



Economic and Social Council

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Committee on Economic, Social and Cultural Rights

Concluding observations on the fifth periodic report of Denmark, adopted by the Committee at its fiftieth session (29 April-17 May 2013)

1. The Committee on Economic, Social and Cultural Rights considered the fifth periodic report of Denmark on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/DNK/5) at its 17th and 18th meetings, held on 10 May 2013 (E/C.12/2013/SR.17-18), and adopted, at its 28th meeting held on 17 May 2013, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the fifth periodic report of Denmark (E/C.12/DNK/5), including information on the situations in Greenland and the Faroe Islands, and the replies to its list of issues (E/C.12/DNK/Q/5/Add.1). It notes with appreciation that the State party's delegation was gender-balanced and made up of experts from various ministries. The Committee appreciates the State party's informative and constructive interactive dialogue and engagement with the Committee.

B. Positive aspects

3. The Committee notes with appreciation:

- (a) The adoption of a new strategy for development cooperation in May 2012;
- (b) The setting up in December 2012 of an Expert Committee to examine, inter alia, the question of the incorporation of international human rights instruments, including the International Covenant on Economic, Social and Cultural Rights;
- (c) The measures taken aimed at improving the living conditions for asylum seekers and other immigrants in the State party;
- (d) The issuance of a new set of National Guidelines to Maternity Care in Denmark in 2009 and updated in 2012;
- (e) The adoption of the Action Plan against Human Trafficking (2011-2014).

C. Principal subjects of concern and recommendations

4. The Committee reiterates its concern that the State party has still not incorporated the International Covenant on Economic, Social and Cultural Rights into its domestic legislation. The Committee is also concerned that despite the State party's statement that the Covenant is applied by the Danish courts, case law shows that international human rights treaties are rarely applied by courts or invoked by parties to a case, and that the Supreme Court has stated that non-incorporated treaties do not have direct effect in the domestic legal order.

The Committee recommends that the State party incorporate the International Covenant on Economic, Social and Cultural Rights into its domestic legislation, and improve the awareness and knowledge of the Covenant through human rights education and training programmes, including for the judiciary. The Committee draws the State party's attention to its general comment No. 9 (1998) on the domestic application of the Covenant.

5. The Committee notes that the State party continues to maintain a reservation to article 7 (d) of the Covenant regarding the right to remuneration for public holidays, made at the time of ratification in 1972.

The Committee recommends that the State party review its reservation to article 7(d) of the Covenant, with a view to withdrawing it, in particular as the State party included a temporary element in its reservation to article 7(d).

6. The Committee notes with appreciation the independent status of the Danish Institute for Human Rights, but regrets that its mandate does not yet cover the Faroe Islands.

The Committee recommends that the State party, in cooperation with the government of the Faroe Islands, enact legislation with a view to extending the mandate of the Danish Institute for Human Rights to the Faroe Islands as well. It also encourages the Danish Institute for Human Rights to address economic, social and cultural rights on an equal basis with civil and political rights, in view of the universality and indivisibility of all human rights.

7. The Committee regrets that the State party has not adopted a comprehensive anti-discrimination legislation yet, but rather relies on different acts affording different levels of protection to different groups of individuals (art. 2).

The Committee recommends that the State party take steps to adopt comprehensive anti-discrimination legislation, guaranteeing protection for all against discrimination in the enjoyment of economic, social and cultural rights, as stipulated in article 2, paragraph 2, of the Covenant. The Committee recommends that the State party ensure that such legislation also protects against discrimination on the grounds of sexual orientation as well as disability. The Committee draws the State party's attention to its general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights.

8. The Committee reiterates its concern about the persistent wage gap between women and men, in particular in the Faroe Islands, as well as the underrepresentation of women in high-ranking posts, especially in academia and the private sector (art. 3).

The Committee recommends that the State party intensify its efforts to ensure equality between men and women in the workplace, address the persistent wage gap between men and women, and ensure equitable representation of women in managerial positions. It also recommends that the State party include in its next periodic report information on progress made in these areas.

