



THE DANISH  
INSTITUTE FOR  
HUMAN RIGHTS

PARALLEL  
REPORT  
DENMARK -  
MAY 2015

CERD

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**PARALLEL REPORT TO THE UN COMMITTEE ON THE ELIMINATION OF RACIAL  
DISCRIMINATION ON THE 20<sup>TH</sup> AND 21<sup>ST</sup> PERIODIC REPORTS BY THE  
GOVERNMENT OF DENMARK ON THE IMPLEMENTATION OF THE INTERNATIONAL  
CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION**

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## **ABBREVIATIONS**

DIHR	DANISH INSTITUTE FOR HUMAN RIGHTS
ECHR	EUROPEAN CONVENTION ON HUMAN RIGHTS
EU/EEA	EUROPEAN UNION/THE EUROPEAN ECONOMIC AREA
ICERD	INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION
NHRI	NATIONAL HUMAN RIGHTS INSTITUTION

## PREFACE

# INTRODUCTION

This parallel report to the UN Committee on the Elimination of Racial Discriminations examination of the Government of Denmark at the 86<sup>th</sup> session is compiled by the Danish Institute for Human Rights (DIHR). The report concerns the implementation of the Convention on the Elimination of All Forms of Racial Discrimination (ICERD) in Denmark and Greenland.

DIHR has chosen to follow the structure of the report of the Government of Denmark (CERD/C/DNK/20-21). The report gives priority to the list of themes from the Country Rapporteur the 2<sup>nd</sup> March 2015 in relation to the combined twentieth and twenty-first periodic reports of Denmark. However, a few other topics are also raised.

This report consists of:

- **Part 1** deals with general measures to eliminate racial discrimination (the ICERD article 2) concerning the Danish Government's general measures to eliminate racial discrimination including the action plans for ethnic integration and the Governments decision not to incorporate the ICERD in domestic law. Furthermore, the question of recognising Roma people and Greenlanders living in Denmark as national minorities is raised.
- **Part 2** concerns the enforcement of the Criminal Code sections 81 no. 6 and section 266b relating to racially motivated hate crimes and hate speech. (the ICERD article 4).
- **Part 3** concerns discrimination against ethnic minorities (the ICERD article 5) This part includes the following topics: Equal treatment before the courts in relation to interpretation issues, victims of domestic violence, the human rights situation for persons on tolerated stay, the right to family reunification for refugees with a one year temporary residence permit, discrimination against non-citizens, the right to housing, coercion in psychiatric treatment and the right to qualified translation in the healthcare services. Finally, there is a section on the right to education and training concerning mother tongue teaching.

- **Part 4** on effective protection and remedies deals with the access to complaints handling at the Board of Equal Treatment and the challenges of recruiting persons with ethnic minority background to the police.
- **Part 5** concerns issues related to Greenland. The topics and recommendations have been prepared in cooperation with the Human Rights Council of Greenland.

## THE DANISH INSTITUTE FOR HUMAN RIGHTS

The Danish Institute for Human Rights (DIHR) is Denmark's national human rights institution. DIHR was established in 1987 and is regulated by act no. 553 of 18 June 2012 on the Institute for Human Rights – Denmark's National Human Rights Institution. DIHR is an independent, self-governing institution within the public administration and is established and functioning in accordance with the UN Principles relating to the Status of National Institutions (The Paris Principles). DIHR has been accredited as an A-status National Human Rights Institution by the International Coordinating Committee of National Human Rights Institutions.

DIHR has since 2003 been the designated body for the promotion of equal treatment of all persons without discrimination on the grounds of racial or ethnic origin as set out in Article 13 of the EU Council Directive 2000/43/EC on Equal Treatment Irrespective of Race and Ethnic Origin. The mandate to deal with individual complaints on the ground of race and ethnic origin was transferred to the Board of Equal Treatment (Ligebehandlingsnævnet), which started functioning 1<sup>st</sup> January 2009. DIHR has retained its status as a specialized equality body as well as its mandate to provide independent assistance to victims of discrimination.

DIHR monitors the human rights situation in Denmark and publishes an annual status report as well as academic research, analyses and reports on human rights. In 2015, DIHR has published a new status report concerning the human rights situation in Denmark that includes the area of ethnicity. An English summary of the status report will soon be available on the institutes website: [www.humanrights.dk/](http://www.humanrights.dk/)

The core funding of DIHR is based on the Danish Finance Act and covers activities within monitoring, research and education. In addition, DIHR receives separate

funding for equal treatment work within the field of gender, race and ethnic origin and rights of persons with disabilities.

In 2014, DIHR was appointed as the national human rights institution of Greenland. The mandate of DIHR thus extends to Denmark and Greenland. DIHR cooperates with the Human Rights Council of Greenland in carrying out the monitoring function in Greenland. The mandate of DIHR does not extend to the Faroe Islands, the other self-governed part of the Kingdom of Denmark. Thus this report does not contain topics concerning the implementation of specific rights of the ICERD in the Faroe Islands.

## PART 1

# 1 EFFECTIVE MEASURES (ARTICLE 2)

## 1.1 GENERAL MEASURES TO ELIMINATE RACIAL DISCRIMINATION

It follows from the Danish state report that the Danish Government's vision on integration is to create a holistic and inclusive approach to integration based on the needs of migrants as well as the needs of society to ensure that integration policies truly stimulate inclusion and equal participation of all migrants in Danish society.

In the Danish Government's vision for integration from 2012, it focuses on seven main areas of concerns. One of these areas is management and monitoring of the integration effort and as a tool to accomplish this, the Danish Government launched the National Integration Barometer. The purpose of the barometer is to put focus on the Government's integration goals with indicators for successful integration and follow the annual progress made to meet the goals, both at national and municipal levels. The barometer measures developments in nine areas.

DIHR welcomes this comprehensive and advanced mechanism for management, monitoring and measuring. DIHR finds it highly positive that the barometer links statistical outcome indicators and goals as well as the fact that it consists of both a nationwide barometer as well as 98 local barometers (one for each municipality).

However, the overall impression is still to some extent a rather fragmented institutional structure, where the results of goals set for the implementation are followed up only to a limited extent. It follows from the barometer that the development within almost all areas is moving slowly and in some areas not at all. This indicates that the initiatives taken to ensure progress are not sufficiently intense.

