APPLICATION

Representing

Applicant 1
Mjølnerparken
2200 Copenhagen N

Applicants 2 and 3
Mjølnerparken
2200 Copenhagen N

Applicant 4
Mjølnerparken
2200 Copenhagen N

Applicants 5 and 6
Mjølnerparken
2200 Copenhagen N

Applicants 7 and 8
Mjølnerparken
2200 Copenhagen N

Applicant 9
Mjølnerparken
2200 Copenhagen N

Applicant 10
Mjølnerparken
2200 Copenhagen N

Applicant 11
Mjølnerparken
2200 Copenhagen N

Applicant 12
Mjølnerparken
2200 Copenhagen N

I hereby summon

The Ministry of Transport and Housing
Frederiksholms Kanal 27 F
1220 Copenhagen K

to appear as respondent in the case below, where I – on behalf of all the applicants – will submit the following

CLAIM

The Ministry of Transport and Housing must acknowledge that the Ministry's approval of 19 September 2019 of the Development Plan for Mjølnerparken is in violation of the Ethnic Equal Treatment Act, EU Law, and Denmark's obligations under international law.

STATEMENT OF FACTS

Mjølnerparken is a common housing branch from 1986 administered by Bo-Vita, situated in Copenhagen N. The branch comprises 528 family units and 32 student units divided on four blocks.

Mjølnerparken has since the introduction of the term "ghetto" in the Common Housing Act been characterised as a "ghetto". On the "Ghetto lists" from both 2018 and 2019, Mjølnerparken is categorised as a "tough ghetto area" (**appendices 1 and 2**).

As a consequence of the categorisation of Mjølnerparken as a "tough ghetto area" in December 2018, Bo-Vita and the Municipality of Copenhagen were required to draft a development plan.

The development plan for Mjølnerparken ('The Development Plan') (**appendix 3**) was passed on 14 May 2019 by the highest authority of Bo-Vita, the assembly of representatives, with 19 votes for, 10 votes against, and one blank vote (**appendix 4**). The Development Plan was submitted to the Danish Transport, Construction and Housing Authority on 28 May 2019. On 20 June 2019, the Development Plan was approved by the Municipal Council of Copenhagen (**appendix 5**).

The branch board of Mjølnerparken was excluded from the drafting of the Development Plan; and particularly motivated by the decision to sell family units rather than re-categorising existing family units to senior or student units, the board chose to submit an alternative development plan to the Ministry of Transport and Housing on 31 May 2019 (**appendices 6 and 7**). This plan was rejected by the Ministry of Transport and Housing on 25 June 2019 (**appendix 8**).

On 10 September 2019, the Development Plan was approved by the Ministry of Transport and Housing (**appendix 9**).

It is stated in the Development Plan that the main concept of the plan is a continuation of the pre-existing physical overall plan and subsequently sale of family units, cf. appendix 3, p. 3.

The physical overall plan for Mjølnerparken ('The Overall Plan') is a comprehensive plan and an application for support to renovate Mjølnerparken (**appendix 10**), which was approved by 89 % of the 509 participating residents from Mjølnerparken on 14 June 2015 and by the Municipal Council of Copenhagen on 10 December 2015. This plan includes *inter alia* the renovation of existing units, creation of open spaces and infrastructure, establishment of a shopping street, establishment of a new community hall, and establishment of new attic flats. The purpose of the initiatives in the physical overall plan is *"to ensure a well-functioning and safe housing area with attractive and good flats that will bring about a positive change of Mjølnerparken"*, cf. appendix 3, p. 3.

Under the Development Plan, the number of common family units in Mjølnerparken will be reduced to 233 by selling entire blocks, cf. appendix 3, p. 5.

The following time plan is laid out in the Development Plan, cf. appendix 3, p. 5:

> "1 June 2019: Development Plan submitted.
>
> Early 2020: The works under the Development Plan commence.

> Early 2021 (milestone): The first block, which is to be sold, has been vacated and renovated, sale can be executed. Works commence on the next block, which is to be sold.
>
> Early 2022 (milestone): The second block, which is to be sold, has been vacated and renovated, sale can be executed.
>
> Early 2022: The rest of the overall plan commences.
>
> 2024 (milestone): The overall plan has been completed."

It is not stated in the Development Plan, which exact blocks and units are to be sold, but in the minutes from the approval of the Development Plan by the Municipal Council of Copenhagen (appendix 5, p. 5) and on the website of Bo-Vita, it appears that approximately 260 units in block 2 and 3 of Mjølnerparken are to be sold (**appendix 11**). In the Development Plan, it is stated that a concrete rehousing plan will have been drafted when it has been determined, which blocks are to be sold, cf. appendix 3, p. 6. A concrete rehousing plan for the residents, who will be affected by the sale under the Development Plan as well as the renovation under the Overall Plan, is still not available, just as the works under the Overall Plan have not commenced.

All applicants are residents in Mjølnerparken and rent family units situated in block 2 and 3 on permanent leases. None of the applicants have been offered rehousing, but Bo-Vita has sent out general information to the residents about this and has offered the residents to sign up for voluntary, preemptive rehousing (**appendix 12**).

Applicant 1 is 52 years old and has lived in Mjølnerparken since 1994. He rents a family unit situated (**appendix 13**). [redacted]

Applicants 2 and 3 are married and have lived in Mjølnerparken since 1995. They are 50 and 45 years old, respectively. They rent a family unit situated (**appendix 14**). [redacted]

Applicant 4 is 54 years old and has lived in Mjølnerparken since 1987. He rents a family unit situated (**appendix 15**). [redacted]

Applicants 5 and 6 are married and have lived together in Mjølnerparken since 2002. They are 53 and 43 years old, respectively. They rent a family unit situated (**appendix 16**). [redacted]

Applicants 7 and 8 are married and have lived in Mjølnerparken since 1994. They are 75 and 67 years old, respectively. They rent a family unit situated (**appendix 17**). [redacted]

Applicant 9 is 42 years old and lives in a family unit situated (**appendix 18**) together with her husband and the couple's two children who are minors. [redacted]

Applicant 10 is 47 years old and has lived in Mjølnerparken since 2014. She rents a family unit situated (**appendix 19**). [redacted]

Applicant 11 is 48 years old and has lived in Mjølnerparken since 2012. She rents a family unit situated (**appendix 20**). [redacted]

Applicant 12 is 28 years old and has lived in Mjølnerparken his entire life. Until 2013 he lived together with his parents in their flat in Mjølnerparken, after which he moved into his own family unit situated (**appendix 21**). [redacted]

Thus, all applicants are Danish citizens. Applicants 10 and 11 have, according to Statistics Denmark, "Danish origin". Applicant 12 is categorised as a "non-Western descendant", while the other applicants are categorised as "non-Western immigrants". The latter categorisation will be described in detail below.

ARGUMENTS

In support of the submitted claim, it is *firstly* submitted that the approval of the Development Plan by the Ministry of Transport and Housing constitutes direct discrimination on the basis of racial and ethnic origin in violation of Section 3(2), in conjunction with Subsection (1), of the Ethnic Equal Treatment Act and EU law and in violation of Article 14, in conjunction with Article 8, of the European Convention on Human Rights (ECHR), Article 2 of Protocol No. 4 to the ECHR, and Article 1 of Protocol No. 1.

In support of the submitted claim, it is *secondly* submitted that the approval constitutes indirect discrimination on the basis of racial and ethnic origin in violation of Section 3(3), in conjunction with

Subsection 1, of the Ethnic Equal Treatment Act and EU law and in violation of Article 14, cf. Article 8, of the ECHR, Article 2 of Protocol No. 4 to the ECHR, and Article 1 of Protocol No. 1.

In support of the submitted claim, it is *thirdly* submitted that the approval constitutes discrimination on the basis of racial and ethnic origin in the form of a violation of the prohibition of instruction to discriminate in Section 3 of the Ethnic Equal Treatment Act and EU law.

In support of the submitted claim, it is *fourthly* submitted that the approval constitutes a direct violation of Article 8 of the ECHR, Article 2 of Protocol No. 4 to the ECHR, and Article 1 of Protocol No. 1.

1. The legal basis for the Development Plan for Mjølnerparken

1.1. 'The Ghetto criteria'

The identification of a common housing estate as a "ghetto" was first introduced in the Common Housing Act by Act No. 1610 of 22 December 2010 on the basis of the former government's policy paper 'Ghettoen tilbage til samfundet – Et opgør med parallelsamfund i Danmark' [English: 'The Ghetto back to society – Confronting parallel societies in Denmark'] from October 2010.

In relation to those areas, which are to be defined as "ghettos", the following emerges from page 5 of the policy paper:

> "a high concentration of immigrants means that many continue to be more closely attached to the country and the culture, whence they or their parents come from, than to the Danish society, in which the live."

With Section 61a, Act No. 1610 of 22 December 2010 introduced a definition of "ghetto area".

In the then applicable Section 61a, it is stated that a "ghetto area" is defined as a physically adjoining common housing branch with at least 1,000 residents, which fulfils two of the following criteria: 1) the share of immigrants and descendants from non-Western countries exceeds 50 %, 2) the share of residents between the ages of 18 and 64 without connection to the job market or education exceeds 40 %, calculated as an average of the last four years; 3) the share of residents convicted of violations of the Criminal Code, the Weapons Act, or the Controlled Substances Act per 10,000 residents above the age of 18 exceeds 270 persons, calculated as an average of the last four years.

With the introduction of the definition of "ghetto areas" in Section 61a(1), it was also prescribed in Section 61a(2) that an annual list of "ghetto areas" should be kept.

In 2013, the definition of ghetto area in Section 61a of the Common Housing Act was changed by Act No. 1609 of 26 December 2013. In the new definition, the three original criteria were kept, although the use of 4-year averages was changed to 2-year averages, and two new criteria concerning the income and education of the residents were introduced.

