding where to accommodate asylum seekers. ECRI's interlocutors explained that LGBTI asylum seekers would need to be placed in, or close to, large cities such as Copenhagen and Aarhus, where there are LGBTI support networks. ECRI encourages the Danish authorities to pay increased attention to the safety of persons seeking asylum in Denmark on the grounds of their sexual orientation, gender identity or sex characteristics and their access to basic services whilst their asylum claims are being processed.

II. HATE SPEECH AND MOTIVATED VIOLENCE

A. Hate speech^{47 48}

45. For 2019 the Danish National Police reported 100 hate speech offences whereas the number was 68 in 2018, 48 in 2017 and 56 in 2016.⁴⁹
46. According to the 2020 alternative report to CERD, Muslims in Denmark, including guest workers and people granted asylum, are increasingly depicted as a threat to Danish values and culture. While racism based on people's skin colour or physical appearance reportedly is not considered as acceptable by most people in Denmark, it has become relatively common for people to speak negatively about Muslim religion and culture.⁵⁰ At the same time, the 2019 EU Fundamental Rights Report shows that based on a survey, nearly one third of people of African descent have experienced harassment in the five years before the survey,⁵¹ with another FRA survey from 2018 putting the proportion of such harassment in Denmark as high as 41 %.⁵²

⁴⁴ The change is to be made by amending the Passport Order.

⁴⁵ The change is to be made by amending the Civil Registration System Act.

⁴⁶ In preparation of such externalisation of the asylum process, a framework provision was already inserted into the Aliens Act in June 2021, allowing both the processing of asylum claims and, if relevant, protection of the applicants in a third country. More details about the new legal provision are available here: [Denmark's Legislation on Extraterritorial Asylum in Light of International and EU Law – EU Immigration and Asylum Law and Policy \(eumigrationlawblog.eu\)](https://eumigrationlawblog.eu/denmarks-legislation-on-extraterritorial-asylum-in-light-of-international-and-eu-law-eu-immigration-and-asylum-law-and-policy/)

⁴⁷ According to ECRI's GPR No. 15 on combating Hate Speech, "hate speech" shall mean the advocacy, promotion or incitement, in any form, of the denigration, hatred or vilification of a person or group of persons, as well as any harassment, insult, negative stereotyping, stigmatization or threat in respect of such a person or group of persons and the justification of all the preceding types of expression, on the ground of "race", colour, descent, national or ethnic origin, age, disability, language, religion or belief, sex, gender, gender identity, sexual orientation and other personal characteristics or status.

⁴⁸ In the present report, hate crime should be understood as any criminal offence motivated by hate or prejudice on grounds such as "race", colour, language, religion, citizenship, national or ethnic origin, sexual orientation or gender identity, whether real or presumed. For further information about the notion of hate crime, see <http://hatecrime.osce.org/what-hate-crime>.

⁴⁹ Denmark's Government reply to ECRI's 2021 6th questionnaire, page 11.

⁵⁰ 2020 Alternative report to CERD, page 22.

⁵¹ FRA Fundamental Rights Report 2019, page 89, available at: [Fundamental Rights Report 2019 | European Union Agency for Fundamental Rights \(europa.eu\)](https://fra.europa.eu/fra-press/fundamental-rights-report-2019)

⁵² FRA, [Being Black in the EU](https://fra.europa.eu/fra-press/being-black-in-the-eu), page 15.

47. As regards concrete examples of hate speech perpetrated in the reference period of the present report, mention should be made of the leader of the extreme right-wing party Hard Line (Stram kurs), who reportedly advocates the ethnic “cleansing” of Muslims and threatens, scorns, and insults Muslims and Black people in their own neighbourhoods, while he in the name of freedom of expression enjoys police protection.⁵³ ECRI notes in this regard that the Hard Line party is entitled to significant public financial support and recalls its GPR No. 15 on combating hate speech, in particular its § 9, which recommends to withdraw all financial and other forms of support by public bodies from political parties and other organisations that use hate speech or fail to sanction its use by their members and provide, while respecting the right to freedom of association, for the possibility of prohibiting or dissolving such organisations regardless of whether they receive any form of support from public bodies where their use of hate speech is intended or can reasonably be expected to incite acts of violence, intimidation, hostility or discrimination against those targeted by it.
48. In 2019, the Eastern High Court considered discriminatory video statements by the leader of the Hard Line extreme-right-wing party, recorded in front of the residence of an activist of African descent. The court found that these were not protected by freedom of speech.⁵⁴ It concluded that the statements were not part of an objective political debate, because of their character and where they were expressed. Consequently, the party leader was convicted to a short imprisonment term.⁵⁵
49. The DIHR carried out a survey through social media in 2020 to assess the degree of hate speech minorities have fallen victims of as a result of the Covid-19 pandemic. The minorities for the purpose of the study were defined as LGBTI persons, ethnic minorities and persons adopted from abroad, as well as those with disabilities who have faced hatred or violence as a result of their ethnicity, skin colour, disability, sexual orientation, gender identity or expression and sex characteristics. The resulting report concluded that persons belonging to minorities, including people with Asian backgrounds, have been particularly exposed to hatred during the Covid-19 pandemic.⁵⁶
50. According to another report, there was an increase in anti-LGBTI rhetoric during the Covid-19 pandemic, including by extremist groups on social media.⁵⁷
51. The DIHR has called for the adoption of a national action plan against racism, in particular to monitor hate speech in political discourse and the negative portrayal of persons belonging to minorities and migrants in the media.⁵⁸ Interlocutors from civil society also continue to report their longstanding concerns regarding increasingly widespread hate speech in political discourse, in particular towards Muslims and refugees, and regret the lack of a comprehensive anti-racism strategy at national level. They also underline the need to combat hate speech in social media.⁵⁹
52. There is a political agreement within the current Government to establish a so-called digital unit to detect and prevent crimes perpetrated with the use of the

⁵³ 2020 Alternative report to CERD, page 4.

⁵⁴ FRA Fundamental Rights Report 2020, page 65, available at: [Fundamental Rights Report 2020 | European Union Agency for Fundamental Rights \(europa.eu\)](https://fra.europa.eu/fra/sites/default/files/fra-2020-fundamental-rights-report-2020.pdf)

⁵⁵ In this connection, it should be mentioned that leading activists of the Danish chapter of Black Lives Matter (BLM) have indeed been targeted and indirectly threatened by the leader of the Hard Line Party as he at least four times demonstrated outside one activist’s home, whose private address was filmed and placed in the public domain. While carrying out his action outside the private residence, he was protected by a large number of police officers. In contrast, the BLM activist targeted by this action was apparently not offered any police protection.

⁵⁶ [Had i det offentlige rum under COVID-19-epidemien – en analyse af minoriteters oplevelser | Institut for Menneskerettigheder](https://www.institutforrettigheder.dk/rapporter/had-i-det-offentlige-rum-under-covid-19-epidemien-en-analyse-af-minoriteters-oplevelser/)

⁵⁷ ILGA Europe, Annual review of the human rights situation of LGBTI people in 2021, Country data- Denmark.

⁵⁸ FCAC report 2019, paragraph 6.

⁵⁹ FCAC, report 2019, paragraph 69.

Internet. The initiative, which ECRI encourages and which forms part of a multi-year agreement for the police and the prosecution service to cover the years 2021-2023, is meant to also address online hate speech.

53. In 2017-2018 a programme to prevent hate crimes in schools was implemented in a state school, using different tools to strengthen democratic skills such as tolerance, critical thinking, dialogue, reflection, in order to prevent polarisation, prejudices, violent behaviour and hate crimes. Several projects directed at mobilising young voices in the prevention of online radicalisation and hate speech have received funding in 2017-2019 as part of the National Action Plan for Preventing and Countering Extremism and Radicalisation".⁶⁰ ECRI considers this programme and these projects as examples of **good practice**.
54. To apply Section 266 b of the Criminal Code, which provides sanctions for hate speech, it is a condition that the offending statement or communication was issued publicly or with the intention of wider dissemination, which in practice means that law enforcement officials, for example, need to establish how many people had access to statements made by Facebook users. The Director of Public Prosecutions has issued guidance in this regard.⁶¹
55. Following amendments to the Criminal Code adopted in November 2021, the terms gender expression, gender identity and sex characteristics are now included in the Criminal Code.⁶² As a result, it is considered an aggravating circumstance if a crime, such as an assault or threat, is motivated by the fact that the victim is transgender or intersex. Furthermore, verbal statements which threaten, insult or degrade someone on the grounds of being transgender or intersex, have thus been criminalised. The above terms were also added to the Racial Discrimination Act, following which complaints regarding discrimination based on gender expression, gender identity or sex characteristics are now processed as criminal offences.
56. ECRI welcomes the fact that the Danish Football Union (DBU) has, in line with § 6 of GPR No. 15, developed a code of conduct,⁶³ which among many issues addresses racist or discriminatory statements by players or fans.⁶⁴ Discriminatory or racist statements may lead to sanctions imposed by the DBU's disciplinary body, which in 2020 increased its membership in order to shorten the case processing times. An example of this **good practice** was when in 2019 two football clubs were sanctioned for abusive language following homophobic chanting by their fans. In addition, the disciplinary regulations and the Danish Super League's own regulations also apply to spectators. Furthermore, Section 266 b of the Danish Criminal Code can be applied in cases concerning hateful spectator chanting during football matches.
57. ECRI's GPR No. 15, in its § 4, calls on governments to undertake a vigorous approach not only to raising public awareness of the importance of respecting pluralism and of the dangers posed by hate speech but also to demonstrate both the falsity of the foundations on which it is based and its unacceptability, so as to discourage and prevent the use of such speech, and accordingly, amongst other things, combat misinformation, negative stereotyping and stigmatisation. ECRI regrets that the Danish authorities fell short of implementing such measures. There is a lack of counter-speech by politicians and authorities against other politicians whose main political activity seems to be the spreading of racist hate speech, often under police protection in the name of freedom of expression.