In order to strengthen the fight against discrimination the Government has established an anti-discrimination unit focussing on discrimination against ethnic

minorities and on discrimination against persons with disabilities. The purpose of the unit is to work for equality and against discrimination.

DIHR welcomes this initiative however; it is the opinion of DIHR that there still is a need for more coordinated and visible anti-discrimination efforts by the Danish Government.

#### **DIHR RECOMMENDS THAT DENMARK:**

- Takes more efficient steps to ensure progress when implementing integration policies.

#### **1.2 INCORPORATION INTO DANISH LAW**

In 2012, the Danish Government appointed an expert committee with the task of considering the possibility of incorporating a number of human rights treaties into Danish legislation, including the ICERD, into Danish Law. Currently the European Convention on Human Rights is the only incorporated human rights convention in Denmark. The members of the committee consisted of independent experts and government representatives. The expert committee finalised its work in 2014.<sup>1</sup> A majority of the experts recommended incorporation of the ICERD and several other UN human rights conventions. However, the Government has chosen not to present a bill concerning incorporation to Parliament.

Today there are very few examples of the ICERD's provisions being either invoked before the Danish Courts and/or applied by the Danish Courts. In the period, January 2001 to January 2014, only three published judgements from Danish Courts contains an explicit reference to the ICERD.<sup>2</sup> Incorporation would strengthen citizens' rights as well as increase attention and create greater awareness of the conventions among citizens, local and State authorities as well as the judiciary.

## **DIHR RECOMMENDS THAT DENMARK:**

- Incorporates the ICERD into national legislation.

### **1.3 NATIONAL MINORITIES**

According to the European Council Framework Convention for the Protection of National Minorities, which Denmark has ratified, it is up to States Parties to define when they recognise a minority as a national minority. However, the criteria applied must be applied uniformly in relation to all minorities in the State in question. The views of the minorities in question must be taken into account.

In Denmark, only the German minority in Southern Jutland has been given national minority status with reference to their long-standing ties to this part of Denmark, their special language and cultural characteristics and the historical background.<sup>3</sup>

#### **1.3.1 THE ROMA COMMUNITY**

In the Danish state report to the Committee, the Danish Government informs that there are objective grounds for choosing not to extend national minority status to the Roma minority since this minority does not have a historical or long-term and unbroken association with Denmark, but consist partly of immigrants and partly of refugees. DIHR agrees with the Danish government in this assessment.

Furthermore, DIHR finds it positive that the Danish Government in December 2011 adopted a Roma Inclusion Strategy.<sup>4</sup> Surprisingly however, the strategy only to a limited extent targets discrimination and intolerant attitudes. Moreover, the strategy does not aim at ensuring access to data on the situation of persons with Roma background in Denmark.

In relation to the presentation of the strategy, DIHR has pointed out, that more knowledge on the Roma people's situation in Denmark, is needed.<sup>5</sup>

## **DIHR RECOMMENDS THAT DENMARK:**

- Intensifies efforts to fight discrimination against Roma minorities and supports targeted policies promoting their full and effective equality in all areas.

### **1.3.2 GREENLANDERS IN DENMARK**

Greenland is part of the Kingdom of Denmark with a long historic, colonial past. As Danish citizens, Greenlanders enjoy the same fundamental rights as other Danish citizens. According to a census in January 2013, the number of Greenlanders living in Denmark amounts to 15.331 persons. This includes people born in Greenland and now living in Denmark. As Danish citizens, this group is usually not registered separately.

However, Greenlanders are met with prejudices and surveys show that they feel discriminated against or stigmatized in the encounter with public authorities, the health care system, employers and the educational system. For example, 17 percent of the Greenlanders in Denmark have had bad experiences during primary school.<sup>6</sup> Concerning persons with two Greenlandic parents the employment rate is only 35.6 percent compared to the employment rate for ethnic Danish persons, which is 73 percent.

Furthermore, it is problematic that the number of classes where Greenlandic is taught in Denmark are few and do not meet the demands for how to teach in these languages. Most of the children of Greenlandic origin do not learn their mother tongue and instead assimilate rapidly into mainstream Danish society.<sup>7</sup>

Under the existing legislation, municipalities are required to offer mother tongue tuition to pupils who speak a language of the EU/EEA Member states, including Faroese and Greenlandic, if a request is made on behalf of at least 12 children and if a qualified teacher can be provided.<sup>8</sup>

Greenlanders living in Denmark are not recognized as a national minority. DIHR actively supports an intensified dialogue with individuals and groups, including Greenlandic individuals and groups that express interest in or might benefit from the protection offered by the Council of Europe Framework Convention for the

Protection of National Minorities. This dialogue would examine whether these individuals and groups wish to be recognized as a national minority. This potentially guarantees better possibilities for Greenlanders learning their mother tongue and provides a better protection of their cultural characteristics.



#### **DIHR RECOMMENDS THAT DENMARK:**

- Engages in a dialogue with Greenlanders in Denmark with the purpose of examining whether they wish to be recognized as a national minority.



## PART 2

# 2 PROHIBITION AGAINST PROMOTION OR INCITEMENT TO ACTS OF RACIAL DISCRIMINATION (ARTICLE 4)

## **2.1 THE ENFORCEMENT OF THE PROHIBITION AGAINST HATE CRIMES (SECTION 81, NO. 6 OF THE DANISH CRIMINAL CODE)**

There have been several initiatives in relation to combatting hate crime in Denmark especially since 2011. During 2011 and 2012, seminars on hate crime were held in nearly all police districts in Denmark. Police officers and prosecutors attended the seminars that dealt with human rights, how to identify hate crimes better and the handling of cases concerning hate crimes. Funen and Copenhagen police have subsequently implemented their own training. The hate crime training in Funen has been especially ambitious, with a training of 250 police officers. In addition to this, Funen Police has established a partnership between a number of NGO's, the municipality and the Police itself with the objective of combatting hate crimes.

Despite these good efforts, there are however still areas that need improvement. The lack of proper statistics is for instance a continuing challenge.

According to the most recent report from The Danish Security and Intelligence Service (Politiets Efterretningstjeneste), 245 incidents of hate crime was reported to the police in 2013. About 25 percent of all reported cases were estimated to be motivated by the ethnic origin of the victim. The number of cases filed have decreased since 2011, where 384 cases were recorded. However the statistics by the police do not seem to provide a full picture of the number of hate crimes in Denmark.