9. The Committee is concerned that women from minority groups continue to face difficulties in realizing and accessing Covenant rights, in particular accessing education, employment and health care (art. 3).

The Committee recommends that the State party intensify measures, including temporary special measures, to facilitate access by women from minority groups to all Covenant rights, in particular education, employment and health care.

10. The Committee is concerned that the unemployment rate among youth as well as immigrants from developing countries is higher than the national average. It is also concerned that the unemployment benefit period has been reduced from four to two years as of 1 January 2013 (art. 6).

The Committee recommends that the State party intensify steps, in particular through the Emergency Rescue Plan 2013, to address the higher rates of unemployment among youth as well as immigrants from developing countries. The Committee also recommends that the State party include in its next periodic report an assessment of the impact of the reduction of the unemployment benefit period on the standard of living of persons affected by this change.

11. The Committee is concerned that persons with disabilities are disproportionately underrepresented in the labour market and that their participation is declining. The Committee is also concerned that domestic labour legislation does not include a standard duty on the employer to provide for reasonable accommodation (art. 6).

The Committee recommends that the State party take steps to promote an inclusive labour market for persons with disabilities and amend domestic labour legislation to include the standard duty for employers to provide for reasonable accommodation.

12. The Committee notes with concern that the State party has not yet introduced a national minimum wage thus endangering in particular the right of workers not covered by collective agreements as well as persons with disabilities to equal remuneration for work of equal value (art. 7).

The Committee recommends that the State party take legislative and other measures to introduce a national minimum wage. It also recommends that the State party ensure that the level of the national minimum wage is periodically reviewed and set at a level sufficient to provide all workers and their families with a decent standard of living.

13. The Committee is concerned that the level of the basic social assistance allowance paid to persons under 25 years of age is not set at a level adequate to ensure a decent living. The Committee is also concerned that early retirement reform may preclude persons with disabilities under the age of 40 from accessing disability pensions (art. 9).

The Committee recommends that the State party ensure that the level of social assistance benefits for persons under 25 years of age is sufficient to ensure a decent living. It also recommends that the State party take steps to ensure that persons with disabilities under the age of 40 have access to disability pensions.

14. The Committee is concerned that corporal punishment of children is not explicitly prohibited in Greenland regarding the home and other care settings (art. 10).

The Committee recommends that the State party take steps to ensure that corporal punishment is prohibited in all settings in Greenland.

15. The Committee is concerned that a significant number of children are placed in care outside of their home, including in institutional care (art. 10).

The Committee recommends that the State party take steps to ensure that family-type care rather than institutional care is offered for children deprived of a family environment. It also recommends that the State party take steps to ensure that children who are placed in care outside of their home, in particular children with disabilities, have access to adequate care. In this regard, the Committee recommends that the State party take into account the Guidelines for the Alternative Care of Children, annexed to General Assembly resolution 64/142.

16. The Committee is concerned that certain segments of the population are at an increased risk of living in poverty, in particular single parent families, families living on State welfare as well as immigrant families (art. 11).

The Committee recommends that the State party take steps to introduce a national poverty line, and introduce measures to guarantee targeted support to all those living in poverty, in particular single parent families, families living on State welfare as well as immigrant families. It also recommends that targeted measures be taken, in addition to the existing measures promoting poverty alleviation through education, to address poverty in remote settlements and villages in Greenland. In this regard, the Committee draws the attention of the State party to its statement on poverty and the International Covenant on Economic, Social and Cultural Rights, adopted on 4 May 2001.

17. The Committee is concerned that migrant workers and other disadvantaged and marginalized groups, including the Roma people, face obstacles in realizing their right to adequate housing units. The Committee is also concerned about the continuing shortage of social housing, including in the Faroe Islands. It is furthermore concerned about the persistence of homelessness in the State party, particularly among the immigrant population, as well as about the persistence of a high number of forced evictions (art. 11).

