



Reports of Cases

Case C-417/23

Slagelse Almennyttige Boligselskab Afdeling Schackenborgvænge and Others

(Request for a preliminary ruling from the Østre Landsret – Nordhavn (Denmark))

Judgment of the Court (Grand Chamber) of 18 December 2025

(Reference for a preliminary ruling – Equal treatment between persons irrespective of racial or ethnic origin – Directive 2000/43/EC – Concepts of ‘ethnic origin’, ‘direct discrimination’ and ‘indirect discrimination’ – National legislation requiring the adoption of development plans designed to reduce the percentage of public family housing units in certain residential areas – Identification of those areas according to the proportion of ‘immigrants from non-Western countries and their descendants’ – Whether justified – Social cohesion and integration – Housing policy – Article 7 of the Charter of Fundamental Rights of the European Union – Right to respect for the home – Proportionality)

1. *EU law – Principles – Equal treatment – Equal treatment between persons irrespective of racial or ethnic origin – Directive 2000/43 – Scope – Provision of public housing in exchange for rent below the market price – Included*

(Art. 57 TFEU; Charter of Fundamental Rights of the European Union, Art. 21; European Parliament and Council Directive 2006/123, Art. 4(1); Council Directive 2000/43, Art. 3(1)(h))

(see paragraphs 53-59, 63)

2. *EU law – Principles – Equal treatment – Equal treatment between persons irrespective of racial or ethnic origin – Directive 2000/43 – Discrimination based on ethnic origin – Ethnic origin – Concept – Defined on the basis of a combination of criteria*

(Charter of Fundamental Rights of the European Union, Art. 21; Council Directive 2000/43)

(see paragraphs 72, 73, 81-86)

3. *EU law – Principles – Equal treatment – Equal treatment between persons irrespective of racial or ethnic origin – Directive 2000/43 – National measure giving rise to direct discrimination – Concept – National legislation requiring the adoption of development plans designed to reduce the percentage of public family housing units in residential areas characterised by the proportion of immigrants from non-Western countries and their descendants residing there exceeding 50% – Included – Conditions – Legislation based on the ethnic origin of the majority of the inhabitants of those residential areas – Less favourable*

treatment of the inhabitants of those areas compared with the inhabitants of areas that are comparable from a socioeconomic point of view but which do not have that characteristic (Council Directive 2000/43, Art. 2(2)(a))

(see paragraphs 99, 100, 105-108, 128, 129, operative part 1)

4. *EU law – Principles – Equal treatment – Equal treatment between persons irrespective of racial or ethnic origin – Directive 2000/43 – Scope – Combating discrimination against one or more ethnic groups (Council Directive 2000/43)*

(see paragraphs 101, 102, 104)

5. *EU law – Principles – Equal treatment – Equal treatment between persons irrespective of racial or ethnic origin – Directive 2000/43 – National measure giving rise to direct discrimination – Criteria – Less favourable treatment – Comparable situation – National legislation requiring the adoption of development plans designed to reduce the percentage of public family housing units in residential areas characterised by the proportion of immigrants from non-Western countries and their descendants residing there exceeding 50% – No such obligation in respect of areas that are comparable from a socioeconomic point of view but which do not have that characteristic – Increased risk of early termination of leases for residents of the first category of area – Risk not faced by residents of the second category of area – Risk which may constitute less favourable treatment (Council Directive 2000/43, Art. 2(2)(a))*

(see paragraphs 113, 117, 120, 123)

6. *EU law – Principles – Equal treatment – Equal treatment between persons irrespective of racial or ethnic origin – Directive 2000/43 – National measure giving rise to indirect discrimination – Apparently neutral provision, criterion or practice putting persons at a particular disadvantage – Concept – Assessment by the national court – Provision, criterion or practice liable to place several ethnic groups at a disadvantage – Included (Council Directive 2000/43, Art. 2(2)(b))*

(see paragraphs 134-137, 139, 140)

7. *EU law – Principles – Equal treatment – Equal treatment between persons irrespective of racial or ethnic origin – Directive 2000/43 – National measure giving rise to indirect discrimination – Concept – National legislation requiring the adoption of development plans designed to reduce the percentage of public family housing units in residential areas characterised by the proportion of immigrants from non-Western countries and their descendants residing there exceeding 50% – Included – Conditions – National legislation putting persons of certain ethnic groups at a particular disadvantage – National legislation that does not comply with the principle of proportionality for the purpose of attaining the overriding objective in the public interest pursued – Assessment by the national court (Council Directive 2000/43, Art. 2(2)(b))*

(see paragraphs 144, 165, 168-170, 173-175, operative part 2)

8. *EU law – Principles – Equal treatment – Equal treatment between persons irrespective of racial or ethnic origin – Directive 2000/43 – National measure giving rise to indirect discrimination – Justification based on the pursuit of legitimate aims – Objective of social cohesion and integration – Whether permissible – Condition – Measure appropriate and necessary for attaining that objective – Assessment by the national court (Council Directive 2000/43, Art. 2(2)(b))*