In the explanatory memorandum to Act No. 1609 of 26 December 2013, it emerges *inter alia* from paragraph 3.1.2 in Bill No. L45 of 31 October 2013 that:

> "The current criteria continue to be of decisive importance. The integration of immigrants and descendants from non-Western countries in vulnerable housing estates is a focal point. It is important that residents in the housing estates mingle across ethnic origin (...) A high concentration of citizens with a different ethnic extraction is thus signalling that a focus should be placed on the area (...)"

With the introduction of Act No. 1609 of 26 December 2013, Section 61a of the Common Housing Act defined a "ghetto area" as a physically adjoining common housing branch with at least 1,000 residents, which fulfils three of the following criteria: 1) the share of immigrants and descendants from non-Western countries exceeds 50 %, 2) the share of residents between the ages of 18 and 64 without connection to the job market or education exceeds 40 %, calculated as an average of the last two years; 3) the share of residents convicted of violations of the Criminal Code, the Weapons Act, or the Controlled Substances Act per 10,000 residents above the age of 18 exceeds 270 persons, calculated as an average of the last two years; 4) the share of residents between the ages of 30 and 59 with only primary education exceeds 50 %; and 5) the average gross income for taxpayers between the ages of 15 and 64 in the area, excluding students, is less than 55 % of the average gross income for the same group in the region.

In March, the former government consisting of *Venstre*, *Liberal Alliance*, and *Det Konservative Folkeparti* published the policy paper "Ét Danmark uden parallelsamfund – Ingen ghettoer i 2030" [English: "One Denmark Without Parallel Societies – No Ghettos by 2030"], in which the government proposed 22 initiatives aimed at combatting parallel societies, including harsher punishments in specific areas, mandatory day-care to ensure Danish skills, and targeted language tests in pre-school, cf. page 8 of the policy paper.

On page 6 of the policy paper "Ét Danmark uden parallelsamfund – Ingen ghettoer i 2030", it is stated that:

> "The ghettos must be eradicated. The parallel societies must be broken up. And we must ensure that new ones do not emerge. Once and for all, the massive task of integration must be undertaken; where a group of immigrants and descendants have not taken Danish values to heart and isolate themselves in parallel societies."

On page 7 of the policy paper ("Text box 1 – Facts about parallel societies"), it is further stated that:

> "The strong population growth of citizens of non-Western origin has provided a breeding ground for parallel societies where Danish values and norms are not the primary ones. It is impossible to give a precise figure for how many persons with non-Western background who, in reality, live their lives with other values and norms. By contrast, it is possible to establish a number of facts about persons and families with non-Western background, which suggest that a large parts live relatively isolated from the surrounding society. An analysis from the Ministry of Economy and Interior shows that 28,000 families with non-Western background can be said to live in parallel societies. It concerns the ethnic composition in housing estates, schools and day-care institutions, participation in education or employment, crime rate etc."

The analysis from the Ministry of Economy and Interior (**appendix 22**) contains the following definition of parallel society, cf. appendix 22, p. 1:

> "A parallel society is physically or mentally isolated and following its own norms and rules, without noticeable contact with Danish society and without a desire to become part of the Danish society."

On 9 May 2018, the former government made an agreement with *Socialdemokratiet*, *Dansk Folkeparti*, and *Socialistisk Folkeparti* about "Initiativer på boligområdet, der modvirker parallelsamfund" [English: "Initiatives in the housing sector in response to parallel societies"]. The agreement built on the government's policy paper "Ét Danmark uden parallelsamfund – Ingen ghettoer i 2030".

The policy proposal and the agreement contain new criteria for when to define an area as a "ghetto area", including a further distinction in the definition between "vulnerable housing estates" and

"tough ghetto areas". It is stated in the agreement that criteria for when to define an area as a "ghetto area" must be updated and consolidated.

It is stated, cf. the agreement of 9 May 2018 about "Initiativer på boligområdet, der modvirker parallelsamfund", that updating and consolidating the criteria serve the purpose of ensuring that they

> "(...) to a higher degree are directed towards the most important problems, and that it at the same time is ensured that the initiatives target the right areas (...)"

By Act No. 1322 of 27 November 2018, the definition of a "ghetto area" in Section 61a of the Common Housing Act was changed accordingly so that it reflected the distinction between "vulnerable housing estates", "ghetto areas", and "tough ghetto areas".

Accordingly, Section 61a of the Common Housing Act defines an area, which fulfils at least two of the above-mentioned criteria nos. 2-5, as a "vulnerable housing estate", while an area that would otherwise be a "vulnerable housing estate" is categorised as a "ghetto", when the share of immigrants or descendants from non-Western countries exceeds 50 % and at least two of the above-mentioned criteria nos. 2-5 are fulfilled, cf. the current Section 61a(2).

A "ghetto" becomes a "tough ghetto" when it for four years has fulfilled the criteria in Section 61a(2), cf. Subsection 4. A transitional arrangement has been established so that for the years 2018-2020, it is required that the conditions in Section 61a(2) have been fulfilled the last five years, cf. Section 61a(5).

Whereas the share of immigrants and descendants from non-Western countries before the introduction of Act No. 1322 of 27 November 2018 could constitute a criterion contributing to a housing estate being characterised as a "ghetto", it was not necessary that it was fulfilled in order to classify an area as a "ghetto". After the amendment, this criterion has now become the necessary one and thus decisive for defining a common housing estate as a "ghetto".

It emerges from the preparatory works to Act No. 1322 of 27 November 2018, cf. paragraph 2.1.2 in the explanatory memorandum to Bill L38 of 3 October 2018, that the distinction between "vulnerable housing estates" and "ghettos" serves the purpose of emphasising that

> "(...) the central challenge in the ghetto areas is the lack of integration of immigrants and descendants from non-Western countries (...)"

Mjølnerparken has since the introduction of Section 61a(2) appeared on the annual "Ghetto list", and since 1 December 2018, Mjølnerparken has been characterised as a "tough ghetto".

1.2. The requirement of drafting and approving a development plan

It is stated in Section 168a of the Common Housing Act, which was introduced by Act No. 1322 of 27 November 2018, that the common housing association and the municipal council together must draft a development plan for a "tough ghetto area". The purpose of the development plan must be to reduce the share of common family units to a maximum of 40 % of the housing in the area in question before 1 January 2030.

Since the requirement of a development plan under Section 168a only applies to "tough ghetto areas", the requirement of reducing the share of common family units only apply to those housing

estates that for four years have been characterised as “vulnerable”, cf. Section 61a(1) of the Common Housing Act, and that at the same time have had and continue to have a share of 50 % of descendants and immigrants from non-Western countries, i.e. the area has been a “ghetto”.

A development plan is a comprehensive sketch and roadmap for how the housing association and the municipal council through detailed solutions together will transform a ghetto area, so that the share of common family housing will be reduced to a maximum of 40 %.

Reference is made to the reply of 6 November 2018 from the then Ministry of Transport, Construction and Housing to question No. 16 from the Parliamentary Committee for Transport, Construction and Housing.

The development plan must be approved by the Minister of Transport and Housing, cf. Section 168a(2) of the Common Housing Act. The Minister of Transport and Housing can in special cases make an exemption to rule that the purpose of the development plan must be to reduce the number of common family units, cf. Subsection 3.

It emerges from the explanatory memorandum to the Act, cf. pt. 1 in Bill No. L38 of 10 October 2018, that one of the reasons that housing associations and municipalities are obligated to draft a development for “tough ghetto areas”, where the goal is to reduce the share of common family housing in the area to 40 % is that

> “[i]t is believed that the fundamental transformation of a ghetto area to an attractive district necessitates that common family housing is mixed with other types of housing in the area (...)”

In the same paragraph, it is further stated that:

> “Reducing the share of common family housing can be done through divestment, by constructing new units or establishing commercial spaces in the housing estate, by demolishing family housing, by converting family units into commercial spaces, or by converting family units into common housing for students or seniors.”

Accordingly, it is noted that:

> “In order to make the units in the vulnerable housing estates more marketable, it is proposed that the housing associations can evict the tenants in connection with divestment to private investors. The tenants will be rehoused according to the rules that currently apply to demolition, with the modification, however, that rehousing must take place in the same housing estate, if it is a tough ghetto area.”

The detailed rules for the development plans are prescribed by Ministerial Order No. 1354 of 27 November 2018 (Ministerial Order on physical transformation of tough ghetto areas).

In Section 13(1) of the Ministerial Order, it is prescribed that the approval by the Minister of Transport and Housing must be made on the basis of a concrete assessment. Among other things, the following should be taken into account: 1) that the development will result in the required reduction of the share of common family housing in the housing estate by 2030; 2) that the initiatives are realistic and appropriate for achieving the goal; 3) that the financial aspects are realistic; 4) that the time plan contains information about the stages of the individual initiatives; and 5) that the specified time plan is realistic. This is stated in Section 13(2) of the Ministerial Order.

Furthermore, it is prescribed in the Ministerial Order on physical transformation of tough ghetto areas that it is the municipal council, which supervises the implementation by the housing associations of an approved development plan, cf. Section 15(1). If the development plan is not implemented in accordance with the time plan, the municipal council must report this to the Transport, Construction and Housing Authority, cf. Subsection (2). Once a year, the housing association must inform the Transport, Construction and Housing Authority about the status of the implementation of the development plan, which in practice is done through the municipal council, which forwards the report along with its own comments, cf. Section 16(1) of the Ministerial Order.

In case the housing association and the municipal council do not draft a development plan that can be approved by the Minister of Transport and Housing, the Minister can issue an order to dismantle the tough ghetto area. The Minister may also do this if an otherwise approved development plan is not being implemented in accordance with the plan. This is stated in Section 168b(1), which was also introduced by Act No. 1322 of 27 November 2018. In this case, the housing association and the municipal council must together draft plan for the dismantlement, cf. Section 168b(2). If the housing association does not execute the ministerial order, the Minister of Transport and Housing will take the necessary steps for a state takeover of the branches in question for the purpose of dismantling them, cf. Section 168b(4).