According to the most recent crime victim survey, conducted by the Research Division of the Ministry of Justice in cooperation with the University of Copenhagen in 2014 the number of hate crimes has increased significantly.<sup>9</sup> According to the survey, 6 percent of the respondents that had been victims of violence were convinced that racism caused the offence. According to the

Ministry, this is equivalent to 3.700 persons facing racially motivated violent crimes on a yearly basis.

Moreover, according to the survey, about 45 percent report the crimes to the police. However, this does not seem to be reflected in the significantly lower number of cases identified by the police. Thus, the lack of proper statistics is a problem, which is also reflected in other areas. According to section 81, no. 6 of the Criminal Code, the courts should, when sentencing in criminal cases, consider it an aggravating circumstance, if a criminal act is motivated by the ethnic origin, religious belief, sexual orientation etc. of the victim. Statistics on the number of cases in which section 81, no. 6 has been invoked and applied by the courts is however lacking. This means, that there is very limited knowledge about the extent to which section 81, no. 6 is actually applied by the Danish courts. The Director of Public Prosecution has several times indicated that he would look into a way of making useful statistics, so far without result.

#### **DIHR RECOMMENDS THAT DENMARK:**

- Develops a national action plan for combatting hate crimes in order to ensure continuity and sustainability.
- Establishes an overview of cases where section 81, no. 6 has been invoked by the Danish courts.

## **2.2 RACIALLY MOTIVATED HATE SPEECH (SECTION 266B OF THE DANISH CRIMINAL CODE)**

Section 266b was introduced in the Danish Criminal Code in 1939 and was amended in 1971 to ensure the effective implementation of the ICERD.

DIHR notes that the Danish Government does not plan to repeal this section.

DIHR supports the Danish Government in its decision not to repeal section 266b as it is a crucial tool to combat hate speech.

The Danish state report to the Committee describes the principle of objectivity after which an alleged offender should not be indicted by the Danish prosecution service if – based on the evidence of the case - the prosecution assesses that

prosecuting the offender will not result in a conviction. It is the opinion of DIHR that this principle is not in violation of the ICERD or the case law stemming from the committee. Furthermore, it is the opinion of DIHR that - overall - the Danish case law following from section 266b is in accordance with the ICERD.

The DIHR notes that case law on section 266b is available to the public through the website of the Director of Public Prosecutions. Additionally, it is now possible to draw more extended statistic on cases involving section 266b as described in the state report.

However, in order to ensure a higher degree of transparency as well as a higher degree of insight more information than merely statistics on the cases that do not go before the courts would be welcome.

#### **DIHR RECOMMENDS DENMARK THAT:**

- Publishes – in anonymized form – the reasoning for discontinuing an investigation into a violation of section 266b as well as the decision to withdraw charges.

## PART 3

# 3 DISCRIMINATION AGAINST ETHNIC MINORITIES (ARTICLE 5)

## **3.1 THE RIGHT TO EQUAL TREATMENT BEFORE THE COURTS AND ALL OTHER ORGANS ADMINISTERING JUSTICE**

A research report on the role of court interpreters from 2012 shows that there are problems with the interpreters understanding of his or her role when interpreting in the courts and that some interpreters were not professional in their performances.<sup>10</sup> Furthermore, experiences from lawyers working in the Danish courts shows, that many court interpreters do not have sufficient knowledge of the Danish language and are therefore not able to express themselves in a precise and varied manner. Furthermore, the court interpreters do not always possess the necessary knowledge on relevant terminology and procedural law.<sup>11</sup>

In Denmark, the Translators and Interpreters education (Translatøruddannelsen) is the only education that exists if a person is interested in becoming an interpreter. However, this education does not meet the requirements for qualified interpretation in several important refugee and immigrant languages. For instance, there are no interpreters in Somali, Pashto, Urdu, Farsi and Tamil.

The Ministry of Justice is aware of these issues and has thus formed a committee with the mandate to identify solutions within the ministry's area in order to ensure nationwide access to interpreting services of a better quality as well as a more effective administration, including the opportunities to implement IT-based solutions. The committee was set to have completed its work by the end of 2014. However, it has not done so yet.

## **DIHR RECOMMENDS THAT DENMARK:**

- Establishes an interpreting education specifically aimed at the most important refugee and immigrant languages.
- Introduces certification of the interpreters after either they have finished their education or based on a test in interpretation and language.

### **3.2 THE RIGHT TO SECURITY: VICTIMS OF DOMESTIC VIOLENCE (ARTICLE 5 (B))**

The legal requirement that foreigners - who are victims of domestic violence - must have lived continuously in Denmark for at least two years before the termination of cohabitation with the violent partner has been revoked.<sup>12</sup> It thus accedes with the concerns raised by the Committee in paragraph 13 of the Committee's concluding observations in the nineteenth periodic report of Denmark.

This means that the duration of the foreigner's residence in Denmark is no longer to be taken into consideration when deciding whether a foreigner in the above-mentioned situation can retain his or her residence permit.

In August 2014, DIHR published a report commenting on the Danish implementation of the European Council convention on preventing and combatting violence against women and domestic violence. In the report, DIHR welcomes this positive development that strengthens the protecting of a person in a vulnerable situation.<sup>13</sup>

However, despite this positive development DIHR is still concerned about the safety of victims who are not able to document, that they have been exposed to, especially physical, violence. Furthermore, the victim is required to show willingness to integrate him- or herself into Danish society in order to obtain an autonomous residence permit, which can be difficult when being in a violent relationship.

Moreover, DIHR is concerned that victims of domestic violence whose residence permit depends on cohabitation with a partner are at risk of not obtaining an autonomous residence permit when leaving the partner because of the violence. The reason for this is the general requirement in the Aliens Act that a person must not – as a starting point - have received any welfare benefits within the last three years of applying for a residence permit. If for instance a victim of domestic violence cannot hold a job due to the domestic circumstances and therefore needs to receive welfare benefits, this can influence his or hers chances in obtaining a residence permit.