⁶⁰ UN UPR 2021: 15, § 125.

⁶¹ Available at [Anklagemyndighedens Vidensbase](#).

⁶² See Section 266 b regarding hate speech and Section 81 (6) regarding hate crime. The legislative proposal implementing this amendment was adopted 21 December 2021 and entered into force on 1 January 2022.

⁶³ Available at : <https://www.dbu.dk/media/14973/dbu-adfaerdskodeks-2020.pdf>

⁶⁴ See in particular Article 2.10.1. of the Code of Conduct.

58. ECRI recommends that a legal framework be developed for cutting the funding of and disbanding racist organisations, including political parties where applicable, as recommended in §§ 16, 17 and 18 g of ECRI's GPR No. 7 on national legislation to combat racism and racial discrimination and § 9 of GPR No. 15 on combating hate speech.
59. As regards expressions of antisemitism in Denmark, there were 51 reported crimes with an antisemitic motivation recorded by the Danish National Police in 2019. The corresponding number was 26 in 2018 and 38 in 2017.⁶⁵ According to a FRA 2018 survey, about half of the Jews in Denmark avoid certain neighbourhoods at least at times because they do not feel safe there as Jews, and the number of them who at least occasionally avoid wearing items that could identify them as Jewish, is as high as 80%.⁶⁶ At the same time, Danish respondents display the highest degree of comfort in the EU with having a Jewish person as a neighbour.⁶⁷
60. The representatives of the Jewish community in Denmark⁶⁸ met by ECRI were full of praise for the support and protection offered to the community by the Danish Government and the authorities in general. When asked about the main perpetrators of hate speech or hate crimes against Jews in Denmark, the community representatives referred to religious or political extremists on the left and right of the political spectrum. ECRI welcomes the fact that, a national action plan against antisemitism was published by the government on 25 January 2022.
61. A large number of interlocutors met by ECRI's delegation agreed that the main group falling victims of hate speech in Denmark are Muslims. However, the government has so far not yet made public any particular remedies in this regard. ECRI notes that a number of civil society actors and opposition parliamentarians have called for an action plan against all forms of racism, which the government considered unnecessary, arguing that action against racism can and is taken even in the absence of a formal plan.⁶⁹ The Prime Minister herself was reported to have been dismissive of action against anti-Muslim and other racist abuse.⁷⁰
62. ECRI recommends that political leaders on all sides, in particular those in government and in line with § 4 of ECRI's General Policy Recommendation No. 15 on combating hate speech, take a firm and public stance against the expression of racist hate speech and react to any such expression with a strong counter-hate speech message. All political parties in the country should adopt codes of conduct that prohibit the use of racist and other forms of hate speech and call on their members and followers to abstain from using it.
63. ECRI recommends as a matter of priority that the Danish authorities introduce a national action plan against racism, with a particular emphasis on preventing anti-Muslim racism and discrimination. The action plan should take a holistic approach and include actions in, for example, the areas of education, public awareness, promotion of counter speech and the training of relevant professionals, such as law enforcement officials and teachers. Efforts to secure a proportion of staff from Muslim and other minority backgrounds in such professions should be among the elements of this action plan.

⁶⁵ FRA report "Antisemitism: Overview of antisemitic incidents recorded in the European Union 2009-2019, pages 38-39, available at: [Experiences and perceptions of antisemitism - Second survey on discrimination and hate crime against Jews in the EU | European Union Agency for Fundamental Rights \(europa.eu\)](#)

⁶⁶ [Experiences and perceptions of antisemitism - Second survey on discrimination and hate crime against Jews in the EU, pages 36-37.](#)

⁶⁷ FRA report "Antisemitism: Overview of antisemitic incidents recorded in the European Union 2009-2019, pages 38-39, available at: [Experiences and perceptions of antisemitism - Second survey on discrimination and hate crime against Jews in the EU | European Union Agency for Fundamental Rights \(europa.eu\)](#), page 5.

⁶⁸ [About The Jewish Community in Denmark - Mosaiske](#) .

⁶⁹ Daily paper Politiken 29 May 2021, page 10.

⁷⁰ <https://ekstrabladet.dk/nyheder/politik/danskpolitik/efter-overfald-paa-muslimsk-kvinde-mette-f.-skal-tage-afstand/8476159>.

B. Hate-motivated violence

64. In 2019, the Danish Police recorded 469 hate crimes, whereas the number was 449 in 2018 and 446⁷¹ In 2017. By way of example, the 2019 statistics show 312 incidents classified as motivated by racism and xenophobia, 51 motivated by antisemitism, 109 by bias against Muslims, 8 by bias against Christians, 12 by bias against other religions or beliefs, and 76 by bias against sexual orientation or gender identity.
65. The Ministry of Justice annually publishes results of surveys on the population's perception of being victims of violence. The latest victims' report, displaying results from 2018, showed that 7 % of victims of violence believe that the violence against them in all certainty was motivated by racism. That translates into between 3 600 and 5 000 persons between the age of 16 and 74 years old who annually experience racially motivated violence. This number differs significantly from the 449 cases registered by the police as hate crimes, out of which 372 were motivated by racism and intolerance (including on the ground of religion). From 2020, the victimisation surveys have been more comprehensive in relation to hate crimes. A question about a possible hate motive was included in sections on vandalism and crimes committed online, while religion was added to the list of possible bias motives.⁷²
66. The police and prosecuting services are currently in the process of developing new information materials aimed at victims of hate crimes (including hate speech of a criminal nature) as well as information materials aimed at key stakeholders (such as the Muslim Council, the Jewish community in Denmark, and the National Association of LGBT persons in Denmark). The purpose of this information material, the development of which ECRI encourages, is to inform potential hate crime victims about what constitutes hate crimes or hate speech in a judicial sense, in order to increase the reporting of these offences. The Danish National Police will include the NGO LGBT+ Denmark in developing information material encouraging LGBTI persons to report crimes.
67. That being said, according to civil society interlocutors met by ECRI, police officers and prosecutors are not sufficiently trained in identifying and registering the hate motivations of hate crimes, including hate speech, and also display a certain reluctance to spend extra time on trying to establish and prove the hate motivation of a crime.⁷³

⁷¹ Giving rise to 95 charges against 102 persons. Half of those crimes were considered as having been committed with an aggravating racist motivation (FCAC Paragraph 67).

⁷² *Selected List of Themes on ICERD, Danish Institute for Human Rights 2020, page 8.*

⁷³ In support of these claims, one may refer to an incident in October 2018 in which a veiled woman was aggressed for wearing a veil in a supermarket in Aarhus. The women filmed her aggressors, but the local police refused to register the incident as a hate crime, despite her insistence. The victim appealed to the district prosecutor but was again met with the same refusal (2020 Alternative report to CERD, page 25).

68. According to the Danish authorities, however, the police authorities try to encourage reporting of hate crimes and to this end to build up confidence with Muslim migrants at risk of hate speech, including by conducting information meetings with the Muslim communities and awareness-raising visits to a number of asylum-seeker reception centres, as well as by maintaining a dialogue with the Muslim Council of Denmark and by visiting mosques.⁷⁴ At the same time, when it comes to Muslim communities, civil society representatives have also raised questions about Muslims being subject to increasing State surveillance measures at their worshipping places or at Muslim faith-based schools.⁷⁵
69. In its confidence-building measures to encourage other minorities to report hate crime where it occurs, the police authorities also made presentations in the context of the LGBT Copenhagen Pride event in August 2019. For the same purpose, it has further initiated a broader dialogue with the National Association of LGBT persons in Denmark, as well as with the Jewish community in Denmark.
70. ECRI recommends that the authorities facilitate closer co-operation and institutionalise a continuous dialogue between the police and groups at risk of hate crime, including Black and Muslim communities.