2. The legal framework for the prohibition of discrimination and the ECHR

2.1. The Ethnic Equal Treatment Act and EU Law

The Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (directive 2000/43/EC) has been incorporated in Danish law by the Ethnic Equal Treatment Act, cf. Consolidated Act No. 438 of 16 May 2012.

The purpose of the Ethnic Equal Treatment Act is to prevent discrimination and promote equal treatment irrespective of racial or ethnic origin, cf. Section 1. The Act also aims to implement parts of Directive 2000/43/EC.

In accordance with Directive 2000/43/EC, the Ethnic Equal Treatment Act applies to both the public and private sectors in relation to social protection, including social security and healthcare, social advantages, education as well as access to and supply of goods and services which are available to the public, including housing, cf. Section 2.

The European Court of Justice (CJEU) has in the case C-391/09, *Runevič-Vardyn and Wardyn*, stated that Directive 2000/43 is an expression of the principle of equality, which is one of the general principles of EU law, as recognised in Article 21 of the Charter of Fundamental Rights of the European Union (CFR), cf. the judgment para. 43. For this reason, the scope of that directive cannot be defined restrictively.

Pursuant to Section 3 of the Ethnic Equal Treatment Act, it is unlawful to subject another person to direct or indirect discrimination on the basis of their own or a third person's racial or ethnic origin.

Direct discrimination shall be taken to occur where one person is treated less favourably than another is, has been or would be treated in a comparable situation on grounds of racial or ethnic origin, cf. Section 3(2) of the Ethnic Equal Treatment Act. It is not possible to justify direct discrimination, for which reason it is irrelevant whether the discrimination is based on an otherwise objective reason.

Indirect discrimination shall be taken to occur where an apparently neutral provision, criterion or practice would put persons of a racial or ethnic origin at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim

and the means of achieving that aim are appropriate and necessary, cf. Section 3(3) of the Ethnic Equal Treatment Act.

An instruction to discriminate against persons on grounds of racial or ethnic origin shall be deemed to be discrimination within the meaning of Section 3(1) of the Ethnic Equal Treatment Act. This is stated in Section 3(5).

It should be noted that it is irrelevant to the determination of whether discrimination on the basis of racial or ethnic origin has occurred whether the persons who allege the discrimination have minority background themselves. The decisive factor is that racial or ethnic origin has been the element, on which the less favourable treatment is based, cf. CJEU's judgment in the case C-83/14, *Nikolova v CHEZ*, paras. 50-60.

Furthermore, it is also not relevant whether the discrimination was motivated by a wish to discriminate on the basis of racial or ethnic origin or not. This applies to both direct and indirect discrimination, cf. Parliamentary Report No. 1422/2000 on the implementation of the Directive in Danish law, p. 41.

If a person, who alleges to have been wronged pursuant to Section 3, establishes facts from which it may be presumed that there has been direct or indirect discrimination, it shall be for the respondent to prove that there has been no breach of the principle of equal treatment.

Finally, it should be noted that the provisions in Directive 2000/43/EC, as also noted above in relation to the CJEU's judgment in the case C-391/09, *Runevič-Vardyn and Wardyn*, must be interpreted and applied so that it respects the rights, upholds the principles, and promotes the application of the CFR, cf. Article 51 of the CFR.

In addition to Article 21 of the CFR, which codifies the fundamental principle of non-discrimination, it is stated in Article 7 of the CFR that everyone has the right to respect for their private and family life, home and communications. It emerges from the remarks to the CFR that Article 7 of the CFR is equivalent the rights contained in Article 8 of the European Convention on Human Rights (ECHR), more of which below. In Article 34(3), the CFR also contains a right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources.

2.2. ECHR

Article 14 of the ECHR contains a prohibition of discrimination, as this provisions ensures that the enjoyment of the rights and freedoms set forth in the ECHR shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or any other status.

The list of prohibited reasons for discrimination is not exhaustive.

Article 14 of the ECHR is applicable when the case falls within the ambit of one or more of the rights in the ECHR, without it being required that a violation of the substantive provision of the ECHR has taken place.

In this case, the case falls within the ambit of Article 8 of the ECHR; Article 1 of Protocol No. 1; and Article 2 of Protocol No. 4.

Article 8 of the ECHR protects against arbitrary interferences in the individual's right to respect for their private and family life, their home and their correspondence. The interference of a public authority in Article 8 of the ECHR is only permissible if it can be justified in accordance with paragraph

2, which requires that the interference is in accordance with domestic law and is necessary in a democratic society in the interest of one of the legitimate aims enumerated in the provision.

Whether a locality constitutes a 'home' within the meaning of Article 8 of the ECHR will depend on the factual circumstances, namely, the existence of sufficient and continuous attachment to a specific place, cf. judgment of 17 October 2013, *Winterstein and Others v France* (27013/07), para. 141 with reference to other case law. An eviction order thus constitutes an interference in the individual's right to respect for their home, even if the eviction has not yet been effectuated, cf. judgment of 12 June 2014, *Berger-Krall and Others v Slovenia* (14717/04), paras. 254 and 265, and judgment of 22 October 2009, *Paulic v Croatia* (3572/06), para. 38.

The eviction from one's home will furthermore constitute interference in the individual's right to private and family life, insofar that the eviction could have repercussions on the individual's social and family ties, cf. judgment of 24 April 2012, *Yordanova and Others v Bulgaria* (25446/06), para. 105.

Article 1 of Protocol No. 1 entitles everyone to the peaceful enjoyment of their possessions. No one shall be deprived of their possessions except in the public interest and subject to the conditions provided for by law.

The ECtHR has recognised that a rented flat may be protected by Article 1 of the Protocol, cf. *inter alia* judgment of 24 June 2003, *Stretch v The United Kingdom* (44277/98), paras. 32-35.

Article 2(1) of Protocol No. 4 to the ECHR prescribes that everyone lawfully within the territory of a state shall, within that territory, have the right to liberty of movement and freedom to choose their residence. No restrictions shall be placed on the exercise of this right other than such as are in accordance with law and are necessary in a democratic society in the interests of national security or public safety, for the maintenance of *ordre public*, for the prevention of crime, for the protection of health or morals, or for the protection of the rights and freedoms of others, cf. Article 2(3). The right may also be subject, in particular areas, to restrictions imposed in accordance with law and justified by the public interest in a democratic society, cf. Article 2(4).

3. The approval of the development plan for Mjølnerparken by the Ministry Transport and Housing and discrimination

3.1. Direct discrimination

In support of the submitted claim, it is firstly submitted that the approval of the Development Plan by the Ministry of Transport and Housing constitutes direct discrimination in violation of Section 3(2), cf. Subsection 1, of the Ethnic Equal Treatment Act and EU law and in violation of Article 14 in conjunction with Article 8 of the ECHR, Article 2 of Protocol No. 4 to the ECHR, and Article 1 of Protocol No. 1.

The approval of the Development Plan by the Ministry of Transport and Housing falls within the scope of the Ethnic Equal Treatment Act, because it concerns an approval of a plan, which is tied to a public enterprise to the extent that it concerns the applicants' access to and retention of a home, which is available to the public.

Pursuant to the Common Housing Act, the common housing associations are thus tasked with providing adequate flats to anyone who needs it for a reasonable rent as well as giving the residents influence on their own housing conditions, cf. Section 5b of the Common Housing Act.

As a consequence of the Development Plan for Mjølnerparken, which the Ministry of Transport and Housing has approved, all applicants will be treated less favourably on the basis of racial or ethnic origin compared to residents in other common housing estates, which are not classified as a "tough ghetto".

Thus, it concerns less favourable treatment of the applicants, because they are concretely threatened with eviction from their current homes under the Development Plan. If Mjølnerparken had not been categorised as a "tough ghetto", the applicants would not be in the situation, where they risk being evicted from their flat, since in that case there would not have been a requirement of a development plan with a reduction of the number of family units under Section 168a of the Common Housing Act. It should also be noted that it is stated in the Development Plan that the task of rehousing will be handled within the Overall Plan, cf. appendix 3, p. 6. In practice, this means that the rehousing obligation under Section 86(1) of the Common Housing Act, according to which the rehousing in connection with the transfer of a flat under a development plan must take place within the same area, in reality is being undermined and is not being applied. When rehousing is handled within the overall plan, it thus means that the applicants and all other residents in the blocks in question, which are to be sold upon renovation, risk being offered rehousing outside of Mjølnerparken – and, in any case, do not have a legal claim to rehousing within Mjølnerparken.

Moreover, the use of the designation "ghetto" for the applicants' homes entails that the applicants are being stigmatised as "ghetto" dwellers, a term which the current Minister of Housing has admitted is derogatory and affects the residents, cf. statement to Danish Broadcasting Corporation (**appendix 23**). The term "ghetto", in addition to having inherently adverse connotations, has also since the 1990s been linked closer and closer together with the racialised, state-defined term "non-Western immigrants and descendants", and is by Act No. 1322 of 27 November 2018 now inextricably linked to the share of non-Western immigrants and descendants.

Varying governments have with various ghetto packages attributed unfavourable connotations to the term "non-Western immigrants and descendants", such as refusal to work and integrate into the Danish society and have suggested that this group of citizens are not "Danish". This finds support in the fact that on page 4 of the policy paper "Ét Danmark uden parallelsamfund – Ingen ghettoer i 2030", it is stated that:

> "Parallel societies have arisen among people of non-Western origin. Far too many immigrants and descendants have ended up without connection to the surrounding society. Without education. Without job. And without speaking sufficient Danish."