#### **DIHR RECOMMENDS THAT DENMARK:**

- Does not assess the willingness of the foreigner to integrate him- or herself into society, solely on the circumstances during the abusive relationship but that consideration is also given to the willingness and wish to be integrated after the cessation of the relationship.
- Ensures that, the reception of welfare benefits – linked to the circumstances created by the domestic violence - does not influence the decision to give a residence permit.

### **3.3 THE RIGHT TO FREEDOM OF MOVEMENT AND RESIDENCE WITHIN THE BORDER OF THE STATE: TOLERATED STAY (ARTICLE 5 (D) (I))**

DIHR is concerned about the application of the rules on tolerated stay in Denmark (tålt ophold) for foreigners who have lost their residence permit in Denmark due to e.g. committed crimes but who cannot be sent back to their home country because of a real risk of torture or ill-treatment. Foreigners on tolerated stay are required to spend nights in a refugee camp and to report to the police on a daily basis (opholds og meldepligt). The parliamentary Ombudsman recently raised critique of current practice. It was, however, not examined whether it in individual cases might be in conflict with the prohibition on torture, inhuman or degrading treatment (according to ECHR art. 3) continuously to impose a foreigner on tolerated stay the duty to spend nights in a refugee centre and report to the police on a daily basis.

#### **DIHR RECOMMENDS THAT DENMARK:**

- On a regular basis evaluates whether it in individual cases would be a violation of the prohibition against torture or inhuman or degrading treatment or punishment in article 3 in ECHR to order a foreigner on tolerated stay continuously to spend the nights in a refugee camp and report to the police on a daily basis.
- Ensures that authorities on a regular basis on their own initiative, evaluates whether a foreigner on tolerated stay may reacquire a residence permit, especially if the said person has been on tolerated stay in a refugee camp for a long period and expulsion seems futile.

#### **3.4 THE RIGHT TO FREEDOM OF MOVEMENT AND RESIDENCE WITH THE BORDER OF THE STATE: FAMILY REUNIFICATION TO REFUGEES ON A ONE YEAR TEMPORARY STAY (ARTICLE 5 (D) (I))**

Due to the increasing numbers of asylum seekers in Denmark, especially persons fleeing from the ongoing civil war in Syria, the Danish Government introduced a bill on temporary protection status for asylum seekers, who are at risk of random violence and abuse due to the serious situation in their country.<sup>14</sup> The access to family reunification is limited for this group, meaning that they, as a point of departure, are denied family reunification for the first year. The bill was met with criticism. DIHR and others have criticized that the exceptions to the right to family reunification are too narrow and does not to a sufficient extend take into consideration the various situations where an exception to the one year rule must be made.

#### **DIHR RECOMMENDS THAT DENMARK:**

- Ensures that access to family reunification within the first year for a resident, who has been granted residence permit based on section 7,

subparagraph, 3 in the Aliens Act, is administered in accordance with Denmark's international obligations.

### **3.5 THE RIGHT TO NATIONALITY: DISCRIMINATION AGAINST NON-CITIZENS (ARTICLE 5 (D) (III))**

DIHR would like to draw the attention to the General Recommendation no. 30: Discrimination Against Non-Citizens,<sup>15</sup> paragraph 13, from which it follows that State Parties should ensure that particular groups of non-citizens are not discriminated against with regard to access to citizenship or naturalisation, and to pay due attention to possible barriers to naturalisation that may exist for long-term or permanent residents. DIHR is concerned about the difference in treatment between immigrant descendants of Nordic and non-Nordic origin, about the relatively low number of naturalisation and about the number of stateless children born in Denmark.

#### **DIHR RECOMMENDS THAT DENMARK:**

- Amends the Danish Nationality Act in order to grant non-Nordic immigrant descendants the same right to Danish nationality by declaration as Nordic immigrant descendants who are entitled to Danish nationality by declaration if they are between 18 and 23 years of age, have resided in Denmark for at least 10 years of which 5 must have been within the last 6 years and do not have a criminal record.
- Pays due attention to the barriers to naturalization that may exist for permanent residents who due to illiteracy or other special backgrounds may not be able to pass the Danish language requirement.

- Reduces statelessness among children by obligating the authorities to inform parents to stateless children born in Denmark about their children's entitlement to Danish nationality by application.

### **3.6 THE RIGHT TO HOUSING (ARTICLE 5 (E) (III))**

A not yet published report from the Anti-discrimination unit at the National Social Appeals Board on discrimination in private (rental) housing concludes that discrimination based on ethnicity occurs. People with a Middle Eastern name will statistically have to send 27 percent more applications in order to receive a positive response than people with a Danish name.<sup>16</sup>

The governmental policies for improving living conditions in the challenged social housing neighbourhoods are well described in the state report. From a human rights perspective these policies and initiatives aims at fulfilling the right to adequate housing for the residents living in these neighbourhoods. A part of these policies - pursuing the aim of strengthening the social mix of tenants - involves a wide range of alternative letting rules of which some are described in the state report. This policy mainly aims at preventing vulnerable tenants from moving into these neighbourhoods and to attract socially well-established tenants, and have little focus on improving vulnerable people's access to attractive social housing in other neighbourhoods.

Only the alternative letting rules called "combined letting" give precluded tenants a right to obtain a similar dwelling in another neighbourhood within 6 months. Statistics from the Ministry of Housing, Urban and Rural Affairs show that out of 709 precluded tenants, only 28, were offered another appropriate substitute dwelling by their municipality.<sup>17</sup>

As described in the state report the municipalities are not allowed to offer dwellings in the challenged neighbourhoods to non-EU/EEA-citizens, unemployed people, people with a criminal record etc. The municipality is only allowed to offer these groups dwellings in the challenged neighbourhood if it is not possible to allocate another appropriate dwelling in another neighbourhood.

The combination of the alternative letting rules and restrictions on the municipalities' access to allocate social housing for both non-EU/EEA-citizens and socially disadvantaged people and the fact that there has been a significant decrease in the number of social housing dwellings affordable to those receiving the lowest welfare benefits may amount to significant obstacles in access to housing. While the Ministry of Housing, Urban and Rural Affairs oversees and monitors the use of the alternative letting rules, there is a lack of knowledge on the combined effect of the initiatives to create socially mixed neighbourhoods and access to housing for, among others, ethnic minorities. The housing policies pay limited attention to the possible unintentional and negative consequences for socially disadvantaged people and ethnic minorities' access to adequate housing.