III. INTEGRATION AND INCLUSION

A. Migrants

Data

71. On 1 January 2021 there were 617 770 registered immigrants living in Denmark. Out of these, 260 304 were from western countries, which according to the categories used by Statistics Denmark since 2002, comprise the 35 EU and associate countries⁷⁶ in Western Europe as well as the United States of America, Canada, Australia and New Zealand. “Non-western” immigrants, i.e. those coming from the 157 remaining countries, were 357 466. The countries included in the definition of “western” all have majority populations perceived to be white, while the category of “non-western” is regularly applied to ethnic and religious minorities. This categorisation has been extended to descendants of “non-western” immigrants and is used to describe both foreign nationals and Danish citizens (of “non-western” origin).⁷⁷ In March 2021, 34 494 persons were registered as people of western descent and 165 174 as having a “non-western” origin.⁷⁸ In 2020 only 756 applications for asylum were launched in Denmark.⁷⁹
72. Furthermore, the Danish Minister for Immigration and Integration in December 2020 introduced a new classification for ethnic minorities in Denmark, singling out people from the Danish **list** of so-called MENAPT countries, mainly those from North Africa and the Middle East.⁸⁰ This classification also constitutes a category in statistics with reference to higher crime rates and lower employment rates in Denmark. The Danish authorities collect and maintain data on immigrants

⁷⁴ CERD/C/DNK/22-24, paragraph 265

⁷⁵ See, in this connection, § 17 of ECRI’s [GPR No. 5 \(revised\) on preventing and combating anti-Muslim racism and discrimination](#). In this context, ECRI further refers to the [Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism](#), which in its Article 2, calls on state parties to criminalise the participation in an association or group for the purpose of terrorism, when committed unlawfully and intentionally. ECRI wishes to make particular reference to the second paragraph of Article 8 of the Protocol, which establishes that the establishment, implementation and application of such criminalisation should be subject to the principle of proportionality, with respect to the legitimate aims pursued and their necessity in a democratic society and should exclude any form of arbitrariness or discriminatory racist treatment.

⁷⁶ These are Andorra, Iceland, Liechtenstein, Monaco, Norway, Switzerland, the United Kingdom and the Holy See.

⁷⁷ Submission 31 March 2021 by Centre for Muslims (CEDA) and Muslim Youth in Denmark (MUNIDA), page 1.

⁷⁸ Data from the website of Statistics Denmark, available at [Immigrants and their descendants - Statistics Denmark \(dst.dk\)](#)

⁷⁹ Data from the website of Statistics Denmark, available at [Asylum applications and residence permits - Statistics Denmark \(dst.dk\)](#)

⁸⁰ Persons originating in Syria, Kuwait, Libya, Saudi-Arabia, Lebanon, Somalia, Iraq, Qatar, Sudan, Bahrain, Djibouti, Jordan, Algeria, United Arab Emirates, Tunisia, Egypt, Morocco, Iran, Yemen, Mauritania, Oman, Afghanistan, Pakistan and Turkey.

and their descendants, including as regards their country of origin, citizenship, gender, age, housing, employment, and education.⁸¹

73. At the time of ECRI's 2021 contact visit to Denmark, the dominant issue in the discussion about integration and inclusion appeared to be the legislative package around what was previously referred to as "ghettos" neighbourhoods (see paragraphs 74-83 below). The government argued that these pieces of legislation, most of which were adopted in 2018,⁸² are meant to counter so-called parallel societies by mixing populations of so-called "non-western" descent with mainstream Danes.
74. Following the adoption of legislative amendments to the Act on Social Housing in November 2021, the terminology changed, whereby the "ghetto" areas were renamed "parallel society" areas (*parallelsamfund* in Danish) and "hard ghetto" areas were renamed "transformation" areas (*omdannelsesområde* in Danish).⁸³ While welcoming the abolishment of the term "ghetto" from legislation, ECRI notes that the term "ghetto" has been used in official Danish policies for more than ten years, with the stigma it has inevitably brought the residents in these areas.
75. The term "non-western" (see paragraphs 71-72) is used in Danish residents' medical cards, by job centres and in connection with measures related to Covid-19. Persons residing in Denmark, including Danish citizens, may thus be registered as "non-western" against their will and often without their knowledge, including by job centres, which in the view of some civil society actors could be considered as a violation of the Danish Act against Discriminatory Treatment in the Labour Market.
76. Therefore, a person is not necessarily considered "Danish" for all intents and purposes just because s/he holds a Danish passport, but s/he in addition needs to have at least one parent who is a Danish citizen and to be born in Denmark.⁸⁴ Anyone else is defined as an 'immigrant' or 'descendant', and further categorised as either western or "non-western".
77. Danish law forbids registering residents by ethnicity or religion. However, in some public documents, including the political plan published by the Danish Government on 1 March 2018 on "one Denmark without parallel societies – no ghettos by 2030",⁸⁵ the term "non-western" is used interchangeably with the word ethnicity.⁸⁶ Similarly, in a March 2021 legislative proposal by the Ministry of the Interior and Housing to extend the "parallel society" legislation and entitled "Mixed Housing Estates – next steps in the fight against parallel societies",⁸⁷ the government again refers to the need to oppose ethnic separation in the form of "parallel societies".⁸⁸

⁸¹ Denmark's 2019 submission to CERD.

⁸² In its fourth and fifth reports ECRI already noted the Danish Government's policy of classifying socially marginalised public-housing neighbourhoods as "ghettos".

⁸³ When in the present report reference is made to "parallel society" legislation or policies, this concerns both "parallel society" and "transformation" areas, unless otherwise indicated.

⁸⁴ [European Web Site on Integration - European Commission \(europa.eu\)](https://european-commission.europa.eu/)

⁸⁵ Original title in Danish: Ét Danmark uden parallelsamfund – Ingen ghettoer i 2030.

⁸⁶ For example, on page 14 of this document, the following paragraph is to be found: "The efforts up until now have primarily focused on social initiatives, which have turned out to be inadequate to significantly changing the characteristics of the resident composition. It has not changed the area sufficiently in relation to the criteria of the "parallel society" list concerning connection to the labour market, education, *ethnic origin*, or income level."

⁸⁷ Original title in Danish: Blandede boligområder -næste skridt i kampen mod parallelsamfund.

⁸⁸ Section 1.1. of the legislative proposal contains the following passage: "When «non-Western» immigrants are concentrated in specific housing estates and the nearby schools and day care institutions, it hampers integration and increases the risk of religious and cultural parallel societies springing up. Also see paragraph 88 of this report.

This is one of the largest structural challenges to the community that forms the basis for the Danish welfare society. For that reason, ethnic and social separation must be combatted."

78. ECRI already in its fifth report noted the Danish Government's policy of classifying socially marginalised public housing neighbourhoods then referred to as "ghettos". Danish housing laws, which form part of the so-called legislative "parallel society" package, categorise low-income areas into three broad categories: "vulnerable housing estates", "parallel society" and "transformation" areas. According to Section 61 a (1) of the Act on Social Housing, "vulnerable housing estates", usually referred to as vulnerable areas, are those areas that meet two of the four following criteria - higher than average rates of unemployment, criminal convictions, low education, and low income.
79. The relevant law is the Act on Social Housing as amended by Act No. 1322 of 27 November 2018.⁸⁹ The amended housing law set out revised definitions of "vulnerable housing estates" (often referred to as "vulnerable areas"), "parallel society" and "transformation" areas. Of particular note is that "parallel society" and "transformation" areas are distinguished from "vulnerable housing estates" (areas which have the same socio-economic factors) on the explicit basis that they have 50% or more residents of "non-western background". More specifically, section 61(a) (1) of the law defines a "vulnerable housing estate" as an area of "common housing" inhabited by over 1 000 residents where at least two of the following four criteria are met: 1) the share of residents aged between 18 and 64 years with no connection to the job market or the educational system exceeds 40%, calculated as an average of the last two years; 2) the share of residents convicted of violations of the Criminal Code, the Weapons Act, or the Controlled Substances Act exceeds three times the national average, calculated as an average of the last two years; 3) the share of residents aged between 30 and 59 years with only lower secondary education exceeds 60%; 4) the average gross income for taxpayers aged between 15 and 64 years in the area, excluding students, is less than 55% of the average gross income for the same group in the region.
80. A "parallel society" is defined as a housing area, where the proportion of immigrants and descendants from "non-western countries" exceeds 50 %, ⁹⁰ and where at least two of the four criteria for "vulnerable areas" are met. Thus only ethnicity distinguishes a vulnerable area from a "parallel society". A so-called "transformation" area is defined, in the explanatory comments to the law, as a housing area that has met the criteria for "parallel society" for five⁹¹ consecutive years. Residential areas classified as vulnerable or as "parallel societies" are at present characterised by a relatively high share of non-profit housing, also known as common family housing or public housing, which have relatively moderate rent levels. At the time of ECRI's visit, there were 25 vulnerable areas, 15 "parallel society" areas and 13 "transformation" areas.
81. A benchmark of success under the so-called "parallel society" legislative package is a reduction of non-profit housing in these areas, in favour of owner-occupied dwellings, private rentals and co-operative dwellings.⁹² As a result laws, which entered into force in November 2018,⁹³ require that the social housing associations reduce the share of public housing to 40 % by 2030 in areas that have been categorised as "parallel societies" for four years or more. As a consequence, up to 60% of the homes in long-term "parallel society" areas can be demolished, divested

⁸⁹ This amending act has a subtitle referring to 'new criteria for vulnerable housing estates/areas and "parallel society" areas, initiatives to the development or closure of "parallel society" areas, tightening of the rules on assignment and tenancy, cancellation of tenancy contracts due to criminal offences, etc. More information is available at <https://www.retsinformation.dk/eli/lt/2018/1322> (in Danish language).