And further, cf. p. 5 of the policy paper:

> "We have a group of citizens who have not taken Danish norms and values to heart. Where women are seen as less worth than men. Where social control and lack of gender equality set narrow limits for the individual's free development."

And finally, cf. p. 6 of the policy paper:

> "There is only one way. The ghettos must be eradicated. The parallel societies must be broken up. And we must ensure that new ones do not emerge. Once and for all, the massive task of integration must be undertaken; where a group of immigrants and descendants have not taken Danish values to heart and isolate themselves in parallel societies.""

These factors are likewise emphasised in the explanatory memorandum to Bill No. L38 of 3 October 2018, paragraph 2.6.2., where it is stated that:

> "It is necessary to change the resident composition in the vulnerable housing estates, where a high share of the residents is outside the job market, and many are receiving welfare benefits. **It is here in particular that many residents – often immigrants from non-Western countries and descendants of immigrants – live in isolated enclaves and do not adopt Danish norms and values to a sufficient extent.**" (emphasis added)

It should be noted that the discrimination, which is expressed here, is comparable to the factual circumstances in the CJEU's judgment in case C-83/14, *CHEZ Razpredelenie Bulgaria*, where the CJEU found that the practice of locating electricity meters at elevated heights only in districts with high concentration of residents of Roma ethnicity constituted less favourable treatment, because the practice in itself was offensive and stigmatising, cf. para. 87.

This further underlines that the threat of eviction, which is a result of the Development Plan, constitutes less favourable treatment within the meaning of the Ethnic Equal Treatment Act.

All applicants are in a situation comparable to residents in other common housing estates that are not affected by the requirement of drafting a development plan, because the areas are not classified as "tough ghettos".

The applicants are thus indeed in a situation identical to common housing areas that have been classified as a "vulnerable housing estate" under Section 61a(1) of the Common Housing Act and have met the relevant criteria for four or more years. The only thing that distinguishes Mjølnerparken from such "vulnerable housing estates" under Section 61a(1) of the Common Housing Act is the share of non-Western immigrants and descendants residing in the area.

Thus, the foundation of the less favourable treatment of the applicants compared to others is tied to the concept of "racial or ethnic origin" as encompassed within the term "non-Western" as set out below.

The threat of eviction of the applicants exists primarily because more than 50 % of the residents in Mjølnerparken are being defined as "non-Western immigrants and descendants".

Although the term "non-Western immigrants and descendants" is not defined in the amended housing law, it been used since 2002 by Statistics Denmark.

The category "non-Western" comprises immigrants and descendants from all other countries than the EU, Andorra, Australia, Canada, Iceland, Lichtenstein, Monaco, New Zealand, Norway, San Marino, Switzerland, the USA, and the Vatican State. Thus, Australia and New Zealand are not regarded as "non-Western", which underlines that the Danish definition is not based on the geographical location of the countries. Although the countries included within the definition of "Western" lack geographical coherence, they do share one common characteristic: all the countries have majority populations which are perceived to be white.

An immigrant is defined as a person born abroad, each of whose parents was either a foreign citizen or born abroad. Where there is information on one parent only, an individual is classed as an immigrant if they were born abroad and the known parent was a foreign citizen or born abroad. Where there is no information on either parent, an individual is classed as an immigrant if they were born abroad.

A descendant is defined as a person born in Denmark, each of whose parents was either an immigrant or a descendant with foreign citizenship. Where there is information on one parent only, an individual

is classed as a descendant if the known parent was an immigrant or descendant with foreign citizenship. If there is no available information on either parent, an individual who is born in Denmark but is a foreign citizen is defined as a descendant.

The above definitions do not apply to an individual categorised as having "Danish origin", which applies if at least one of their parents was born in Denmark and has Danish citizenship. Being born in Denmark does not, however, automatically lead to Danish citizenship, and individuals who have only one parent who is a non-Danish citizen, but born in Denmark, would be categorised as "descendants", even if the person in question is born in Denmark and is a Danish citizen.

It should be noted that the concept of "non-western immigrants and descendants" thus is not a nationality criterion, but also not solely a criterion based on birthplace. By contrast, it concerns a criterion that is based on individuals' origin, including their parents' birthplace and nationality. The criterion "non-Western immigrants and descendants" is based on a clear distinction between "Western origin" (pertaining to an arbitrary grouping of majority white populations rather than a well-defined area such as the European Union or EFTA) and "non-Western origin". This affects not only those individuals born outside EU and EFTA, but also persons born and raised in Denmark. The emphasis on origin rather than birthplace thus underlines that the criterion of "non-Western"is based on inherited characteristics rather than neutral factors such as birthplace.

On that basis, it should be noted that the classification as "non-Western immigrant or descendant" thus is not comparable to the concept of "birthplace", which the CJEU in case C-668/15, *Jyske Finans A/S*, found not to rest directly on a specific ethnic origin, cf. paras. 20-23.

Even if the criterion of "non-Western immigrants and descendants" according to Statistics Denmark by definition does not say anything directly about a person's racial or ethnic origin, it should be noted that it is not the definition of a concept, which is decisive for whether direct discrimination on the basis of racial or ethnic origin has occurred. The deciding factor is, by contrast, that racial or ethnic origin has been significant to the initiation of the measure – i.e. the determination of a criterion – that has subjected a person to less favourable treatment.

In that connection, the applicants submit that the criterion of "non-Western immigrants and descendants" must be viewed and assessed in the context, in which it is applied. This view is supported by CJEU's judgment in the case C-54/07, *Feryn*, where the CJEU found that it constituted direct discrimination on the basis of racial or ethnic origin when an undertaking had publicly declared that it was looking to recruit fitters, but that it could not employ "immigrants" because its customers were reluctant to give them access to their private residences for the period of the works. The Court thus performed an assessment of the concept of "immigrants", which was not further delimited, in the context in which it had been used, and found that it was tied to the concept of "racial and ethnic origin".

In this light, it is submitted that the criterion of "non-Western immigrant and descendant", as it is being used in the Common Housing Act, is directly and inextricable linked to racial and ethnic origin. This is supported by the fact that it already by the introduction of Act No. 1609 of 26 December 2013 was stated that the criterion was significant for ensuring focus on areas with a high concentration of residents with a different ethnic extraction.

In the explanatory memorandum to Bill No. L45 of 31 October 2013, paragraph 3.1.2, the importance of having the residents in the housing estates in question mingle "*across ethnic origin"* is thus emphasised.

That the criterion of "non-Western immigrant and descendant", as it is being used in the Common Housing Act, is directly and inextricably linked to racial and ethnic origin is further supported by the

fact that the former government, which took initiative to amending the Common Housing Act in 2018, explicitly refers to ethnic origin as a deciding criterion in the policy paper "Ét Danmark uden parallelsamfund – ingen ghettoer i 2030".

Thus, on page 14 of "Ét Danmark uden parallelsamfund – ingen ghettoer i 2030", it is stated that:

> "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 ghetto list concerning connection to the labour market, education, **ethnic origin**, or income level." (emphasis added)

In this connection, it should be noted that discrimination on the basis of presumed racial or ethnic origin tied to individuals or groups of residents is likewise prohibited under the Ethnic Equal Treatment Act, cf. Parliamentary Report No. 1422/2002, pp. 292 and 294, and the Commission's Proposal for a Council Directive implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (COM/99/0566 final), p. 6.

Even if the criterion of "non-Western immigrants and descendants" is not by definition directly and inextricably linked to racial or ethnic origin, it is submitted that the use of this criterion in the characterisation of a ghetto area in Section 61a based on the former government's presumption of the ethnic origin of the residents in common housing estates with "non-Western" background constitutes discrimination. This is *inter alia* supported by the fact that the former government in "Ét Danmark uden parallelsamfund – ingen ghettoer i 2030" links the concept of "non-Western" to factors concerning ethnic origin, such as culture and religion.

In the policy paper, it is thus made clear that the initiatives in the Ghetto Package, including proposing and passing Bill No. L38 of 10 October 2018, are aimed at those who have different "norms" and religious values than the majority in Denmark – who are white and Christian, which is reiterated in the explanatory memorandum to Act No. L38 of 3 October 2018, paragraph 2.6.2. Taken together with the definition given to "non-Western background" and the associations that has been given to this concept in Denmark, this also reveals a practice of racialising non-Christians.

By using the criterion of "non-Western immigrants and descendants" as the decisive factor for when a housing estate is being classified as a "ghetto" and, after four years, as a "tough ghetto", the Development Plan and the less favourable treatment stemming from the approval of the Development Plan are based directly on racial and ethnic origin. Thus, the applicants are being treated less favourably on the basis of an arrangement based on and initiated by the criteria of "racial and ethnic origin". This is irrespective of whether the Development Plan affects persons who have a certain racial or ethnic origin or those who, without possessing that origin, such as Applicants 10 and 11, suffer, together with the former, the less favourable treatment or particular disadvantage resulting from that measure, cf. case C-83/14, *CHEZ Razpredelenie Bulgaria*, para. 95.

Therefore, it is submitted that facts have been established, from which it may be presumed that there has been discrimination in violation of Section 3 of the Ethnic Equal Treatment Act and EU law. Oncethe facts give rise to a prima facie case of discrimination, the burden of proof shifts to the Ministry to demonstrate that the approval of the Development Plan exclusively has been based exclusively on objective factors unrelated to any discrimination on the grounds of racial or ethnic origin.

In summary, it is on that basis submitted that the approval of the Development Plan by the Ministry of Transport and Housing constitutes direct discrimination in violation of Section 3 of the Ethnic Equal Treatment Act and EU law.

Furthermore, it is submitted that the approval of the Development Plan by the Ministry of Transport and Housing is a violation of the prohibition of discrimination contained in Article 14 of the ECHR.

Article 14 of the ECHR prescribes that the enjoyment of the rights and freedoms set forth in the ECHR shall be secured without discrimination on a number of non-exhaustive grounds including race, colour, religion, national or social origin.