#### **DIHR RECOMMENDS THAT DENMARK:**

- Conducts a systematic registration of the use of all letting instruments aggregated by data on socio-economic status, disability, gender and ethnic origin.
- Examines the housing situation for citizens who are precluded due to the alternative letting rules with regard to the risk of indirect discrimination of ethnic minority persons, as well as disabled and social marginalized persons.

### **3.7 INVOLUNTARY ADMISSIONS TO PSYCHIATRIC INSTITUTIONS (ARTICLE 5 (E) (IV))**

Psychiatric patients with an ethnic minority background are hospitalized more frequently compared to patients with Danish ethnic origin.

This applies especially to groups of male refugees and family reunified women according to the Danish study, Excess use of coercive measures in psychiatry among migrants compared with native Danes.<sup>18</sup> 22.5 percent of refugee patients were committed compulsorily, whereas this was only the case for 13.9 percent of a comparable group of persons born in Denmark by Danish parents.<sup>19</sup>

Avoiding coercion requires clear communication between patient and doctor. If the patient does not sufficiently master the Danish language use of qualified interpretation services is crucial to ensure clear communication.

#### **DIHR RECOMMENDS THAT DENMARK:**

- Takes precautionary measures to prevent involuntary admission to psychiatric institutions by ensuring a clear and good communication in order to obtain consent from the patient, including ensuring qualified interpretation is available before beginning treatment.

### **3.8 THE RIGHT TO INTERPRETATION IN HEALTHCARE (ARTICLE 5 (E) (IV))**

DIHR would like to draw attention to the issue of the often poor quality of translation offered to ethnic minorities when visiting their general practitioner (GPs) as well as other healthcare services.

Interpretation is in many situations vital if a citizen does not master the Danish language. Poor interpretation can be a barrier to equal access in the health care system, and it is therefore problematic that the Danish authorities from time to time employ interpreters that are not educated as interpreters. These interpreters lack competences as well as professionalism. The majority of the interpreters employed are neither educated as interpreters nor in a language. Furthermore, they are not tested in either how to interpret or in the languages they are interpreting in.

One-fifth of GPs in Denmark have been in situations where they have had to use children as interpreters. This is one of several conclusions in the report “Equal Access to Health” published by DIHR in August 2014.<sup>20</sup>

Since then, the Minister of Health has taken the initiative to strengthen the rules so that doctors in general can no longer ask children under the age of 15 to act as interpreters unless the situation is acute and life threatening. However, the executive order that is set to implement this improvement has not yet entered into force.

*DIHR refers to the above listed recommendations in section 3.3 concerning the need for the establishment of an interpreting education and a certification of the interpreters.*

### **3.9 THE RIGHT TO EDUCATION AND TRAINING: MOTHER TONGUE TEACHING (ARTICLE 5 (E) (V))**

Mother tongue teaching contributes to the development and self-esteem of the child. Mother tongue teaching strengthens the child's connection to their own cultural identity. As such, mother tongue teaching strengthens the child both socially and academically.

Before 2002, all children in Denmark were provided with mother tongue teaching. However, since 2002, this teaching is mandatory only for children from countries within the European Union (EU) and European Economic Area (EEA) as well as children from the Faroe Islands and Greenland. Children from other countries are only offered mother tongue teaching in those municipalities, which have decided to support this through supplementary education.

In 2012, the current Government decided to prioritize mother tongue teaching and thus some progress has taken place. An experimental programme is currently running in 39 municipalities, which examines the effects of different teaching modules that aim to develop or build on the mother tongue of minority students. Results from this programme are expected to be presented in 2015.<sup>21</sup>

#### **DIHR RECOMMENDS THAT DENMARK:**

- Analyses the effects of the abrogation of the access to mother-tongue teaching for children from outside the EU-/EEA-countries regarding their educational results, including the opportunities for developing respect and understanding for their own cultural identity, language and values.

## PART 4

# 4 EFFECTIVE PROTECTION AND REMEDIES AND COMBATING PREJUDICES (ARTICLES 6 & 7)

### 4.1 PERCEIVED DISCRIMINATION AND COMPLAINTS (ARTICLE 6)

The general picture of the prevalence of perceived discrimination among ethnic minorities in Denmark is found in the National Integration Barometer.<sup>22</sup>

According to the results in 2012 and 2013, 45 percent of the respondents - immigrants and descendants with a non-western background - have experienced discrimination due to their ethnic origin within the last year.<sup>23</sup> However, there is a discrepancy between this number and the number of complaints filed with the Board of Equal Treatment on discrimination due to race or ethnic origin.

In 2011-2013, the Board decided on 97 cases concerning discrimination on the grounds of race and ethnic origin. In this three-year period, the Board decided in favour of the complainant in 10 out of the 97 cases. According to their annual report from 2013, the Board decided on 38 cases that related to ethnic origin in 2013 – and in 5 cases found in favour of the complainant. In 2012, the figure was 25 and only one complainant was successful in proving a case of discrimination. The number of complaints received is therefore more or less the same, but the number of cases in favour of the complainant was higher in 2013.<sup>24</sup>

This low success rate for complainants suggests that in cases related to race or ethnic origin, lack of evidence is often a challenge. The Board's case handling is on a written basis only, which to some can be a barrier in itself. Furthermore, the Board receives many complaints regarding access to restaurants and pubs, but as the restaurants and pubs deny the accusations, the cases are dismissed due to lack of evidence and there is no way of examining the case further.

## **DIHR RECOMMENDS THAT DENMARK:**

- Ensures that the Board of Equal Treatment is given the possibility to hear oral testimonies.

## **4.2 RECRUITMENT TO THE POLICE (ARTICLE 7)**

In paragraph 11 of its concluding observations concerning the eighteenth and nineteenth periodic reports of Denmark, the Committee urged the Danish Government to adopt specific measures to examine the main reasons why a higher percentage of applicants with an ethnic minority background fail the police recruitment test and drop out of the National Police College.

According to the Danish National Police efforts to attract qualified applicants to the police academy has been in focus for many years. However, the police recognises that this effort has not proved effective for students and newly-employed permanent staff with an ethnic minority background.