⁹⁰ Section 61(a)(2) provides that an area that would otherwise be a "vulnerable housing estate" is defined as a "parallel society" area where the share of residents of "non-Western background" exceeds 50%.

⁹¹ It was four consecutive years until the period was extended to five years by means of an amendment by Law 2157/2021, which entered into force as from 30 November 2021.

⁹² 2020 Alternative report to CERD, page 15.

⁹³ [How Denmark's 'ghetto list' is ripping apart migrant communities | World news | The Guardian](#)

from, or transformed into more specific types of housing, which puts the current residents in these areas at a greater risk of having to relocate from their hitherto homes. This also contributes to diminishing the number of dwellings in public housing available to socially disadvantaged people, including ethnic minorities.⁹⁴ It should be noted that dwellings of good quality may be demolished as a consequence of this policy.⁹⁵

82. In line with the above-mentioned legislation, a number of residents with a “non-western” background in “transformation” areas have been threatened by eviction, which has led to ongoing litigation procedures, including concerning Mjølnerparken, a “transformation” area neighbourhood visited by ECRI. In this case, the plaintiffs have lived for many years in the two blocks of Mjølnerparken which have been earmarked for sale and they are thus threatened with eviction.⁹⁶ ECRI gained a favourable impression of Mjølnerparken, which appeared as a pleasant neighbourhood with a good community spirit.
83. Another aspect of the “parallel society” legislation in a broader sense is that the police have the power to temporarily designate neighbourhoods as “increased punishment zones” in which crimes committed could lead to increased criminal penalties for certain offences, including vandalism, assault, public order offences, arson, threats and extortion.⁹⁷ While the wording in Article 6 a of the Police Act is neutral and gives the police the possibility to designate any area as an “increased punishment zone”, ECRI notes that the bill introducing such police powers was followed by an explicit reference to “Initiatives against “Parallel Societies”. In the explanations, vulnerable areas, to which “parallel societies” also belong, were repeatedly mentioned. ECRI strongly encourages the authorities to ensure that in practice, these police powers are not targeting parallel societies in particular.
84. The United Nations Committee on Economic, Social and Cultural Rights (CESCR) has reviewed the “parallel society” legislative package and stated in its concluding observations that it is concerned that “the law is discriminatory”.⁹⁸
85. On 18 March 2021, the Interior Minister referred in the media to a new bill reviewing the existing legislation “on combatting parallel societies”, in which the Ministry of the Interior and Housing has proposed that the share of residents of “non-western” origin in each neighbourhood be limited to a maximum of 30% within 10 years. Despite proposed new terminology, the proposed legislation constitutes an updated and extended version of the “parallel society” legislation. Corresponding amendments to the Act on Social Housing were adopted and entered into force in November 2021.⁹⁹
86. The legislation adopted in November 2021 further introduced a new category of housing estates, which are called “prevention areas”. These areas are defined as common housing estates with at least 1 000 residents, where the share of immigrants and descendants of “non-western” origin exceeds 30%. Moreover, the

⁹⁴ 2020 Selected List of Themes on ICERD by the Danish Institute for Human Rights, page 7

⁹⁵ *Idem*, pages 14-15.

⁹⁶ On May 14, 2019, the Board of the housing association for Mjølnerparken passed a development plan to sell two blocks of housing, to meet the requirement to reduce common family housing to a maximum of 40 percent. On June 20, 2019, the development plan was approved by the municipality of Copenhagen. On September 10, 2019, the development plan was approved by the Ministry of Transport and Housing.

⁹⁷ See, in this connection, [Amnesty International Report 2020/21: The state of the world's human rights | Amnesty International](#), page 142.

⁹⁸ Committee on Economic, Social and Cultural Rights, *Concluding observations on sixth periodic report of Denmark*, UN Doc. E/C.12/DNK/CO/6, 12 November 2019, para. 51 (“CESCR Concluding Observations”). The CESCR urged the State party to adopt a rights-based approach to its efforts to address residential segregation and to enhance social cohesion. Its recommendations included removing the definition of a “ghetto” with reference to residents from “non-Western” countries, which it called “a discriminator on the basis of ethnic origin and nationality” and repealing all provisions that have a direct or indirect discriminatory effect on refugees, migrants and residents of the “ghettos.”

⁹⁹ See paragraph 74 as regards legal terminology issues.

area must fulfil at least two out of four criteria concerning education, employment, income, and crime.¹⁰⁰ In other words, the indicators for the “prevention areas” are the same as the previous ones for “vulnerable areas”, but the percentages linked to the indicators (c.f. paragraph 79) have been made stricter and therefore many more people will be affected by rental rules aimed at changing the composition of tenants the newly adopted housing legislation.

87. The Ministry of the Interior and Housing estimates that 58 housing estates with around 110 000 inhabitants will fall under the new category of “prevention areas.”¹⁰¹ The addition of “prevention areas” would thus nearly double the overall number of residents affected by rental rules aimed at changing the composition of tenants in the areas concerned.
88. It is clear that since the aim of the “parallel society” legislation, including in its proposed updated form, is to reduce the share of “non-westerners” in the neighbourhoods concerned, “non-westerners” are more likely than “native Danes” or other “westerners” to be evicted or not to be allocated a flat in one of these neighbourhoods, which could be considered as discrimination against minorities based, in practice, on national or ethnic origin. Against this background, ECRI underlines that it does not contest the aim of furthering integration by creating more mixed neighbourhoods. It is nevertheless concerned about the means applied to reach this objective.
89. ECRI recommends as a matter of priority that the Danish authorities, in order to avoid forced evictions for achieving the objectives of the legislation as regards a more balanced composition between “non-westerners”, EU citizens and “native Danes” in the neighbourhoods referred to as “parallel societies”, instead introduce positive incentives for all population groups concerned in order to achieve the stated aim.
90. It is recognised that in recent years there has been a gradual paradigm shift in Danish asylum law and policy, the essence of which is a move away from permanent protection and the integration of refugees to temporary protection and return. The most recent major manifestation of the paradigm shift is the current Danish policy of returning notably Syrians with temporary protection status back to Damascus and its surrounding areas, which are assessed as sufficiently safe by the Danish Government and Refugee Appeals Board.¹⁰² Due to the lack of co-operation between Danish and Syrian authorities and based on foreign policy considerations of the Danish Government, those Syrians who do not return voluntarily are not forced to return, but end up with a “tolerated status”, without the right to work or study and with negligible financial support, though there will still be education organised for children and emergency health care for all.¹⁰³

¹⁰⁰ 1) a minimum of 30 % of the residents between the ages of 18 and 64 years are without connection to the labour market or education, calculated as a two-year average; 2) at least two times the national average among the residents have been convicted of violations of the Criminal Code, the Weapons Act, or the Controlled Substances Act, calculated as a two-year average; 3) a minimum of 60 % of the residents between the ages of 30 and 59 years have only primary education; 4) the average gross income for taxpayers between the ages of 15 and 64 in the area, excluding students, is less than 65 % of the average gross income for the same group in the region.

¹⁰¹ These are additional to the currently around 127,000 residents across “transformation” areas (35,000), “parallel societies” (39,000) and “vulnerable housing estates” (53,000) according to the Ministry’s proposal.

¹⁰² All cases concerning revocation or denying of extension of residence permits based on asylum are assessed by the Danish Immigration Service in first instance and automatically referred to the Refugee Appeals Board, which is the second and final instance. The Board is an independent, quasi-judicial body consisting of three members with the chairperson being an appointed judge. Persons from Syria with a residence permit granted on individual grounds, e.g. persons in conflict with the Syrian authorities due to fleeing compulsory military service, which is therefore within the scope of the 1951 Refugee Convention, are *not* affected by the change in policy.

¹⁰³ Nonetheless, according to section 42 a (2) of the Danish Aliens Act, irregularly present migrants have, where necessary, the expenses for their subsistence and necessary healthcare services covered by the Danish Immigration Service (DIS).