Article 14 of the ECHR is applicable when the case falls within the ambit of one or more of the rights in the ECHR.

In so far as the applicants are concerned, the approval of the Development Plan is considered to concretely fall within the ambits of Article 8 of the ECHR (private life), Article 1 of Protocol No. 1 (right to protection of property), and Article 2 of Protocol No. 4 (the freedom to choose one's residence).

It is submitted that the applicants are being discriminated against with the approval of the Development Plan due to their status as "tough ghetto" dwellers. This alone is sufficient "other status" for the purposes of Article 14. However, as mentioned above, it is also inextricable linked to the overrepresentation of residents in the area with "non-Western origin".

In that connection, it is implied – as mentioned – that the criterion of "non-Western origin" in the Common Housing Act is viewed as directly tied to racial or ethnic origin, colour, religion, national or social origin and association with a national minority within the meaning of Article 14 of the ECHR.

The fact that applicants 10 and 11 may not be covered by the definition of "non-Western immigrants and descendants" is in itself unimportant, because they are included within the status of inhabitants of a "tough ghetto" and it should also be noted that the Grand Chamber of the ECtHR in its judgment of 19 December 2018, *Molla Sali v Greece* (20452/14) has confirmed that "discrimination by association", where a person is discriminated on the basis of another person's circumstances, is covered by Article 14 of the ECHR, cf. para. 134 of the judgment.

As "tough ghetto" dwellers, all the applicants are, as mentioned above, in a situation comparable to residents in "vulnerable housing estates", which for four years or more have had the same socio-economic challenges, but who have not been ordered to reduce the number of family units under a development plan.

As an example, comparison can be made to Byparken/Skovparken in Svendborg, which in 2019 was on the government's list of "vulnerable housing estates" (**appendix 24**). Here live 1,422 residents against 1,659 residents in Mjølnerparken. The Byparken/Skovparken area has 50.5 % residents outside the labour market against 38 % in Mjølnerparken. The Byparken/Skovparken area has 1.88 % convicted persons against 2.02 % in Mjølnerparken. The Byparken/Skovparken area has 68.9 % residents with only primary education against 75.2 % in Mjølnerparken. Finally, the average gross income in the Byparken/Skovparken area constitutes 58.6 % of the average gross income for the same group in the region, whereas it in Mjølnerparken constitutes 49.6 %.

By and large, Byparken/Skovparken in Svendborg has had the same socio-economic challenges the last four years. Thus, Byparken/Skovparken was on the government's "Ghetto list" in 2015 (**appendix 25**) and 2016 (**appendix 26**). The area was taken off the "Ghetto list" in 2017, since the area only fulfilled two of the five criteria at that time (**appendix 27**, p. 3). After the amendment in 2018, the area was entered on the list of "vulnerable housing estates" (**appendix 28**), where the area also appeared in 2019, cf. appendix 24. In all these years, Byparken/Skovparken in Svendborg has had below 50 % residents of "non-Western origin".

In spite of the fact that an area like Byparken/Skovparken is in a situation comparable to Mjølnerparken with respect to socio-economic factors and has been so for the last four years, the residents in Byparken/Skovparken do not risk losing their homes as a result of a development plan, since Byparken/Skovparken has not had above 50 % residents of "non-Western origin" the last four years.

By the Ministry's approval of the Development Plan, which is required under the Common Housing Act, the applicants are thus treated less favourably than tenants in other housing estates. In that connection, reference should be made to above-mentioned fact that the tenants are not guaranteed rehousing in the area, since under the Development Plan, the tenants are to be rehoused in accordance with the physical overall plan.

On that basis, it is submitted that facts exist and have been established, which support that the applicants are being discriminated against based on the racial or ethnic origins of a share of the residents in Mjølnerparken. The burden of proof is on the Ministry to demonstrate that the difference in treatment is justified, and there does not seem to exist any information, which could justify this discrimination, cf. *inter alia* judgment of 13 November 2007, *D.H. and Others v The Czech Republic* (57325/00), para. 177.

In any case, it is submitted that the discrimination against the applicants only can be justified, if it can be demonstrated that the discrimination pursues a legitimate aim and that there is proportionality between the aim and means. Reference is made to other parts of this application with respect to this. Moreover, justification must not be tied to circumstances, which relate directly to ethnic origin, cf. *inter alia* judgment of 19 December 2018, *Molla Sali v Greece* (20452/14), para. 135.

In that connection, it is implied in ECtHR case law that discrimination, which is based exclusively or to a to a decisive extent on a person's ethnic origin is not capable of being objectively justified in a contemporary democratic society built on the principles of pluralism and respect for different cultures, cf. *inter alia* judgment of 13 November 2007, *D.H. and Others v The Czech Republic* (57325/00), para. 176.

Even if the criterion of "non-Western immigrants and descendants" should not be viewed as directly and inextricably linked to ethnic origin, the criterion does by definition entail discrimination on the basis of nationality and national origin, which according to the ECtHR can be justified only when very weighty reasons speaks in favour of the discrimination, cf. *inter alia* judgment of 16 September 1999, *Gaygusuz v Austria* (17371/90), para. 42.

It emerges from a memorandum of 10 December 2018 prepared by the Transport, Construction and Housing Authority with a contribution from the Ministry of Justice that it is acknowledged that it is not legitimate to use the criterion of "non-Western origin" when allocating common housing, even when the purpose of the use of the criterion is aimed at changing the resident composition and preventing a common housing area from becoming a "ghetto", since it would violate Article 14 of the ECHR.

This supports that it also cannot be justified to use the criterion of "non-Western origin" when deciding that the number of family units must be reduced with the consequence that the applicants will lose their home, which is the consequence of the approval of the Development Plan by the Ministry of Transport and Housing.

Furthermore, it is submitted that the approved Development Plan and Section 61a of the Common Housing Act, as amended by Act No. 1322 of 27 November 2018, are based on speculative arguments as to the influence of "origin" on integration. As mentioned above, it is directly stated in the explanatory memorandum to Act No. 1322 of 27 November 2018 that "non-Western" lifestyle is associated with negative attributes and stereotypes.

On that basis, it is submitted that the approval of the Development Plan by the Ministry of Transport and Housing concerns circumstances that are analogous with the ECtHR's judgment of 24 May 2016 in *Biao v Denmark* (38590/10). In that case, the ECtHR found that the Danish government's intention to improve integration with regard to "both resident foreigners and resident Danish nationals of foreign extraction" by excluding family reunification to those with less than 28 years of Danish nationality was based on "rather speculative arguments, in particular as to the time when, in general, it can be said that a Danish national has created such strong ties with Denmark that family reunion with a foreign spouse has a prospect of being successful from an integration point of view," cf. para. 125 of the judgment.

The ECtHR further found that some of the arguments advanced by the government in the explanatory memorandum to the provisions in question reflected negatively on the lifestyle of Danish nationals of non-Danish ethnic extraction, for example in relation to marriage patterns etc. Accordingly, the ECtHR found that the Danish government had not sufficiently justified that the discrimination resulting from the law in question had been based on objective criteria without relation to ethnic origin, cf. para. 127 of the judgment, why the ECtHR ultimately found that there had been a violation of the applicants' rights under Article 14 of the ECHR read in conjunction with Article 8. General and biased assumptions or prevailing social prejudice in a particular country do not provide sufficient justification for a difference in treatment (*Konstantin Markin v. Russia*, no. 30078/06 , §§ 142-43, ECHR 2012).

It is submitted that that Section 61a of the Common Housing Act, which is tied to the approval of the Development Plan by the Ministry of Transport and Housing, likewise contains speculative arguments about integration and the lifestyle of "non-Western immigrants and descendants" and general biased assumptions and is therefore not justified on objective criteria not pertaining to ethnic origin, for which reason the approval of the Development Plan has not been justified on the basis of objective criteria without connection to ethnic origin.

To that it should be noted that the ECtHR in *Biao v Denmark* in its assessment also stressed that multiple independent bodies had expressed concern over the discriminatory effect of the 28-years rule, cf. para. 136 of the judgment, and there thus existed clear indications of ethnic origin being a motivating factor for the rule in question.

The same is the case in so far the use of the concepts of "ghetto" and "non-Western" in relation to *inter alia* the rules in the Common Housing Act is concerned, where bodies monitoring Denmark's compliance with international obligations have pointed to the obvious risk of discriminatory initiatives targeting socially vulnerable housing estates.

Already in its report on Denmark from 22 May 2012, the European Commission against Racism and Intolerance ('ECRI') cautioned against using the term "ghetto", because it stigmatises minority groups.

In its latest Concluding Observations on Denmark from 12 November 2019, the United Nations Committee on Economic, Social and Cultural Rights has stated the following in relation to Act No. 1322 of 27 November 2018, cf. para. 51:

> "The Committee is also concerned that the law is discriminatory as it introduces the categorization of areas as "ghettos", defined by the proportion of residents from "non-Western" countries. Thus it not only results in discrimination based on ethnic origin and nationality, but also further marginalizes those residents (…)"

On that basis, the Committee recommends abolishing the criterion of "non-Western" in para. 52(a):

> "Remove the definitional element of a "ghetto" with reference to residents from "non-Western" countries, a discriminator on the basis of ethnic origin and nationality (…)"

Finally, in its Fifth Opinion of Denmark of 7 November 2019, the Advisory Committee on the Framework Convention for the Protection of National Minorities has expressed serious concern over the use of the terms "Western" and "non-Western" immigrants and descendants. Especially the use of the criterion of "non-Western immigrants and descendants" when determining to designate an area as a "ghetto area" and the enforcement of special rules in these areas, such as the reduction of the share of common family housing, led the Advisory Committee to recommend reconsidering the concepts, cf. para. 46 of the opinion:

> "The Advisory Committee urges the authorities to reconsider the concepts of 'immigrants and descendants of immigrants of Western origin' and 'immigrants and descendants of immigrants of non-Western origin', both based on the arbitrary aggregation of statistics related to place of birth or citizenship, and their subsequent application in the framework of the so-called "Ghetto law" leading to possible discrimination on the grounds of citizenship, ethnic affiliation and place of residence."