In 2013, 6.4 percent of the applicants to the police academy had an ethnic minority background (estimated), however only 1.6 percent of the newly-employed police students were estimated to have an ethnic minority background. According to the Danish National Police, the number was 2.6 percent in 2014.<sup>25</sup>

DIHR published in 2012 the report, “Ethnic Diversity in the Police” (Etnisk mangfoldighed i politiet<sup>26</sup>) which examines the police force as a workplace from an equal treatment perspective. In the report DIHR concluded that the efforts to identify and motivate obvious candidates should be intensified. Openness about the challenging aspects of belonging to a visible minority inside the police force is needed, and it is important to ensure that officers with an ethnic minority background is represented in central and visible positions within the organisation. Finally, the report stresses, that knowledge about the law prohibiting discrimination in work life should be provided in management training throughout the organization, including knowledge of the rules on harassment.

In 2013, The Danish National Police decided to implement a diversity strategy. The main purpose of the employer branding strategy is to brand the police as a relevant workplace for a more diversified audience. A direct personal approach including mentorship is implemented, and in the larger cities, a local cooperation with networks of other ethnic background than Danish is established, for instance involving the local council of integration.<sup>27</sup> DIHR has supported the improvement of diversity and co-facilitated a dialogue throughout the Danish National Police and thus takes note of the commitment from the police to work for equality and notes with satisfaction the ongoing activities for enhancing diversity. However, the persistent challenges for a better recruitment of ethnic minority candidates underlines the need for intensifying the efforts by the police.

#### **DIHR RECOMMENDS THAT DENMARK:**

- Intensifies the efforts to recruit and retain ethnic minority candidates to the Danish National Police, including having specific targets for the numbers of pupils and employees.

## PART 5

# 5 GREENLAND

Greenland is a self-governed part of the Kingdom of Denmark. Denmark's ratification of the International Convention on the Elimination of All Forms of Racial Discrimination (1971) applies to Greenland with no reservations. The Danish Institute for Human Rights is national human rights institution for Greenland since 2014 and works in close cooperation with the Human Rights Council of Greenland in order to monitor the promotion and protection of human rights in Greenland.<sup>28</sup> Together, the council and the institute in 2014 published the first report on the status of human rights in Greenland in seven areas (Implementation of human rights, Children, Disability, Rule of law, Dissemination of human rights, Education, Extractive industries). The report gives an overview and raises a number of human rights issues for each area.

The following topics and recommendations have been prepared in cooperation with the Human Rights Council of Greenland.

### **5.1 INCORPORATION OF THE ICERD IN GREENLAND (ARTICLE 2)**

Just as is the case in Denmark, the European Convention on Human Rights is the only international human rights convention incorporated into Greenlandic law thus making it a part of Greenlandic legislation.<sup>29</sup> The core UN human rights conventions have not been incorporated into Greenlandic law.

During the Universal Periodic Review of Denmark in May 2011, a recommendation to Denmark was to incorporate into domestic law international human rights conventions to which Denmark is party.

#### **DIHR AND THE HUMAN RIGHTS COUNCIL OF GREENLAND RECOMMEND THAT GREENLAND AND DENMARK:**

- Incorporate the convention into Greenlandic law and thereby strengthen the focus on promoting and protecting the rights of the

convention by Greenlandic authorities and by Danish authorities acting in Greenland under Danish law.

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

Current legislation applicable in Greenland against discrimination on the ground of race includes section 100 in the Criminal Code on the prohibition of hate speech (act no. 306/2008) and Danish act on prohibition of discrimination on the ground of race etc. in the access to services etc. (put into force in Greenland by Royal Order no. 27/1972). The Greenlandic criminal code does not contain a provision stating that – in the determination of sentences – it should be considered an aggravating circumstance that the offence was committed because of the ethnic origin or the like of the victim. This fact should be viewed in the light of the tradition of criminal law in Greenland which does generally not contain provisions regulating aggravating circumstances.

Both sets of regulation relates to criminal justice so that individuals are dependent on the police in terms of building the case and getting access to justice. There are no pieces of civil law legislation nor any civil law measures, e.g. complaints boards or the like, to which individuals themselves can bring cases of discrimination on the ground of race.

A civil law-based, set of non-discrimination and equal treatment rules as well as effective mechanisms to address discrimination are both important in order to assure effective protection and remedies against any acts of racial discrimination.

### **DIHR AND THE HUMAN RIGHTS COUNCIL OF GREENLAND RECOMMEND THAT GREENLAND:**

- Introduces a non-discrimination and equal treatment law applicable to discrimination on the grounds of race and ethnic origin.

- Establishes a complaints body to which individuals can – at no or little cost – bring cases of discrimination on the grounds of race and ethnic origin.

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

Knowledge of the rights under the convention among individuals as well as within authorities is crucial in order to promote non-discrimination and equal treatment of all persons in Greenland irrespective of race, national or ethnic origin.

Greenland is home to people from a range of countries. Around 7.000 of Greenland's population of approximately 56.000 persons in total (January 2015) are born outside of Greenland, predominantly in Denmark.<sup>30</sup> Around 970 of these are foreign nationals, and the number of nationals from countries outside Europe and North America is increasing.<sup>31</sup> Greenland must ensure the full enjoyment of every person's political and other rights under the convention (article 5c and d). To meet this obligation sufficient and relevant information in other languages than Greenlandic and Danish can be important.

There is little evidence and there are few research studies on discrimination on the grounds of race etc. For instance, there is a lack of information on working conditions for migrant workers in the service industries. Likewise, the conditions for workers in the construction phase of future large scale mining projects in extractive industries, including conditions for work, residence, right of movement, must be carefully considered. Previously, DIHR has highlighted the challenges of the Greenlandic legislation covering extractive industries and its connections to Danish immigration law.<sup>32</sup>

There is also a lack of data on the challenges of moving within Greenland, e.g. moving or resettling from East Greenland to West Greenland and the capital Nuuk, and to which extent the use of different dialects of Greenlandic might create challenges and an increased risk of discrimination or marginalization.

Finally, there is a lack of data on the challenges for persons, who do not speak Greenlandic, including Greenlanders whose mother tongue is Danish.