91. It has become ever more difficult for refugees and migrants to obtain permanent residence status in Denmark, which can usually only be granted after eight years and which is conditional on a set of restrictive criteria.¹⁰⁴ With the new policy, all categories of refugees have their residence permit examined every one or two years unless they already have a permanent residence permit or have become Danish citizens.¹⁰⁵
92. The result of this policy of as a rule only granting temporary protection is to prevent any refugees from feeling welcome and wishing to settle in Denmark. At the same time, during its visit, ECRI met a few Syrian refugees who spoke fluent Danish and were studying successfully, but who had received a return order. Furthermore, the employment rate among 25-64 year-old Syrians in Denmark has increased significantly in recent years, from 12.2% in 2015 to 43.2% in 2019, suggesting increasingly successful integration.¹⁰⁶ Notwithstanding the fact that the United Nations High Commissioner for Refugees (UNHCR) in March 2021 called on States not to carry out involuntary returns of refugees to Syria,¹⁰⁷ the main concern from ECRI's point of view is that the current policy undermines a lot of efforts towards the integration and inclusion of refugees. ECRI invites the Danish authorities to review their approach in this regard.
93. The Danish Government published an Integration Action Plan 2020, describing the most important initiatives and their results, as well as some plans for 2021. The main elements of the action plan are: (i) work or activity of 37 hours per week, including the learning of Danish, abolishing fees for Danish language courses and expanding the group eligible for basic education for refugees (known as IGU¹⁰⁸), (ii) efforts to reduce "parallel societies" by means of better distribution ethnic minority students at gymnasiums, more action for children and young people in socially vulnerable areas, strengthening police work and collaboration with sports clubs and associations, and (iii) reducing and preventing negative social control and anti-democratic values and norms, notably through a new law proposal against receiving economic support from certain donors.
94. Despite the overall paradigm shift, ECRI is pleased to note that free Danish language lessons are offered to all immigrants and foreigners, as regulated by the Law on Danish Education. In addition to language lessons, the law includes matters related to lessons on culture, labour market and Danish social conditions.
95. An integration course of one year may be offered to migrants who reunited with their families with the aim of bringing the foreigner into regular employment.¹⁰⁹

Education

96. Statistics Denmark's information on the educational attainment of the population is primarily based on administrative registers, which are reported by the Danish educational institutions. In practice, with a few exceptions, only education completed in Denmark counts, and thus educational attainments by immigrants in their home countries does not, which is likely to result in more housing areas being

¹⁰⁴ However, though it rarely occurs in practice, a permanent residence permit can be granted to a refugee or other migrant already after four years of residence if s/he fulfils all applicable criteria related to e.g. Danish language skills, employment and education.

¹⁰⁵ 2020 Alternative report to CERD, paragraph 44.

¹⁰⁶ The Local, 26 November 2020, available at [Employment increases amongst non-Western nationalities in Denmark - The Local](#)

¹⁰⁷ <https://www.refworld.org/docid/606427d97.html>

¹⁰⁸ IGU is the Danish abbreviation for "integration basic education". IGU agreements are targeted at refugees and their family members who have come to Denmark as part of a family reunification scheme.

¹⁰⁹ The programme can be extended up to five years or until the foreigner obtains regular employment. The scope and content of the course are fixed in a contract concluded by the municipality and the foreigner concerned. The contract is in force until the person obtains a permanent residence permit. As a rule, a full integration course must be offered if the beneficiaries receive social benefits under the Integration Act ('self-sufficiency and return benefit' or 'transition benefit'). Apart from language training, the course involves e.g. job training and internships, as well as employment with a wage subsidiary.

classified as “parallel societies” than warranted under the existing criteria, which includes educational level.¹¹⁰

97. Asylum-seeking children of school age are, like other children in Denmark, subject to compulsory school attendance. According to section 42 g of the Aliens Act, asylum-seeking children of school age must participate in separately arranged tuition or in tuition equivalent to the general requirements for separately arranged tuition.¹¹¹
98. According to ECRI’s GPR No. 10, full participation of pupils from minority groups should be promoted by making provision, in particular cases and for a limited period of time, for preparatory classes for pupils from minority groups to, amongst others, learn the language of instruction, if this is justified by objective and reasonable criteria and is in the best interests of the child. At the same time, the long-term placing of children from minority groups in separate classes should be avoided. ECRI notes that in some schools, there are separate classes for newly arrived immigrant children, including refugee children. The municipalities decide whether to place newly arrived migrant children in these classes or not. According to official interlocutors, 56% of schools place new arrivals directly into regular classes.
99. In 2018, the Danish Government, as part of a legislative and policy package and based on a political agreement to strengthen the efforts against “parallel societies”, decided to increase parental responsibility for children’s school attendance, with certain sanctions against parents if children in primary and lower secondary schools have more than 15 % of unjustified absences in a quarter of a year (see paragraph 18).¹¹² In addition, sanctions against schools with poor results were increased. The Ministry of Education can order the closure of schools that continuously deliver poor academic results, if combined with other difficulties such as severe violence among pupils. Another part of the legislative and policy package are new rules regulating primary schools with a high percentage of pupils and students from “vulnerable areas”. These schools have a mandatory language test that will decide whether each pupil or student can proceed to the next grade.¹¹³ The Act on Social Housing also contains a requirement for children in the vulnerable areas,¹¹⁴ who are at least one year of age, to attend mandatory day care for 25 hours per week. Non-compliance may result in the termination of child benefit payments, which parents in areas that are not considered as vulnerable are not at risk of. The law allows families who can provide a sufficient learning environment to apply to educate their children at home. In that connection, it is taken into consideration whether the language mainly spoken in the household in question is Danish, which is preferred.¹¹⁵

Employment

100. The 2020 Integration Action Plan foresees work or activity of 37 hours per week, including learning the Danish language for recently arrived immigrants. In September 2021, the Danish Government presented a set of legislative measures to make migrants work in full-time jobs if they want to continue to receive the full rate of public benefits. According to the government, the aim was to help with the inclusion of people with a migration background, in particular women, into society.

¹¹⁰ The calculating method of the criterion was revised in 2018 after the Statistics Denmark changed the calculation method on their education data in September 2017. The revised data were cleaned of all self-reported and estimated data, so that only education taken or approved in Denmark is accepted.

¹¹¹ For more details on school attendance, see CERD/C/DNK/22-24, paragraph 201.

¹¹² CERD/C/DNK/22-24, paragraph 211.

¹¹³ 2020 Selected List of Themes on ICERD by the Danish Institute for Human Rights, page 6.

¹¹⁴ Including “parallel society” areas, as these by definition are also vulnerable areas.

¹¹⁵ 2020 Selected List of Themes on ICERD by the Danish Institute for Human Rights, page 6

101. Despite the support measures reported by the Danish authorities, employers in Denmark seem to discriminate against job applicants who are not perceived to be Danish. Some 80% of training counsellors at vocational colleges find that employers attach negative importance to the national or ethnic origin of the students.¹¹⁶ Several interlocutors met by ECRI explained that migrants living in “parallel society” neighbourhoods are made to feel ashamed of where they live, which makes them unwilling to, for instance, indicate their address on employment applications.
102. Employment agencies in practice have access to information concerning whether jobseekers are of “non-western” background or not.¹¹⁷ The Danish Agency for Labour Market and Recruitment (known as STAR) has a nationwide statistical profiling tool implemented on the official public website for recruitment and job-seeking.¹¹⁸ Recipients of unemployment benefits are asked to fill out a questionnaire, the replies to which are used for the profiling tool. This information is combined with background data on the recipient, including origin, which is collected from multiple registers, including the civil registry.¹¹⁹
103. However, it appears to ECRI that there are several problematic aspects of the use of the profiling tool containing the classification of jobseekers according to origin, including into “western” and “non-western” ones. First of all, civil society representatives claim that jobseekers are not informed that by filling out the form, they also consent to have their data from other state data bases made available to the employment agency caseworker, and it is not clear to them that filling out the form is not obligatory, as it comes together with other forms which job applicants receiving unemployment benefits must fill in.¹²⁰ ECRI has been told of cases in which the caseworker had access to this information without the consent of the jobseeker. While the stated aim of helping jobseekers with a “risk profile”, which in reality equals “non-western” according to the algorithms used, is to avoid long-term unemployment, it appears to result in “non-westerners”, including Danish citizens, being considered at higher risk of long-term unemployment than are native Danes or other EU citizens, even when they have the same age, level of education, language skills and other work qualifications. In particular, it appeared during the ECRI visit that the “non-westerners” were asked to attend meetings with employment agency case workers and capacity-building courses much more frequently than “westerners”.
104. While ECRI does not doubt that the intention of the STAR profiling tool is to support jobseekers at higher risk of long-term unemployment to get hired, it is concerned about the consequences of the use of this profiling tool, which ultimately makes different assessments of the employability of job-seekers based only on ethnicity if all other parameters are equal between job-seekers. Among such consequences may be stigmatisation of “non-western” job-seekers as being considered more

¹¹⁶ 2020 Alternative report to CERD, page 3.

¹¹⁷ ECRI has seen a screenshot of an online job portal on which the “non-western” status of the job seeker appeared next to his name.

¹¹⁸ www.jobnet.dk

¹¹⁹ Employment agency caseworkers can then use the profiling tool to, as explained by the Danish authorities, assess the risk of long-term unemployment for certain categories of jobseekers who statistically are seen at risk of such long-term unemployment, and thus to better help them to re-enter the employment market. STAR holds data on individuals steaming from multiple registers, including data about jobseekers’ country of birth and citizenship, which is obtained from the civil registry. The information is not contained within the CPR numbers itself. The statistical profiling tool makes use of the variable “origin”, which is based on the country of birth of individuals, and the country of birth and citizenship of at least one of the parents. The definition of “origin” is derived from Statistics Denmark. The “origin” of an individual can be one of the following: Danish, Western immigrants, “non-Western” immigrants, descendants of Western immigrants, and descendants of “non-Western” immigrants. According to the Danish authorities, the information about the origin of recipients of unemployment benefits is not available to employment agency caseworkers by default, but only with the consent of the jobseeker.