In summary, on that basis it is submitted that a violation of the applicants' rights under Article 14 of the ECHR read in conjunction with Article 8, Article 1 of Protocol No. 1, and Article 2 of Protocol No. 4, has occurred.

3.2. Indirect discrimination

In support of the submitted claim, it is *secondly* submitted that the approval constitutes indirect discrimination on the basis of race and ethnic origin in violation of Section 3(3), cf. Subsection 1, of the Ethnic Equal Treatment Act and EU law and in violation of Article 14, cf. Article 8, of the ECHR, Article 2 of Protocol No. 4 to the ECHR, and Article 1 of Protocol No. 1.

To the extent that the criterion of "non-Western immigrant and descendants" is considered to be a neutral criterion, which within the meaning of the Common Housing Act is not directly and inextricably linked to racial and ethnic origin, it is submitted that the approval of the Development Plan by the Ministry of Transport and Housing affects persons of racial and ethnic minorities in considerably greater proportions and accordingly puts them at a particular disadvantage compared with other persons.

It is submitted that the approval of the Development Plan is not objectively justified by a legitimate aim. Even if is assumed that a legitimate aim is being pursued, it is submitted that the means (sale) of achieving this aim are not appropriate and necessary.

That the approval of the Development Plan puts persons with a specific racial and ethnic minority background at a disadvantage is supported *inter alia* by the fact that Mjølnerparken has 80.5 % persons with "non-Western" background, cf. appendix 2, p. 2, and figures from 1 January 2019 show that taken as a whole more than half of all "non-Western immigrants and descendants" in Denmark originate from Turkey, Syria, Iraq, Lebanon, Pakistan, Bosnia-Herzegovina, Iran, Somalia, Afghanistan, and Vietnam (**appendix 29**).

This is further supported by the fact that in an analysis from the Ministry of Economy and Interior from February 2018, it is noted that out of the 74,000 persons with non-Western background, who according to the analysis can be considered belonging to a "parallel society", 40 % lives in a common housing estate, where many of the residents have non-Western background. Furthermore, in appendix 22, p. 2, it is stated that:

> "Persons with Turkish origin in terms of absolute numbers make up the largest **ethnic group**. In terms of relative numbers, persons with Somali or Lebanese origin are among the **ethnic groups** encompassing the most people. 44 % of all persons with Somali origin and 41 % of all persons with Lebanese origin are part of the group." (emphasis added)

To this it should be noted that the present case differs from the CJEU judgment in case C-668/15, *Jyske Finans*, since the discrimination in the present case is not tied to a neutral criterion, which is generally more apt to affect persons of an ethnicity other than Danish, or that the criterion puts persons with an ethnic origin from a country outside the EU/EFTA at a disadvantage. In the present case, the criterion of "non-Western", as it is being used in the Common Housing Act, is apt to affect persons with *specific* racial and ethnic origins to a higher degree.

According to the explanatory memorandum to the Ethnic Equal Treatment Act, it is not required that the criterion only affects persons of a single specific ethnic origin. A criterion, which in practice leads to a less favourable treatment of persons with a different ethnic origin than other persons, can also constitute a violation of the prohibition of indirect discrimination, cf. Parliamentary Report No. 1422/2002, p. 296.

On this basis and with reference to the factual circumstances, from which it may be presumed that the apparently neutral criterion of "non-Western immigrants and descendants" subjects persons with one or more specific racial or ethnic origins to a less favourable treatment than other persons, this discrimination – as it is expressed by the approval of the development plan by the Ministry of Transport and Housing – can only be lawful, if the use of the criterion is objectively justified by a legitimate aim, and the means to this aim are appropriate and necessary, cf. Section 3(3) of the Ethnic Equal Treatment Act.

According to CJEU case law, the concept of objective justification must be interpreted strictly, where there is a difference in treatment on the grounds of racial or ethnic origin, cf. case C-83/14, *Nikolova v CHEZ*, para. 112.

Although the applicants admit that it may be legitimate to categorise and collect data about different groups of immigrants and others for issues such as monitoring and countering discrimination, using such a distinction in the legislation in order to stigmatise and evict is not a legitimate aim.

It is stated in the explanatory memorandum to Bill No. L38 of 3 October 2018 that the purpose of a development plan is to reduce the number of family units in order to make it a – so-called – attractive neighbourhood, including a mix of housing types and therefore a changed "resident composition. Taken together with the underlying purpose of the legislation of "eradicating ghettos," which are defined by a determining factor of 50 % "non-Western immigrants and descendants," it is submitted that the real purpose of the approval of the Development Plan and the reduction of the share of family units to 40 % is to ensure the removal of residents with non-Western background. Such aim is not legitimate.

The lack of legitimacy is underlined by contrasting with the CJEU judgment in case C-668/15, *Jyske Finans*, in which the requirement of presenting a passport was limited to those born outside the EU. Furthermore, it was justified by an attempt to comply with EU regulation on prevention of money laundering. In the present case, the amendments to the Common Housing Act in 2018 and the Ministry's approval of the Development Plan are actions of the state's own initiative, to proactively and specifically target a group of people and to move them out of the area. Thus, this does not achieve any aim of integration.

Building on this, it is submitted that even if the approval of the Development Plan by the Ministry of Transport and Housing should be considered justified by a legitimate aim – which is tied to a transformation of the composition of residents in a housing estate – it is implied in the proportionality assessment, which must be performed under the Ethnic Equal Treatment Act and EU law, that the means – in this case the approval of the Development Plan in the form, in which it has been presented to the Ministry of Transport and Housing – must be appropriate and necessary to achieve the stated aim.

Thus, it is implied in the CJEU judgment in case C-83/14, *Nikolova v CHEZ*, paras. 118-123, that the means are only appropriate and necessary if other appropriate and less restrictive measures would not achieve the aims in question, if the disadvantages caused by the practice at issue are proportionate to the aims pursued, and if the practice does not unduly prejudice the legitimate interests of the persons affected.

On this basis, it is submitted that even if the creation of a mix of housing types through the reduction of family units in accordance with the Development Plan were to be considered a legitimate aim, there are other and less intrusive arrangements available. These include for example re-categorising family units to other types of housing to the extent that the natural vacation takes places and thus not by sale and evictions.

Such less intrusive means are *inter alia* described in the draft to an alternative development plan, which the branch board in Mjølnerparken drafted and submitted to the Ministry of Transport and Housing on 31 May 2020, cf. appendices 6 and 7, but which was rejected by the Ministry of Transport and Housing, cf. appendix 8. Moreover, it should be noted that actions initiated before the drafting of the Development Plan, including the comprehensive Overall Plan, should according to Bo-Vita's expectations by themselves lead to that Mjølnerparken within a reasonable time frame no longer would be a "ghetto", cf. appendix 3, p. 2.

Building on this, it is submitted that the approval of the Development Plan by the Ministry of Transport and Housing in any case unduly prejudices the applicants' and other residents' legitimate interests, including their fundamental rights under the CFR, in particular Article 7 on the individual's right to respect for their private life and home, as well as the residents' legitimate interest in having access to common housing in the form of their homes under conditions that do not appear offensive and stigmatising.

It is submitted that this is supported by the CJEU judgment in case C-83/14, *Nikolova v CHEZ*, where the CJEU stated that the final consumers of electricity have legitimate interest in having access to the supply of electricity in conditions which do not have an offensive or stigmatising effect, cf. para. 124.

On this basis, it is submitted that the approval of the Development Plan by the Ministry of Transport and Housing does not sufficiently respect the essence of the rights and freedoms recognised by the CFR including Article 21 (non-discrimination), Article 24 (rights of the child), Article 25 (rights of the elderly), Article 26 (integration of persons with disabilities), Article 34 (social and housing assistance), and Article 35 (adequate supply of housing; special provision for vulnerable family groups).

In that connection, it is noted that the CJEU has further stated that the loss of a family home places the family concerned in a particularly vulnerable position and that the right to accommodation is a fundamental right guaranteed under Article 7 of the Charter, cf. case C-34/13, Kusinova *v SMART Capital a.s.*, paras. 63-65, and the CJEU order of 5 June 2014 in case C-169/14, *Sanchez Morcillo og Maria del Carmen Abril Garcia v Banco Bilbao Vizcaya Argentaria SA*, para. 11.

In summary and on the basis of the stated reasons, it is submitted that the approval of the Development Plan by the Ministry of Transport and Housing constitutes indirect discrimination in violation of Section 3 of the Ethnic Equal Treatment Act and EU law.

Building on this – with reference to the fact that the ECtHR in relation to Article 14 of the ECHR does not seem to distinguish between direct and indirect discrimination – it is submitted – with reference to section 3.1. above – that the approval also constitutes indirect discrimination under Article 14 of the ECHR, in conjunction with Article 8; Article 2 of Protocol No. 4; and Article 1 of Protocol No. 1.

3.3. Instruction to discriminate

In support of the submitted claim, it is *thirdly* submitted that the approval constitutes discrimination on the basis of racial and ethnic origin in the form of a violation of the prohibition of instruction under Section 3 of the Ethnic Equal Treatment Act and EU law.

In Section 168a(2) of the Common Housing Act, in conjunction with Section 168c(1), it is stated that a development plan for a housing estate, which has been categorised as a "tough ghetto area", is only valid when it has been approved by the Ministry of Transport and Housing.

The housing association administering Mjølnerparken, Bo-Vita, is together with the Municipality of Copenhagen obligated to respect and implement the Development Plan approved by the Ministry.