**DIHR AND THE HUMAN RIGHTS COUNCIL OF GREENLAND RECOMMEND  
THAT GREENLAND:**

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

**5.4 LANGUAGE SKILLS IN ORDER TO ENSURE EQUAL ACCESS TO  
EMPLOYMENT (ARTICLES 1 AND 5)**

Jobs in both private and public sectors in Greenland in many cases require a high level of fluency in foreign languages, including Danish and English. Language skills are often crucial in order to meet the demands of the contact Greenlandic businesses and work places have with Denmark and other countries. This can impair the access to employment of persons communicating almost solely in Greenlandic compared with persons speaking foreign languages. There is a risk that persons with a low level of foreign language skills are mostly persons of Greenlandic ethnic origin, as schools are lacking skilled teachers especially in small villages (*bygder*). In small villages only about half of the teaching personnel is trained/educated as teachers.<sup>33</sup> Hence, it is necessary that the Greenlandic education system ensures foreign languages classes for all pupil/students on a sufficiently high level.

## **DIHR AND THE HUMAN RIGHTS COUNCIL OF GREENLAND RECOMMEND THAT GREENLAND**

- Review the scholastic level of its foreign language classes in primary and secondary schools in order to ensure access to work, to free choice of employment and protection against unemployment and to just and favourable remuneration (art. 5(e)).

### **5.5 FINAL REMARKS**

Referring to **the situation on indigenous peoples** (articles 2 and 5), mentioned in the List of Themes 2<sup>nd</sup> March 2015 by the Country Rapporteur, DIHR and the Human Rights Council of Greenland would like to inform the committee, that there seem to be no new development in the follow-up to the concerns and recommendations raised by the committee on the issue as to whether the Thule Tribe of Greenland can be considered a distinct indigenous people.

For the committee's information the Greenlandic parliament, Inatsisartut, is currently considering a **draft act on marketing and labelling**, proposed by the Greenlandic government, Naalakkersuisut. The act will, if adopted, require that marketing in Greenland (all platforms) takes place in Greenlandic to the extent possible. Marketing in other languages, including Danish, can only be additional. Together with the 2010 act on language policies in public institutions and private enterprises<sup>34</sup>, the draft act has sparked a public debate on what it means to be truly Greenlandic.

## END NOTES

In the end notes hyperlinks have been visited April the 14, 2015

<sup>1</sup> Ministry of Justice (*Justitsministeriet*) (2014), *Betænkning nr 1546, Betænkning om inkorporering mv. Inden for menneskeretsområdet*, Copenhagen 2014.

Available in Danish at:

[http://justitsministeriet.dk/sites/default/files/media/Pressemeddelelser/pdf/2014/Betaenkning\\_1546.pdf](http://justitsministeriet.dk/sites/default/files/media/Pressemeddelelser/pdf/2014/Betaenkning_1546.pdf)

<sup>2</sup> Ibid, page 77

<sup>3</sup> Advisory Committee on the Framework Convention for the Protection of National Minorities (2015) Fourth Opinion on Denmark adopted 20 May 2014, Council of Europe

<sup>4</sup> Denmark, Ministry of Children, Gender Equality, Integration and Social Affairs (Ministeriet for Børn, Ligebehandling, Integration og Sociale Forhold) (2011), 'Præsentation for Europa-Kommissionen af Danmarks nationale strategi for inklusion af romaeer', press release, December 2011, available in Danish at:  
[http://sm.dk/filer/arbejdsmraader/integration-og-demokrati/bilag-til-integration-af-nye-borgere/danmarks-nationale-strategi-for-inklusion-af-romaer-dk\\_x.pdf](http://sm.dk/filer/arbejdsmraader/integration-og-demokrati/bilag-til-integration-af-nye-borgere/danmarks-nationale-strategi-for-inklusion-af-romaer-dk_x.pdf)

<sup>5</sup> Danish Institute for Human Rights (2011), response to consultation on the Danish national strategy for inclusion of Roma people, 22 December 2011, available in Danish at:

[http://menneskeret.dk/files/media/hoeringssvar/hoeringssvar\\_afgivet\\_i\\_2011/december\\_2011/71\\_b\\_strategi\\_til\\_inklusion\\_af\\_romaer.pdf](http://menneskeret.dk/files/media/hoeringssvar/hoeringssvar_afgivet_i_2011/december_2011/71_b_strategi_til_inklusion_af_romaer.pdf)

<sup>6</sup> Danish Institute for Human Rights & SFI The Danish National Centre for Social Research (2014) *En kvantitativ delundersøgelse af grønlænderes møde med offentlige myndigheder og institutioner..* Report to be made available in Danish once published, at: <http://www.humanrights.dk>

<sup>7</sup> Advisory Committee on the Framework Convention for the Protection of National Minorities (2015) Fourth Opinion on Denmark adopted 20 May 2014, paragraph 88, Council of Europe

<sup>8</sup> Denmark, Act on the Education of Non-Native Language Speaking Children, (Bekendtgørelse nr. 689 af 20 juni 2014 om folkeskolens modersmålsundervisning), section 1(2), cf. section 3(1)(2)

<sup>9</sup> Ministry of Justice (*Justitsministeriet*) (2014), *Udsatthed for vold og andre former for kriminalitet*, November 2014, available in Danish at:

<http://www.justitsministeriet.dk/sites/default/files/media/Arbejdsmraader/Forskningsrapporter/2014/Offerrapport%202013.pdf>

<sup>10</sup> Tina Paulsen Christensen og Bodil Martinsen, 'Retstolkens rolle', Aarhus Universitet 2012.

<sup>11</sup> Ibid. The Association of Danish Authorized Translators and Interpreters, fact sheet (Tolkning I Danmark kræver certificering), 2014, available in Danish at:

<http://tolkelisten.dk/onewebmedia/Faktaark%202014.pdf>

<sup>12</sup> Denmark, Act no. 433 of 1 May 2013, incorporated in proclamation no. 863 of the Danish Aliens Act on 2 July 2013, available in Danish at:

<https://www.retsinformation.dk/Forms/R0710.aspx?id=146540>

<sup>13</sup> Danish Institute for Human Rights (2014) *Ret til et liv uden vold – juridisk analyse af Danmarks opfyldelse af Europarådets konvention til forebyggelse og bekæmpelse af vold mod kvinder og vold i hjemmet*, Copenhagen, 2014. Available in Danish:

[http://www.menneskeret.dk/files/media/dokumenter/udgivelser/ret\\_til\\_et\\_liv\\_uden\\_vold\\_pdfa.pdf](http://www.menneskeret.dk/files/media/dokumenter/udgivelser/ret_til_et_liv_uden_vold_pdfa.pdf)

<sup>14</sup> Danish Institute for Human Rights (2014), response to consultation on a proposal for altering the Danish Aliens Act, 7 November 2014, available in Danish at: [http://menneskeret.dk/files/media/dokumenter/nyheder/imr\\_540\\_10-31282\\_10\\_11\\_2014.pdf](http://menneskeret.dk/files/media/dokumenter/nyheder/imr_540_10-31282_10_11_2014.pdf)

<sup>15</sup> UN Committee on the Elimination of Racial Discrimination, General Recommendation No 30: Discrimination Against Non-Citizens: 1 October 2002, available at:

<http://www.refworld.org/publisher,CERD,GENERAL,,45139e084,0.html>

<sup>16</sup> Danish Institute for Human Rights (2015) *Delrapport: Retten til bolig – Status 2014-15*, Copenhagen, 2015. Page 22. Available in Danish at:

[http://menneskeret.dk/files/media/dokumenter/udgivelser/status/2014-15/delrapporter/retten\\_til\\_bolig.pdf](http://menneskeret.dk/files/media/dokumenter/udgivelser/status/2014-15/delrapporter/retten_til_bolig.pdf)

<sup>17</sup> Danmarks Radio, (2014), ‘Boligminister: Kommuner snyder ikke boligsøgende’, 11 April 2014, available in Danish at:

<http://www.dr.dk/Nyheder/Indland/2014/04/10/140957.htm>

<sup>18</sup> Nørredam M., Garvia-Lopez A., Keiding N. & Krasnik A. (May 2009) *Excess use of coercive measure in psychiatry among migrants compared with native Danes*, Acta Psychiatrica Scandinavia, feb. 2010, vol. 121, issue 2, pp 143-151

<sup>19</sup> Ibid. Table 2

<sup>20</sup> Danish Institute for Human Rights (2014) *Equal Access to Health – Analysis of general practitioners encounter with patients with an ethnic minority background*, available in Danish with an English summary at:

[http://www.humanrights.dk/files/media/dokumenter/udgivelser/lige\\_adgang\\_til\\_sundhed\\_pdfa.pdf](http://www.humanrights.dk/files/media/dokumenter/udgivelser/lige_adgang_til_sundhed_pdfa.pdf)

<sup>21</sup> Denmark, Ministry of Education (Undervisningsministeriet) (2013), ‘Udviklingsprogrammet for styrkelse af tosprogede elevers faglighed’, Press release, November 2011, available in Danish at:

<http://www.uvm.dk/Uddannelser/Folkeskolen/Tosprogede/Udviklingsprogrammet-til-styrkelse-af-tosprogede-elevers-faglighed>

<sup>22</sup> Hyperlink to the National Integration Barometer:

[http://integrationsbarometer.dk/integrationsbarometer\\_kommune?kommunenr=0](http://integrationsbarometer.dk/integrationsbarometer_kommune?kommunenr=0)

<sup>23</sup> Denmark, The national Integration Barometer (*Integrationsbarometeret*) – goal 5: Equal Treatment, available in Danish at:

[http://integrationsbarometer.dk/integrationsbarometer\\_maal?goal=5&kommuner=0](http://integrationsbarometer.dk/integrationsbarometer_maal?goal=5&kommuner=0)

<sup>24</sup> Denmark, The Board of Equal Treatment (*Ligebehandlingsnævnet*) (2014)

Årsrapport 2013, available in Danish with an English summary at:

<http://ast.dk/naevn/ligebehandlingsnaevnet/om-ligebehandlingsnaevnet>

<sup>25</sup> Letter from the Danish National Police to the Ministry of Justice, dated 29th August 2014

<sup>26</sup> Danish Institute for Human Rights (2012) *Etnisk mangfoldighed i politiet*, available in Danish at:

<http://menneskeret.dk/files/media/dokumenter/udgivelser/etnisk20mangfoldighed20i20politiet.pdf>

<sup>27</sup> Letter from the Danish National Police to the Ministry of Justice, dated 29<sup>th</sup> August 2014

<sup>28</sup> Decree no. 393 of 23 April 2014 on the entering in force for Greenland of the act on the Danish Institute for Human Rights – the national human rights institution of Denmark (*Anordning nr. 393 af 23.april 2014 om ikrafttræden for Grønland af lov om Institut for Menneskerettigheder – Danmarks Nationale Menneskerettighedsinstitution*).

<sup>29</sup> Decree no. 814 of 18 September 2001 on the entering into force for Greenland of the act on the incorporation of the European Convention on Human Rights (*Anordning nr. 814 af 18. september 2001 om ikrafttræden for Grønland af lov om Den Europæiske Menneskerettighedskonvention*).

<sup>30</sup> Statistics Greenland, 2015 Population, accessible on [www.stat.gl](http://www.stat.gl) through this direct link

<http://www.stat.gl/dialog/topmain.asp?lang=en&subject=Population&sc=BE>

<sup>31</sup> Statistics Greenland, 2015 Population, table 3, accessible on [www.stat.gl](http://www.stat.gl) through this direct link

<http://www.stat.gl/dialog/main.asp?lang=en&sc=BE&version=201501>

<sup>32</sup> DIHR public consultation memo concerning Danish draft law on aliens' access to residence and work permits in the construction phase of a large-scale mining project, 27 May 2014 (*Høring over forslag til lov for Grønland om udlændinges adgang til opholds- og arbejdstilladelse i anlægsfasen af et storskalaprojekt, 27. maj 2014*), accessible in Danish only at

<http://menneskeret.dk/hoeringssvar/udlaendinges-adgang-opholds-arbejdstilladelse-anlaegsfasen-storskaprojekt-groenland>

<sup>33</sup> Statistic yearbook 2012, Figure 1. Skilled teachers employed in schools as a percentage of the norm for the number of teaching positions ("Oversigt 1.

*Uddannede lærere ansat i folkeskolen i pct. af det normerede antal lærerstillinger”), Statistics Greenland 2012.*

<sup>34</sup> Greenlandic act no. 7 of 19 May 2010 on language policy (Inatsisartutlov nr. 7 af 19. maj 2010 om sprogpolitik).

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