(see paragraphs 149, 150, 156, 159-163)

Résumé

Hearing a reference for a preliminary ruling from the Østre Landsret (High Court of Eastern Denmark), the Court of Justice, sitting as the Grand Chamber, provides clarification on the concept of ‘ethnic origin’ in Directive 2000/43,¹ and clarifies the concepts of ‘direct discrimination’ and ‘indirect discrimination’ on the ground of ethnic origin.²

The disputes in the main proceedings are between Danish public housing associations or the Ministry responsible for housing³ and tenants of public family housing units, and concern national legislation laying down an obligation to adopt development plans designed to reduce the percentage of public family housing units in so-called ‘transformation areas’.

The residential areas in which those tenants reside, namely Ringparken, located in the municipality of Slagelse (Denmark), and Mjølnerparken, located in the municipality of Copenhagen (Denmark), were classified as ‘transformation areas’ within the meaning of the Danish law on public housing,⁴ on the basis of socioeconomic criteria and the fact that more than 50% of the residents of those residential areas were ‘immigrants from non-Western countries’⁵ and their descendants’ within the meaning of that law.

In accordance with the provisions of that law, development plans for those residential areas were drawn up between the public lessors and the municipalities concerned, in order to reduce the proportion of public family housing units to 40% of all housing in those residential areas. Those development plans were approved by the competent authorities.

As regards Ringparken, the public housing association Slagelse Almennyttige Boligselskab, Afdeling Schackenborgvænge (‘SAB’), responsible for the management of Schackenborgvænge, a housing estate in that area, decided to transfer 136 public family housing units to a private buyer. SAB subsequently terminated 17 leases for housing units in that housing estate because the tenants did not satisfy the conditions for continued occupancy approved by the municipality.

¹ Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (OJ 2000 L 180, p. 22).

² Article 2(1) of that directive gives specific expression to the principle of equal treatment in the sense that there is to be no direct or indirect discrimination based on racial or ethnic origin.

³ The Social-, Bolig- og Ældreministeriet (Ministry of Social Affairs, Housing and Senior Citizens, Denmark).

⁴ Lovbekendtgørelse nr. 1877 om almene boliger m.v. (almenboligloven) (Consolidated Law No 1877 on public housing, inter alia (Law on Public Housing)) of 27 September 2021 (‘the Law on Public Housing’).

⁵ The concept of ‘non-Western country’, developed by Danmarks Statistik (Statistics Denmark, the Danish office for national statistics), includes all countries other than the Member States of the European Union, Andorra, Iceland, Liechtenstein, Monaco, Norway, San Marino, Switzerland, the United Kingdom, the Vatican City State, Canada, the United States, Australia and New Zealand.

Since the tenants, some of whom were born in a ‘non-Western country’ or are nationals of such a country within the meaning of the Law on Public Housing, opposed the termination of their lease, SAB brought an action seeking a declaration that the termination of those leases was lawful.

As regards Mjølnerparken, the public lessor managing a housing estate in that residential area entered into an agreement for the sale of certain blocks of that housing estate. Several tenants residing in those blocks, some of whom were born in, or are descendants of persons born in, ‘non-Western countries’ within the meaning of the Law on Public Housing, brought an action seeking a declaration that the approval of the development plan for that residential area by the Ministry responsible for housing was invalid.

The High Court of Eastern Denmark, which is the referring court, is uncertain whether national legislation laying down an obligation to adopt development plans designed to reduce the percentage of public family housing units in residential areas that are characterised, inter alia, by the fact that, during the last five years, the proportion of ‘immigrants from non-Western countries and their descendants’ residing there has exceeded 50%, amounts to direct or indirect discrimination based on ethnic origin, within the meaning of Article 2(2)(a) and (b) of Directive 2000/43.

Findings of the Court

After clarifying that the disputes in the main proceedings, in so far as they concern the Danish public family housing system, come within the material scope of Directive 2000/43, the Court examines, in the first place, whether the use of the criterion relating to ‘immigrants from non-Western countries and their descendants’ is liable to constitute direct discrimination on grounds of ethnic origin, within the meaning of Article 2(2)(a) of Directive 2000/43.

To do this, it first interprets the concept of ‘ethnic origin’, which, in the absence of a definition in Directive 2000/43, must be defined on the basis of a combination of criteria, such as common nationality, religious faith, language, cultural and traditional origins and backgrounds.

To that end, the context in which the concept of ‘ethnic origin’ within the meaning of Article 2 of Directive 2000/43⁶ occurs makes it possible to obtain clarification on the interpretation of that concept. Accordingly, it is apparent both from the case-law of the European Court of Human Rights⁷ and from the wording of Article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination,⁸ that discrimination based on a person’s ethnic origin constitutes a form of racial discrimination.