If the Development Plan does not progress in accordance with its content, the Ministry of Transport and Housing has the power to issue an order for the dismantling of Mjølnerparken. This is stated in Section 168b of the Common Housing Act. If the order is not followed, the Ministry has the power to acquire the relevant branches of Bo-Vita for the purpose of dismantling the housing estate.

On this basis, it is submitted that the approval of the Development Plan by the Ministry of Transport and Housing in actuality constitutes an instruction to Bo-Vita to discriminate against the applicants by selling the applicants' flats, which will result in their eviction. The instruction is moreover tied to the share of residents with a specific racial or ethnic origin in the area as set out above.

The prohibition of instruction in Section 3 of the Ethnic Equal Treatment Act must be interpreted in accordance with CJEU case law on Directive 2000/43/EC. In the case C-83/14, *Nikolova v CHEZ*, paras. 73-74, the CJEU includes International Convention on the Elimination of all Forms of Racial Discrimination (CERD) as an interpretative aid.

Article 4(c) of the CERD thus prescribes that State Parties shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination. "Promote" has a broad meaning and includes all efforts in favour of discrimination even without the element of moral coercion, cf. General Assembly, 20th session, official records, 3rd Committee, 1318th meeting, held on Monday, 25 October 1965, New York, UN Doc. A/C.3/SR.1318, paras. 14 and 27.

Article 2(c) of the CERD also contains a relevant interpretative aid, as this provision prescribes that each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists. By contrast, this means that the Ministry of Transport and Housing cannot approve a Development Plan, which entails that a housing association in fact must discriminate against residents in a housing estate.

On this basis, it is submitted that the approval of the Development Plan by the Ministry of Transport and Housing overall is a violation of the prohibition of discrimination on the basis of racial or ethnic

origin in Section 3 of the Ethnic Equal Treatment Act and EU law, because the approval in reality entails an instruction to discriminate.

4. The approval of the development plan for Mjølnerparken by the Ministry of Transport and Housing and the ECHR

In support of the submitted claim, it is *fourthly* submitted that the approval constitutes a direct violation of Article 2 of Protocol No. 4 to the ECHR, Article 8 of the ECHR, and Article 1 of Protocol No. 1.

4.1. Article 2(1) of Protocol No. 4 and the right to choose one's residence

Article 2(1) of Protocol No. 4 to the ECHR states that everyone lawfully within the territory of a state shall, within that territory, have the right to liberty of movement and freedom to choose their residence.

The exercise of the right to choose one's residence may be restricted only where this is in accordance with law and is necessary in a democratic society in the interests of national security or public safety, for the maintenance of *ordre public*, for the prevention of crime, for the protection of health or morals, or for the protection of the rights and freedoms of others, cf. Article 2(3). The right may also be subject, in particular areas, to restrictions imposed in accordance with law and justified by the public interest in a democratic society, cf. Article 2(4).

It is thus submitted that the applicants, who are all Danish citizens and reside lawfully in Denmark, as a consequence of the approval of the Development Plan by the Ministry of Transport and Housing, will have their right to freely choose their residence restricted, because they will no longer have access to housing in the area that constitutes Mjølnerparken.

It is submitted that this constitutes an interference in the applicants' rights under Article 2(1) of Protocol No. 4.

The approval of the Development Plan by the Ministry of Transport and Housing does not reveal circumstances, which demonstrate the existence of public interests or any other interests enumerated in Article 2(3).

In its judgment in *Garib v The Netherlands* (43494/09), the ECtHR considered restrictions in the access to reside in a housing estate in Rotterdam and found the concrete restrictions, which had been introduced in so-called "hot spot areas", in non-violation of Article 2(1) of Protocol No. 4.

However, it is submitted that the circumstances in *Garib v The Netherlands* are essentially different from the factors tied to the approval of the Development Plan by the Ministry of Transport and Housing, which are tied to Mjølnerparken and the rights of the applicants.

Garib v The Netherlands concerned a Dutch permit scheme, which was aimed at preventing citizens who receive certain forms of welfare benefits from taking up residence in housing estates that had been designated as socially deprived. The ECtHR found no violation of Article 2(1) of Protocol No. 4. In doing so, it accepted that restricting certain groups of individuals from moving to an area in order to reverse the decline of impoverished inner-city areas and improve the quality of life generally was a legitimate aim and served the public interest.

In *Garib v The Netherlands*, the ECtHR stated that the margin of appreciation available to the legislature in implementing social and economic policies is a wide one, cf. para. 139 of the judgment. A

significant difference between the Dutch legislation in *Garib v The Netherlands* and the rules implemented by the Common Housing Act and forming the basis for the Development Plan in the present case is, however, that the Common Housing Act is based on a distinction between "Western" and "non-Western" residents. In addition, the aim of reversing the decline of impoverished inner-city areas and improving the quality of life generally does not constitute the actual aim of the approval of the Development Plan, since the requirement of reducing the share of family units to a maximum of 40 % only applies to "tough ghetto areas" and not "vulnerable housing estates", which have the exact same socio-economic conditions, the only difference being the residents' "background".

With respect to proportionality, it should be noted that the ECtHR in *Garib v The Netherlands* observed that the Dutch scheme did not deprive any person of housing or force any person to leave their dwelling, cf. para. 144 of the judgment, since it concerned the regulation of new potential tenants' and newcomers' access to housing. In this case, the opposite is indeed the case, since the applicants are under a real and actual threat of coerced eviction.

During its proportionality assessment in *Garib v The Netherlands*, the ECtHR further observed that the Dutch scheme only affected relative new residents in the metropolitan area of Rotterdam, who had lived in the area for less than six years, and that others with residence in the area for more than six years had access to move to the restricted area, cf. para. 144.

It is thus submitted that the interference with the applicants is of a completely different intensity, since it concerns coercive removal from their home and the housing estate, and that it affects residents, who have resided in the area – with respect to applicants 1, 2, 3, 4, 7, 8, 9, and 12 – for decades.

Furthermore, it is submitted that the concrete procedural safeguards that formed part of the Dutch scheme are not present in the regulation tied to the Development Plan or in the plan itself, for example that the Dutch Minister reports to the parliament on the effectiveness of the law every five years. In relation to the Development Plan, which has been approved by the Ministry of Transport and Housing, no review mechanism has been envisaged, because it is presumed that implementation of the plan alone, i.e. sale, can change the conditions in the area, just as failure to implement the plan will entail a complete dismantlement of the housing estate, cf. Section 168b(1) the Common Housing Act, irrespective of whether it is necessary to dismantle etc.

On that basis, it is submitted that the approval of the Development plan by the Ministry of Transport and Housing overall constitutes a violation of the applicants' right choose their residence under Article 2(1) of Protocol No. 4, and that the interference with this right neither is nor can be justified under Articles 2(3) or 2(4).

4.2. Article 8 of the ECHR and the right to respect for private and family life and home

Article 8 of the ECHR protects against arbitrary interferences in the individual's right to respect for their private and family life, their home and their correspondence. The interference of a public authority in Article 8 of the ECHR is only permissible if it can be justified in accordance with paragraph (2), which requires that the interference is in accordance with domestic law and is necessary in a democratic society in the interest of one of the legitimate aims enumerated in the provision.

It is submitted that an interference in the applicants' access to remain living in their rented flats constitutes not only an interference in their private and family life, but in their home as well, cf. judgment of 17 October 2013, *Winterstein and Others v France* (27013/07), para. 141, judgment of 12 June 2014, *Berger-Krall and Others v Slovenia* (14717/04), paras. 254 and 265, judgment of 22 October 2009, *Paulic v Croatia* (3572/06), para. 38, and judgment of 24 April 2012, *Yordanova and Others v Bulgaria* (25446/06), para. 105.

Thus, it is submitted that all the applicants and their family members in the household have lived in their respective flats in Mjølnerparken for many years, and that they have entered permanent leases with the housing association.

The applicants are thus considered to have a sufficient and sustained attachment to their flats, so that these undoubtedly constitute a home within the meaning of Article 8. This equally applies to those members of the applicants' families and households, who do not appear directly on the lease, cf. in that direction *inter alia* the ECtHR's judgment of 21 April 2016 in *Ivanova and Cherkezoy v Bulgaria* (46577/15), para. 49.

It is submitted that regardless of the fact that the applicants have not yet been evicted from their homes, the approved Development Plan will entail that unless the applicants accept an offer of re-housing outside the housing estate, in which they have lived for a long time, the applicants will be ordered to move from their homes, when the plan is implemented through sale.

Therefore, it is submitted that the approval of the Development Plan by the Ministry of Transport and Housing constitutes an interference in the applicants' right to respect for their home under Article 8(1) of the ECHR.

Moreover, it is submitted that the applicants by a forced removal from their flats will also lose the network and community that they have built up in Mjølnerparken through their long-standing residence. Thus, the approval of the Development Plan also constitutes an interference in their right to respect for private and family life.

It is stated in Article 8(2) of the ECHR that interferences in the private life, which also affects a person's home, may be justified, but according to ECtHR case law, very weighty reasons must exist in order for the extreme form of interference of the loss of a home to be justified, cf. *inter alia* ECtHR's judgment of 13 May 2005, *McCann v The United Kingdom* (19009/04), para. 50. It is not sufficient merely to indicate that the measure is prescribed by domestic law, without taking into account the individual circumstances in question, cf. judgment of 15 January 2008, *Ćosić v Croatia* (28261/06), para. 21. Furthermore, it is implied in ECtHR case law that when performing this assessment, attention must be paid to the consequences of the interference on the individual's identity, self-determination, physical and moral integrity, maintenance of relationships with others, and a settled and secure place in the community, cf. judgment of 24 April 2012, *Yordanova and Others v Bulgaria* (25446/06), para. 118.

As mentioned above, the real aim of the Development Plan is to enforce the removal of residents with "non-Western" background, which cannot be considered a legitimate aim. Thus, the Development Plan and the eviction of the applicants do not pursue the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others, and are therefore in themselves not complying with Article 8 of the ECHR.