¹²⁰ According to the Danish authorities, jobseekers are informed on screen that filling in the form is voluntary, about its scope and use and that it is for a statistical tool, as well as about who can see the entries.

difficult to employ, in addition to which the use of the STAR profiling tool is non-transparent for the jobseeker. In this context, ECRI refers to its GPR No. 14 on combating racism and racial discrimination in employment.

105. According to a 2018 FRA survey, Denmark has the EU's lowest rate of Black people in employment,¹²¹ which is of concern to ECRI.
106. According to the Danish authorities, 3.6 % of the 16-64 years-old persons working in the public sector, including defence and police services, were immigrants and 1.7 % were of non-Danish descent. Of these, 2,4 % were of "non-western" origin and 1,5 % of "western" origin.¹²²
107. The Danish Centre for Social Science Research (VIVE)¹²³ in April 2021 published a report mapping municipalities' integration efforts in the area of employment. The purpose of the mapping was to describe the barriers that prevent "non-western" immigrants and refugees from finding employment. Among the main obstacles identified were a lack of Danish language skills, professional qualifications in relation to the qualifications that are in demand on the labour market, and knowledge about the Danish labour market. This mapping exercise showed that company internships and wage subsidies, a practice which ECRI welcomes, have positive long-term employment effects. ECRI encourages the Danish authorities to pursue their efforts, at national and local levels, to respond to the needs of people at higher risk of discrimination in employment due to their national or ethnic origin, skin colour or other characteristics or status.

Health care

108. A number of ECRI's interlocutors pointed out that since the outbreak of the Covid-19 pandemic, more than half of those taken into hospital due to a coronavirus infection have an ethnic minority background. It has also been suggested that ethnic minority citizens are not more hesitant to receive the vaccine, but that some find it difficult to read the relevant letters (sent in Danish to their digital mailbox) or to book a time slot for a vaccination on the website set up for this purpose. In order to mitigate this, health authorities in some municipalities started to offer vaccinations without the requirement of advance registration in a number of public places, at least in one instance at a local mosque, a practice which ECRI welcomes and considers a **promising practice**.
109. ECRI recommends that the Danish authorities increase the number of languages and channels in or through which essential information and services related to public health are disseminated or offered.

¹²¹ See [Fundamental Rights Report 2019 | European Union Agency for Fundamental Rights \(europa.eu\) \(Being Black in the EU\), page 45](#).

¹²² 2019 data provided to ECRI by the Danish authorities.

¹²³ VIVE is an independent research and analysis centre operating under the Ministry of the Interior and Housing that carries out research and analysis projects in all the major aspects of welfare and the welfare state.

Family reunification

110. Foreign nationals may obtain a residence permit in Denmark if they have a spouse or cohabitant already resident in Denmark. For the party in Denmark to be eligible for family reunification, s/he must be a Danish citizen or a national of another Nordic country or benefit from refugee or subsidiary protection status. Persons with temporary subsidiary protection status must have held such status for more than the past three years. Other foreign nationals than the aforementioned must have held a permanent residence permit for more than the past three years.¹²⁴
111. Against this background, ECRI notes that in its judgment (Grand Chamber) of 9 July 2021 in the case of *M.A. v. Denmark*, the European Court of Human Rights found that there had been a violation of Article 8 of the European Convention on Human Rights (right to respect for private and family life) because of the three-year waiting time before family reunification could be approved for the applicant who had been granted temporary subsidiary protection status rather than refugee status according to the 1951 United Nations Convention relating to the Status of Refugees (Refugee Convention). The Court held that the Danish authorities had failed to strike a fair balance between the needs of the applicant individually and the economic well-being of the country in their assessment of the application to be reunited with his wife.¹²⁵ Following this verdict, since October 2021, the Danish Immigration Service allows persons with temporary subsidiary protection status to request family reunification after two years when the other requirements have been fulfilled. It has further reopened a number of cases where the applications were refused because the three-year requirement had not been fulfilled¹²⁶.

B. Roma

112. Given that the Danish authorities do not register ethnicity, there are no reliable data as concerns the number of Roma permanently residing in Denmark. ECRI's civil society interlocutors pointed to estimates ranging from 2 000 to around 10 000.
113. According to researchers met by ECRI, some Danish Roma claimed that they had been victims of discrimination, in particular in the labour market but also to some extent as regards access to medical services. In the view of ECRI's interlocutors, it is hard to determine whether such alleged discrimination is based on one or the other of their intersecting identities as being of Roma and from South-Eastern European countries or regions. There are no formal complaints about discrimination and in the near absence of any research, it is hard to assess the existence or extent of any discrimination. Not much is taught in Danish schools about the existence of Danish Roma, despite some efforts by members of Roma communities to introduce it in the curriculum. When media addresses Roma issues, it tends to be exclusively negative reporting about issues such as homelessness and begging among Roma from other EU countries.
114. ECRI recommends that the Danish authorities, in line with § 17 of ECRI's General Policy Recommendation No. 13 on combating antigypsyism and discrimination against Roma, promote and protect Roma culture, fostering the rest of the population's better knowledge of Roma communities as well as the advancement of intercultural dialogue.

¹²⁴ Additionally, in line with rules on family reunification, which entered into force on 24 May 2017 and on 1 July 2018, aimed at replacing the attachment condition (according to which spouses or partners had to demonstrate that strong and very long ties with Denmark) with an integration condition, four out of six requirements have to be met: 1) a high proficiency in Danish; 2) employment in Denmark for five years or more; 3) six years or more in education in Denmark; 4) good level of English or, to some degree, Danish; 5) employment for three out of the preceding five years; 6) one year or more in education comparable to Danish higher education or vocational training measures. The attachment condition was revoked as a measure to execute the European Court of Human Rights' judgment of 24 May 2016 in the case of *Biao v. Denmark* (Application no. 38590/10). See also ECRI's fifth reports, paragraphs 73-75.

¹²⁵ For all details, please consult the Hudoc data base of the ECtHR., available at: <http://hudoc.echr.coe.int/fre?i=001-211258>

¹²⁶ <https://www.nyidanmark.dk/en-GB/News%20Front%20Page/2021/10/Genoptagelse%203%20aars%20kravet>

115. A few vocal politicians have made it a priority to reduce the number of migrant Roma from other EU countries in the streets, which was reflected in such foreign Roma being referred to in derogatory terms in the 2017 local election campaign.¹²⁷ As a result of the debate, the Danish Government decided to amend the Executive Order on Public Order, to include in its Article 3 (4) the following: “In places with public access it is prohibited to establish and stay in camps, which are capable of creating discomfort in the neighbourhood”. In line with an amendment in the Police Act, which entered into force on 1 March 2018, the police can prohibit individuals who have violated the Public Order Regulation by setting up a so-called camp from entering the municipality in which the violation occurred.¹²⁸ It appears that the new legislation and regulation were being implemented in a rather repressive manner by Copenhagen police services, which chose to task its Immigration Unit with enforcing the provisions of the Executive Order and the Police Act. According to civil society representatives, it has been made clear by politicians that non-Danes are the intended target group of the police.
116. ECRI recommends that the Danish authorities, in particular law enforcement agencies, pay particular attention to, and comply with, ECRI’s GPR No. 11 on combating racism and racial discrimination in policing. It follows that any such primary or secondary legislation which is meant to especially target foreign members of a particular ethnic group should be withdrawn or amended.

IV. TOPICS SPECIFIC TO DENMARK

Greenlanders

117. There are some 16 500 Greenlanders living in Denmark proper, out of some 56 500 in total. There is a high number of homeless Greenlanders in Denmark proper. For example, in the Danish city of Aalborg, 27% of all homeless people are Greenlanders, whereas the share on a national level is 8%. There are no official figures on the share of socially marginalised Greenlanders, but Greenlandic activists estimate the share to be between 7 and 12%, despite significant financial support being made available by the Danish Government in support of such marginalised Greenlanders. Those percentages match the estimate by the Danish Centre for Social Science Research that there are up to 1500 socially marginalised Greenlanders living in Denmark proper. It appears that many of the social difficulties suffered by some Greenlanders originate in Greenland and cannot be entirely attributed to the new environment in Denmark proper.¹²⁹ Language difficulties and lack of sufficient educational and vocational qualifications pose a challenge when looking for employment, as it is more difficult to find unqualified jobs in Denmark proper than in Greenland.
118. To provide support to newly arrived as well as longer resident Greenlanders in Denmark proper, in particular vulnerable ones, four “Greenland Houses” have been established. They supplement municipalities’ efforts to provide such support. Since 2019 special support is provided to Greenlandic students in Denmark proper, in the form of intensive training in Danish language and culture.¹³⁰ The Greenland Houses, which have been referred to as “embassies close to the people”, and which receive financial support from the Government, are considered by ECRI as a **good practice**, which could be applied to some other communities as well.
119. There are no integration courses offered directly by the public sector to Greenlanders in Denmark proper, although the cultural differences and linguistic

¹²⁷ Examples from the public debate at the time can be found in articles and comments published at the time in the daily newspaper Berlingske at <https://www.berlingske.dk/kommentatorer/roma-besaettelsen-skal-stoppes-de-udnytter-os-de-chikanerer-os-og-de>.