The Committee recommends that the State party, taking into account its general comment No. 4 (1991) on the right to adequate housing, adopt all appropriate measures to ensure access to adequate housing for disadvantaged and marginalized groups, including migrants and Roma, inter alia by ensuring that adequate resources are allocated to increase the supply of social housing units and by providing appropriate forms of financial support, such as rental subsidies. The Committee furthermore recommends that the State party take all appropriate measures to improve both the quantity and quality of reception facilities (including emergency shelters, hostels, reception and social rehabilitation centres and boarding houses), and develop appropriate policies and programmes to facilitate the social reintegration of homeless persons. The Committee also recommends that the State party take steps to ensure that persons forcibly evicted are provided with alternative accommodation or compensation enabling them to acquire adequate accommodation, in accordance with the guidelines adopted by the Committee in its general comment No. 7 (1997) on forced evictions.

18. The Committee notes with concern that quota refugees, migrants reunified with their family, and undocumented migrants continue to encounter difficulties in gaining access to health care facilities, goods and services (art. 12).

The Committee recommends that the State party take steps to ensure that all persons belonging to disadvantaged and marginalized groups and individuals, in particular quota refugees, migrants reunified with their family, and undocumented migrants and members of their families, have access to basic health care. The Committee recommends that these steps include guaranteeing health examinations to such persons upon their arrival in the State party, and offering of vaccinations to their children. It also recommends that the State party take steps to raise awareness among

disadvantaged and marginalized groups and individuals of the health-care system and ensure that all have access to related information in languages other than Danish.

19. The Committee is concerned about the disadvantaged position of children of immigrants and Roma in public schools, linked to socio-economic factors, compared to ethnic Danish pupils. It is furthermore concerned that asylum-seeking children are not promptly integrated into mainstream public schools (arts. 13 and 14).

The Committee recommends that the State party prioritize the implementation of the framework for language development and the reduction of the impact of socio-economic backgrounds of pupils on their academic performance. The Committee furthermore recommends that the State party take steps to ensure that asylum-seeking children are promptly integrated into mainstream public schools, and are not first educated in separate schools.

20. The Committee is concerned that children with disabilities are much less likely than children without disabilities to take final exams after completing compulsory primary and secondary education, and that, if they do, they perform less well in those exams compared to children without disabilities (arts. 13 and 14).

The Committee recommends that the State party take steps to ensure an inclusive education for children with disabilities. It also recommends that the State party ensure that teachers are trained to educate children with disabilities within regular schools and that children with disabilities are provided with the necessary equipment and support.

21. The Committee is concerned that the State party has not applied the principle of cultural self-identification in relation to the recognition of the Thule Tribe of Greenland as a distinct indigenous community (art. 15).

The Committee recommends that the State party take steps to recognize the Thule Tribe of Greenland as a distinct indigenous community capable of vindicating its traditional rights, including, to maintain its cultural identity and use its own language.

22. The Committee recommends that the State party take steps to ensure that all disadvantaged and marginalized groups and individuals, including persons with disabilities, as well as children from low-income families and migrant children, and older persons can fully enjoy their right to take part in cultural life.

23. The Committee requests that the State party include in its next periodic report information on measures taken to guarantee the right of everyone to enjoy the benefits of scientific progress and its applications, in conformity with article 15, paragraph 1 (b) of the Covenant.

24. The Committee encourages the State party to consider signing and ratifying the **Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.**

25. The Committee encourages the State party to consider signing and ratifying the **International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Optional Protocol to the Convention on the Rights of Persons with Disabilities.** The Committee also reiterates its recommendation that the State party consider ratifying ILO Conventions No. 117 (1962) on Social Policy (Basic Aims and Standards) and No.174 (1993) concerning the Prevention of Major Industrial Accidents.

26. The Committee requests the State party to disseminate the present concluding observations widely among all levels of society, in particular among State officials, the judiciary and civil society organizations, translate and publicize them as far as

possible and inform the Committee of the steps taken to implement them in its next periodic report. It also encourages the State party to engage all the relevant actors, including non-governmental organizations and other members of civil society, in the process of discussion at the national level prior to the submission of its next periodic report.

27. The Committee requests the State party to submit its sixth periodic report, prepared in accordance with the revised reporting guidelines of the Committee, adopted in 2008 (E/C.12/2008/2), by 31 May 2018.