Even if it is presumed that the approval of the Development Plan pursues a legitimate aim, the sale and thus the eviction of the applicants from their homes is not a necessary and proportionate means. This, in turn, is supported by the fact that it is stated in the Development Plan that already before the drafting of the Development Plan etc., initiatives had been taken, which do not require the sale and transfer of the applicants' homes, cf. appendix 3, p. 2.

Moreover, it is submitted that a number of the applicants have individual circumstances, which means that the implementation of the Development Plan upon approval is particularly detrimental to their rights under Article 8 of the ECHR.

This is *inter alia* the case for applicant 7, who suffers from dementia, and applicant 8, who are 75 and 67 years old, respectively.

In its judgment of 29 May 2012, *Bjedov v Croatia* (42150/09), the ECtHR thus found that it constituted a violation of the applicant's right to respect for their home under Article 8 of the ECHR that the applicant's age and health had not been taken into account during the eviction from their home, cf. para. 68.

The approval of the Development Plan by the Ministry of Transport and Housing contains no consideration of how seriously the requirement of sale concretely may affect the residents (including the applicants), including consideration of health or age issues that concretely could cause irreparable damage.

Those applicants, who have young children at home, including applicant 5 and applicant 6, will as a consequence of the approval of the Development Plan by the Ministry of Transport and Housing likewise be seriously affected by the forced removal, since the children in case of eviction and forced removal to another area away from their current housing estate will have to change school and experience a break in their everyday lives. Furthermore, the evictions will mean that all the applicants will be cut off from the network and community they have built up through their sustained residence in Mjølnerparken. This applies *inter alia* to applicant 12, who was born and raised in Mjølnerparken, and who now will have to move away from the place, where he was born and raised and where he has his closest family, due to the approval of the Development Plan.

Thus, the individual circumstances – in conjunction with the general failure to consider relevant circumstances ahead of the approval of the Development Plan – support that the approval by the Ministry of Transport and Housing is not proportionate, for which reason the approval overall constitutes a violation of the applicants' rights under Article 8 of the ECHR.

To this, it should be noted that rents are rising in Danish urban areas, especially Copenhagen, as a result of the financialisation of the rental market by private investors (**appendix 30**). The municipality of Copenhagen has decided against demolishing buildings in Copenhagen, because of a general lack of available housing throughout the city (**appendix 31**). The United Nations Committee on Economic, Social and Cultural Rights has in its latest periodic report of Denmark of 12 November 2019 expressed concern at the shortage of affordable housing in Denmark, cf. pt. 49 of the report. This fact further underlines that it is not proportionate that the applicants and other residents in the blocks, which are to be sold, are being forced to vacate their homes as a result of the approval of the Development Plan by the Ministry of Transport and Housing.

Thus, as a whole, the approval by the Ministry of Transport and Housing constitutes a violation of the applicants' rights under Article 8 of the ECHR.

4.3. Article 1 of Protocol No. 1 to the ECHR and the right to protection of property

According to Article 1 of Protocol No. 1 to the ECHR, every natural or legal person is entitled to the peaceful enjoyment of his possessions. It is stated in the provision that no one shall be deprived of their possessions except in the public interest and subject to the conditions provided for by law.

The ECtHR has recognised that a person's access to a rented flat may be protected by Article 1 of Protocol No. 1, cf. to this effect *inter alia* ECtHR's judgment of 24 June 2003, *Stretch v The United Kingdom* (44277/98), paras. 32-35.

Thus, it is submitted that the applicants, who have entered permanent leases with the hosing association, have the right to peacefully enjoy their property, and that this right is being unduly prejudiced by the approval of the Development Plan by the Ministry of Transport and Housing.

Although the Protocol does not contain explicit procedural rights for a person, against whom an interference in the right to property is aimed, it is implied in ECtHR case law that the person must be given a reasonable opportunity to effectively challenge the measures interfering with their rights, cf. to this effect *inter alia* judgment of 21 May 2020, *Jokela v Finland* (28856/95), para. 45.

At the same time, it is implied in ECtHR case law that the assessment must strike a fair balance between the right of the individual in question and the general interest, which will require consideration of whether the person has had to bear a disproportionate burden, cf. *inter alia* ECtHR's judgment of 29 April 1999, *Chassagnou and Others v France* (25088/94, 28331/95, and 28443/95), para. 85.

While the margin of appreciation available to the state in implementing social and economic policies is a wide one, it is submitted that the approval of the Development Plan has not given the applicants a reasonable opportunity to challenge the measures interfering with their right to property tied to the permanent leases of their flats, just as there is not sufficiently weighty general interest in the interference. To this, it should be noted – with reference made to the above-mentioned – that the interference cannot in any case be deemed proportionate.

On this basis, it is submitted that with the approval of the Development Plan by the Ministry of Transport and housing, a violation of the applicants' right to respect for the enjoyment of their property under Article 1 of Protocol No. 1 has occurred.

PROCEDURAL REQUESTS

The case is being filed with the District Court of Copenhagen, which is the applicants' home court, cf. Section 235(2) of the Administration of Justice Act.

With reference to Section 250 of the Administration of Justice Act, and because all the applicants submit the same claim against the Ministry of Transport of Housing, the legal proceedings are initiated as one single case.

Building on that, it should be noted that as current residents with permanent leases in the housing estate Mjølnerparken, which is covered by the Development Plan approved by the Ministry of Transport and Housing on 10 September 2019, according to which the applicants' leases are terminated with subsequent eviction, all applicants possess sufficient interest in the initiation and conduction of the case.

With reference to Section 348(2)(6) of the Administration of Justice Act, the applicants request that the case be referred to the Eastern High Court, cf. Section 226 of the Administration of Justice Act.

In support of the request, it should be noted that the present case in the opinion of the applicants is a matter of principle and relates to the application of the provisions of the Common housing Act tied to so-called "tough ghetto areas" and the requirement of ministerial approval of concrete development plans for each housing estate.

Thus, it is submitted that following the passing of Act No. 1322 of 27 November 2018 and Ministerial Order No. 1354 of 27 November 2018, which introduces the requirement of drafting and approving development plans with the option of sale, demolition, and other dismantling of housing estates,

questions about the compliance of the schemes with the national prohibition of discrimination, EU law, and Denmark's international obligations in general have not yet been raised.

In the applicants' opinion, the case concerns interpretation of law, by which the new provisions and schemes in the Common Housing Act must be delimited in relation to current prohibitions of discrimination, and it should be noted that the explanatory memorandum has only addressed the legality of the schemes superficially and generally.

On that basis, the applicants find that the case should be referred to the High Court as the court of first instance, so that it will be possible to appeal ordinarily to the Supreme Court for the purpose of clarifying the legal matters in the case.

Regarding the question, which are raised in relation to the Ethnic Equal Treatment Act and Directive 43/2000/EC, including the scope of the prohibition of discrimination in a case as the present one, the applicants reserve the right to request postponement of the case for the purpose of submitting questions to the CJEU for a preliminary ruling, cf. Article 267 of the Treaty on the Functioning of the European Union.

Procedural notifications may be directed digitally to attorney Eddie Omar Rosenberg Khawaja.

APPENDICES AND EVIDENCE

During the hearing, evidence will be given by a number of the applicants.

Furthermore, the following appendices will be invoked:

Appendix 1: List of ghetto areas, as of 1 December 2018
Appendix 2: List of tough ghetto areas, as of 1 December 2019
Appendix 3: Development plan for Mjølnerparken, 8 May 2019
Appendix 4: News item of 15 May 2019 published on the website of Bo-Vita
Appendix 5: Minutes from meeting in the Municipal Council on 20 June 2019 (pt. 11)
Appendix 6: Email of 31 May 2019 to the Ministry of Transport and Housing
Appendix 7: Alternative development plan for Mjølnerparken by the branch board, May 2019
Appendix 8: Email of 25 June 2019, the Danish Transport, Construction and Housing Authority
Appendix 9: Letter of 10 September 2019, the Ministry of Transport and Housing
Appendix 10: The physical Overall Plan for Mjølnerparken
Appendix 11: Print of the website of Bo-Vitas, 14 May 2020
Appendix 12: Flyer to the residents in Mjølnerparken, March 2019
Appendix 13: Proof of occupancy, applicant 1 [Name redacted]
Appendix 14: Lease, applicants 2 and 3 [Name redacted]
Appendix 15: Lease, applicant 4 [Name redacted]
Appendix 16: Lease, applicants 5 and 6 [Name redacted]
Appendix 17: Lease, applicants 7 and 8 [Name redacted]
Appendix 18: Lease, applicant 9 [Name redacted]
Appendix 19: Lease, applicant 10 [Name redacted]
Appendix 20: Lease, applicant 11 [Name redacted]
Appendix 21: Lease, applicant 12 [Name redacted]
Appendix 22: Excerpt of economic analysis, February 2018, the Ministry of Economy and Interior
Appendix 23: Article from 8 July 2019, Danish Broadcasting Corporation, DR-nyheder
Appendix 24: List of vulnerable housing estates, as of 1 December 2019
Appendix 25: List of ghettos, as of 1 December 2015
Appendix 26: List of ghettos, as of 1 December 2016
Appendix 27: List of ghettos, as of 1 December 2017

Appendix 28: List of vulnerable housing estates, as of 1 December 2018
Appendix 29: Excerpt from report published in June 2019, the Ministry of Immigration and Integration
Appendix 30: Article from 28 October 2019, Danish Broadcasting Corporation, DR-nyheder
Appendix 31: Article from 12 December 2018, Danish Broadcasting Corporation, DR-nyheder

VAT REGISTRATION:

The applicants are not registered for VAT.

Copenhagen, 27 May 2020

[Signature]

Eddie Omar Rosenberg Khawaja