¹²⁸ From 1 April 2017 until 31 July 2018, 389 persons were charged with establishing or staying in a camp capable of creating discomfort in the neighbourhood.

¹²⁹ <https://www.vive.dk/media/pure/15975/5379160>, page 15 (in Danish language).

¹³⁰ Denmark’s 2019 submission to CERD, paragraphs 22-24.

challenges may be at least as big for Greenlanders moving to Denmark proper as for many foreigners doing the same. However, adult Greenlanders are legally entitled to Danish language courses, on the same terms as foreigners, if their Danish skills are not sufficient to function in the Danish society.

120. Some of ECRI's civil society interlocutors recognised that there was a lot of goodwill on the part of the Danish authorities towards Greenlanders. However, they considered that Greenlanders are at risk of being discriminated against, including in the employment context based on the applicants' names. In addition, a certain unwillingness to concede needing support appears to be felt by many on the Greenlandic side.
121. ECRI recommends that the Danish Government, in addition to the existing social support measures available, offer access to tailormade integration and inclusion courses to Greenlanders.

INTERIM FOLLOW-UP RECOMMENDATIONS

The two specific recommendations for which ECRI requests priority implementation from the authorities of Denmark are the following:

- (§63) ECRI recommends that the Danish authorities introduce a national action plan against racism, with a particular emphasis on preventing anti-Muslim racism and discrimination. The action plan should take a holistic approach and include actions in, for example, the areas of education, public awareness, promotion of counter speech and the training of relevant professionals, such as law enforcement officials and teachers. Efforts to secure a proportion of staff from Muslim and other minority backgrounds in such professions should be among the elements of this action plan.
- (§89) ECRI recommends that the Danish authorities, in order to avoid forced evictions for achieving the objectives of the legislation as regards a more balanced composition between “non-westerners”, EU citizens and “native Danes” in the neighbourhoods referred to as “parallel society”, instead introduce positive incentives for all population groups concerned in order to achieve the stated aim.

A process of interim follow-up for these two recommendations will be conducted by ECRI no later than two years following the publication of this report.

LIST OF RECOMMENDATIONS

The position of the recommendations in the text of the report is shown in parentheses.

1. (§3) ECRI recommends that the Danish authorities amend the relevant legislation to (i) give the Board of Equal Treatment the mandate to obtain evidence and information, including by means of an enforceable court order, as well as to address discrimination based on citizenship or, outside the labour market, religion, and to (ii) explicitly prohibit segregation, discrimination by association, declared intention to discriminate and incitement or aid to discrimination.
2. (§8) ECRI recommends that the Danish authorities amend the relevant legislation in order to strengthen the independence of the Board of Equal Treatment, notably by giving it the authority to manage its own budget, the amount of which should be reviewed to ensure sufficient means for the effective functioning of the Board, as well as by ensuring that the members of the Board are elected fully in line with ECRI's standards on Equality Bodies, in addition to which the Board should be allowed to freely decide on the recruitment and deployment of its staff.
3. (§14) ECRI recommends, in line with its General Policy Recommendation No. 10 on combating racism and racial discrimination in and through school education, that teachers in Danish schools be provided with initial and ongoing training in issues relating to human rights, including the prohibition of discrimination, which should cover, *inter alia*, international and European standards, in addition to which teachers should be encouraged to use teaching materials specifically intended for teaching human rights, including the right to equality.
4. (§20) ECRI recommends that the Danish authorities carry out regular surveys on the situation of children from minority groups in the school system, especially in so-called "parallel society" areas with a large proportion of "non-western" children, as a basis for preparing, monitoring, and evaluating school policies aimed at continuously improving the situation in school of children from minority groups.
5. (§33) In the light of the above, ECRI recommends that the authorities set up "firewalls" formally prohibiting housing, social security and assistance providers from sharing data on the legal status of migrants with the immigration authorities and eliminate, including at legislative level where appropriate, the obstacles limiting migrants' access to basic services, in particular in the fields of education, employment and health care, including psychiatric support.
6. (§58) ECRI recommends that a legal framework be developed for cutting the funding of and disbanding racist organisations, including political parties where applicable, as recommended in §§ 16, 17 and 18 g of ECRI's General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination and § 9 of GPR No. 15 on combating hate speech.
7. (§62) ECRI recommends that political leaders on all sides, in particular those in government and in line with § 4 of ECRI's General Policy Recommendation No. 15 on combating hate speech, take a firm and public stance against the expression of racist hate speech and react to any such expression with a strong counter-hate speech message. All political parties in the country should adopt codes of conduct that prohibit the use of racist and other forms of hate speech and call on their members and followers to abstain from using it.
8. (§63) ECRI recommends as a matter of priority that the Danish authorities introduce a national action plan against racism, with a particular emphasis on preventing anti-Muslim racism and discrimination. The action plan should take a holistic approach and include actions in, for example, the areas of education, public awareness, promotion of counter speech and the training of relevant professionals, such as law enforcement officials and teachers. Efforts to secure a proportion of

staff from Muslim and other minority backgrounds in such professions should be among the elements of this action plan.

9. (§70) ECRI recommends that the authorities facilitate closer co-operation and institutionalise a continuous dialogue between the police and groups at risk of hate crime, including Black and Muslim communities.
10. (§89) ECRI recommends as a matter of priority that the Danish authorities, in order to avoid forced evictions for achieving the objectives of the legislation as regards a more balanced composition between “non-westerners”, EU citizens and “native Danes” in the neighbourhoods referred to as “parallel societies”, instead introduce positive incentives for all population groups concerned in order to achieve the stated aim.
11. (§109) ECRI recommends that the Danish authorities increase the number of languages and channels in or through which essential information and services related to public health are disseminated or offered.
12. (§114) ECRI recommends that the Danish authorities, in line with § 17 of ECRI’s General Policy Recommendation No. 13 on combating antigypsyism and discrimination against Roma, promote and protect Roma culture, fostering the rest of the population’s better knowledge of Roma communities as well as the advancement of intercultural dialogue.
13. (§116) ECRI recommends that the Danish authorities, in particular law enforcement agencies, pay particular attention to, and comply with, ECRI’s General Policy Recommendation No. 11 on combating racism and racial discrimination in policing. It follows that any such primary or secondary legislation which is meant to especially target foreign members of a particular ethnic group should be withdrawn or amended.
14. (§121) ECRI recommends that the Danish Government, in addition to the existing social support measures available, offer access to tailor-made integration and inclusion courses to Greenlanders.

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APPENDIX: GOVERNMENT'S VIEWPOINT

The following appendix does not form part of ECRI's analysis and proposals concerning the situation in Denmark

ECRI, in accordance with its country-by-country procedure, engaged into confidential dialogue with the authorities of Denmark on a first draft of the report. A number of the authorities' comments were taken on board and integrated into the report's final version (which, in line with ECRI's standard practice and unless otherwise indicated, could only take into account developments up until 9 December 2021, date of the examination of the first draft).

The authorities also requested that the following viewpoint be reproduced as an appendix to the report.

VIEWPOINTS OF THE DANISH GOVERNMENT ON SIXTH REPORT ON DENMARK

Section on the Board of Equal Treatment (§§ 1-11)

Regarding the recommendation of amending the legislation of the Board of Equal Treatment (§ 3), it should be noted that the prohibition against discrimination on the grounds of race or origin also includes discrimination by association, cf. § 3 of Act on Ethnic Equal Treatment

Section on inclusive education (§§ 12-22)

Regarding ECRI's GPR No. 10 on human rights education (§ 12) the Danish Government would like to stress that the Universal Declaration of Human Rights is mentioned in the History Canon, which makes the declaration a mandatory part of history education in the Danish public school despite the individual freedom that schools and teachers have to decide about their curriculum.

Regarding the rules about absence rates of children in primary schools (§ 18), the Danish Government would like to clarify that the so-called "parallel society" legislation entails that if a child reaches an illegal absence rate of 15 % or more during a quarter, this may lead to a reduction of, or complete end to, the family's child benefits. However, this applies to all children in the Danish school system regardless of the location of their school. The school administration is obliged to report cases of illegal absence of at least 15 % during a quarter to the municipal board (kommunalbestyrelse) which subsequently handles the case with involvement of the family, in order to examine whether there are legitimate reasons for the absence of the child.

Section on irregularly present migrants (§§ 23-33)

Regarding the recommendation of setting up "firewalls" formally prohibiting housing, social security and assistance providers from sharing data on the legal status of migrants with immigration authorities and eliminate the obstacles limiting illegal migrants' access to basic services (§ 33), the Danish Government would like to clarify that migrants who live in Denmark legally have full access to basic services, including health care. However, illegal migrants do not have full access to basic services, as they live in Denmark illegally and must leave the country.

Section on hate speech (§§ 45-63)

Regarding ECRI's recommendation of introducing a national action plan against racism, the Danish Government wish to inform that on 24 January 2022, the Danish Government announced that it would draw up an action plan against racism. It is expected that the action plan will combat racism broadly by uncovering the extent and nature of racism in society. The action plan will presumably include initiatives concerning e.g. the labor market, education, culture and hate crimes and is expected to be launched before the end of 2022.

Section on migrants (§§ 71-95)

In the recommendation regarding the legislation preventing parallel societies (§ 89) ECRI stresses that Denmark should avoid forced evictions in order to secure an average balance between "non-western" and native Danish tenants and instead introduce positive incentives for all population groups. The Danish Government would like to clarify that it does not use forced evictions in order to change the mix of tenants. Certain neighborhoods are obliged to transform because of the socioeconomic characteristics and the share of tenants with a "non-western" origin differ thoroughly from the national average. Thus, it is not a goal to reduce the number of "non-western" tenants. The main issue is the socioeconomic characteristics of the neighborhood. The local authorities and housing associations are not obliged to use demolition and evictions in order to transform the neighborhoods. They can choose to build new private homes or transform existing dwellings into homes for elderly people or students. However, if it is considered necessary, demolition or selling the properties can be a solution. When demolishing social housing homes the tenants have an unrestricted right to rehousing within the

municipality, and when the properties are sold the tenants must further be relocated within the same neighborhood.

Furthermore, the use of demolition has been reviewed. It shows that demolition is only used when the local authorities find it strategically necessary for the development of a new urban identity through transformation or when the buildings are in a very bad condition. For more than ten years, positive incentives have been used in order to empower the tenants and attract new tenants in employment. The legislation is still accessible and some of the rules are now mandatory. In the years 2019-2026 10 billion kroner in total are prioritized in the National Housing Association to transformation, renovation, new infrastructure, social and empowering initiatives and economical support to keep the rents relatively low.

Regarding the paradigm shift (§ 90) the Danish Government notes that persons without legal residence in Denmark are obliged to leave. The approach of the Danish Government is to provide protection to those in need of it. However, refugees' stay in Denmark is temporary and they should return when conditions allow them to – this applies to everyone, including persons from Syria. Based on the available background information, the Danish Refugee Appeals Board has assessed that the general security situation in Damascus and Rif Damascus has improved to an extent where a person is no longer at risk simply by being present in the areas. Based on this assessment the Danish Immigration Service reviews cases on a continuous basis to assess whether the residence permits of persons from the concerned areas are to be retained, extended, changed, revoked, or denied an extension. It may be possible for the person concerned to retain legal residence in Denmark due to other ongoing applications for residence in Denmark. With regard to forced returns to Syria, there are currently exceptional circumstances. The Danish Government has decided that in the interest of Danish foreign policy, Denmark currently does not carry out forced returns to Syria. This is a Danish decision based on an analysis and a policy, which Denmark shares with our allies in Europe and the US. Denmark, together with our closest allies, maintain that we should refrain from actions, which could be regarded as normalizing relations with the Syrian regime. A unilateral Danish policy concerning forced returns to Syria could, at this point in time, be construed as legitimizing the Syrian regime. The Danish Authorities will enact measures to incentivize foreigners who do not leave Denmark on a voluntary basis at first. Among others, these measures can include restrictions on movement and place of stay in order to motivate voluntary return. The Danish Authorities will continue to assist foreigners without legal residence in Denmark with the planning of voluntary return to Syria.

Furthermore, the Danish Government would like to underline that decisions in asylum cases are made independently of the political process. The Danish government does not influence the assessment nor the outcome of the cases. Furthermore, the Refugee Appeals Board is an independent, quasi-judicial body and the members of the Board may not accept or seek directions from anyone including the Danish Government.

In footnote 105 (§ 91) ECRI remarks that “though it rarely occurs in practice, a permanent residence permit can be granted to a refugee or other migrant already after four years of residence if s/he fulfils all applicable criteria related to e.g. Danish language skills, employment and education”. The Danish Government would like to note that in 2020, 771 migrants and refugees were granted permanent residence permit after four years of legal residence in Denmark. Out of this total number, 668 permits were granted to persons with a temporary residence permit on the basis of work/studies. 22 permits were granted to persons with temporary residence on the basis of asylum, and 81 permits were granted to persons with a residence permit on the basis of family reunification.

In the period from 1 January 2021 until 30 June 2021, 402 migrants and refugees were granted permanent residence permit after four years of legal residence in Denmark. Out of this total number, 343 permits were granted to persons with a temporary residence permit on the basis of work/studies. 29 permits were granted to persons with temporary

residence on the basis of asylum, and 30 permits were granted to persons with a residence permit on the basis of family reunification.

Section on education (§§ 96-99)

Regarding asylum-seeking children of school age (§ 97), the Danish Government would like to highlight that all migrant children of mandatory school age who are under the provision of the Danish Immigration Service (DIS) have access to primary and lower secondary education equivalent to that which is available to bilingual children residing legally in Denmark.

Section on employment (§§ 100-107)

Regarding the section on employment and the statistical profiling tool (§§ 102-104), the Danish Government wishes to inform ECRI that the statistical profiling tool was closed on 12 March 2022. The questionnaire still exists. The basis for the decision was, i.a., a qualitative study conducted by The Danish Agency for Labour Market and Recruitment (STAR). The study showed that employment agency caseworkers in their workflow primarily used answers from the questionnaire and to a lesser extent the statistical risk assessment. Furthermore, the study showed that some jobseekers were unaware that filling in the form is voluntary and that it is used for a statistical risk assessment, although jobseekers are informed about this on screen.

Before accepting to be statistically profiled, jobseekers were (on the screen) informed about: (i) that it was voluntary, (ii) scope and use, (iii) that it was a statistical comparison and what that entails, (iv) who can see the outcomes, and (v) the jobseekers rights according to GDPR.

The statistical profiling tool made use of the variable “origin”, which is based on the country of birth of individuals, and the country of birth and citizenship of at least one of the parents. The definition of “origin” is derived from Statistics Denmark, the central authority on Danish statistics.

The “origin” of an individual can be one of the following:

1. Danish,
2. Western immigrants,
3. “non-Western” immigrants,
4. descendants of Western immigrants, and
5. descendants of “non-Western” immigrants.

Western countries refer to the member states of the European Union, Andorra, Australia, Canada, Iceland, Liechtenstein, Monaco, New Zealand, Norway, San Marino, Switzerland, United States and Vatican City State.

“Origin” was never the only reason for being in statistical risk of long-term unemployment. The statistical assessment was always done in combination with at least one other variable, e.g. the jobseeker’s own expectations about future job prospects.

The statistical profiling tool did not use ethnicity as a variable, but “origin” (see above).

The results of the statistical profiling tool was only visible to the jobseeker and employment agency caseworkers (who are subject to confidentiality obligations) and not employers. The results were aimed to supplement the individual guidance from the job counsellor.

Section on Family reunification (§§ 110-111)

ECRI notes that following the judgment of 9 July 2021 by the European Court of Human Rights in the case of M.A. v. Denmark, the Danish Immigration Service allows persons with temporary subsidiary protection status to request family reunification after two years when the other requirements have been fulfilled, and that it has reopened a number of

cases where the applications were refused because the three-year requirement had not been fulfilled (§ 111).

However, it is not mentioned in the report that due to the judgment of 9 July 2021, the case administration in the affected cases was temporary suspended shortly after receiving the judgment and until the adjusted practice was initiated on 1 October 2021. Further, it should be noted that the Danish Government on 1 October 2021 announced that it planned to propose an amendment to the Aliens Act to consolidate the adjusted practice mentioned above. On 28 April 2022, the Danish Government put forward a bill containing this proposal.

In addition, the Danish Government would like to emphasize that the immigration authorities must always assess case by case whether a person with temporary subsidiary protection status should be granted family reunification before the expiry of the waiting period. Accordingly, family reunification is always granted when so required by Denmark's international obligations.

The Danish Government would also like to emphasize that the Government seeks to ensure that the Danish rules on family reunification fully comply with European Court of Human Rights' and other Council of Europe standards, as well as other relevant international standards. In this connection, the Danish Government would like to underline that almost all of the requirements for family reunification can be derogated from if exceptional reasons make it appropriate, including the regard for family unity secured under Denmark's international obligations. This also applies to the integration conditions mentioned in the report's footnote 125. This does not seem to be reflected in the report.

The derogation from the requirements for family reunification could be relevant in situations including but not limited to when:

- The spouses or partners are otherwise referred to exercise their right to family life in a country, in which the spouse residing in Denmark – because he or she is a refugee or has protected status and still risks persecution in his or her country of origin – is not able to enter and reside,
- It would be irresponsible due to humanitarian reasons to refer the spouse or partner residing in Denmark to take up residence in another country, where he and she cannot be offered treatment,
- The spouse or partner residing in Denmark has custody over or visitation rights in regard to a minor separate child residing in Denmark.

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The European Commission against Racism and Intolerance (ECRI) is a unique human rights monitoring body which specialises in questions relating to the fight against racism, discrimination (on grounds of "race", ethnic/national origin, colour, citizenship, religion, language, sexual orientation and gender identity), xenophobia, antisemitism and intolerance in Europe; it prepares reports and issues recommendations to member States.

European Commission
against Racism and Intolerance

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