Moreover, even though neither the criterion of a person’s nationality nor that of his or her country of birth is sufficient, in itself, to justify a presumption of belonging to a particular ethnic group, both may be taken into account, together with other factors, to conclude that a person belongs to an ethnic group.

⁶ That directive gives specific expression, in its field of application, to the principle of non-discrimination on grounds of race and ethnic origin enshrined in Article 21 of the Charter of Fundamental Rights of the European Union (‘the Charter’). Article 21(1) of the Charter is based, inter alia, on Article 14 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950 (‘the ECHR’) and, in so far as it coincides with the ECHR, applies in compliance with that article.

⁷ The case-law relating to Article 14 ECHR.

⁸ Recital 3 of Directive 2000/43 states that the right to equality before the law and protection against discrimination for all persons constitutes a universal right recognised, inter alia, by the International Convention on the Elimination of All Forms of Racial Discrimination, adopted on 21 December 1965.

The Court then interprets the concept of ‘direct discrimination’ based on ethnic origin within the meaning of Directive 2000/43.⁹

In that regard, the Court notes that the difference in treatment established between transformation areas, which are subject to a development plan designed to reduce the percentage of public family housing units, and ‘vulnerable’ areas within the meaning of the Law on Public Housing, which are not subject to such a requirement, even though they are also characterised by a problematic socioeconomic situation, but in which the proportion of ‘immigrants from non-western countries and their descendants’ residing there does not exceed 50%, appears to be based primarily on that latter criterion.

Since that criterion is provided for by Danish law, it is for the referring court to determine, as a first step, whether it establishes a difference in treatment based on ethnic origin.

To that end, the Court states that, according to the legislation at issue, the concepts of ‘immigrant’ and ‘descendant’ are based on a complex combination of criteria relating to the country of birth of the person concerned or the country of birth and nationality of his or her parents,¹⁰ which, taken in isolation, are not sufficient to establish a person’s ethnicity. It states that a general criterion such as the one at issue may be regarded as being based on the ethnic origin of the persons concerned even if it may cover several ethnic origins. A contrary interpretation would render Directive 2000/43 ineffective. In addition, the preparatory documents for the legislation of which that criterion forms part may contain relevant information for determining whether that legislation establishes a difference in treatment on the ground of ethnic origin. According to the case-law of the Court, in order for there to be direct discrimination,¹¹ it is sufficient that a consideration relating to ethnic origin determined the decision to introduce a difference in treatment. Lastly, the mere fact that residents of the transformation areas also include persons who are not ‘immigrants from non-Western countries and their descendants’ is not such as to preclude national legislation such as that at issue from being held to have been adopted on the basis of ethnic origin.

As a second step, the referring court must ascertain whether the Law on Public Housing has the effect of certain persons being treated less favourably than others in a comparable situation.

In that regard, residents of transformation areas appear to face an increased risk of early termination of their lease, as a result of the adoption of a development plan for those areas, which is liable to infringe their fundamental right to respect for the home,¹² whereas the residents of vulnerable areas are not exposed to such a risk, even though they appear, so far as their lease is concerned, to be in a comparable situation.

⁹ Article 2(2)(a) of Directive 2000/43 states that, for the purposes of applying paragraph 1 of that article, direct discrimination is to 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.

¹⁰ According to the referring court, Statistics Denmark defines an ‘immigrant’ as a person born abroad and neither of whose parents was both (i) born in Denmark and (ii) a Danish national. The concept of ‘descendant’ refers to a person who was born in Denmark but neither of whose parents was both (i) born in Denmark and (ii) a Danish national, or whose parents, even if they were born in Denmark and acquired Danish nationality, both also retain a foreign nationality.

¹¹ Within the meaning of Article 2(2)(a) of Directive 2000/43.

¹² This is a fundamental right guaranteed by Article 7 of the Charter, which contains rights corresponding to those guaranteed by Article 8(1) ECHR. It is apparent from the case-law of the European Court of Human Rights that the loss of one’s home is a most extreme form of interference with the right to respect for the home.

In the second place, if the referring court concludes that the legislation at issue in the main proceedings does not constitute direct discrimination, it will still have to examine whether there is indirect discrimination within the meaning of Directive 2000/43.¹³

To that end, the referring court will first of all have to examine whether that legislation¹⁴ places persons belonging to certain ethnic groups at a particular disadvantage.

The Court states that the provisions in question need not necessarily result in people of a single particular ethnic origin being placed at a disadvantage. A contrary interpretation would be difficult to reconcile with the objectives of Directive 2000/43, the scope of which cannot be limited to combating discrimination against a single ethnic group.

Next, the referring court will have to determine whether the legislation is objectively justified by a legitimate aim and whether the means of achieving that aim are appropriate and necessary.

As regards the objectives pursued, the Law on Public Housing intends, according to the Danish Government, to resolve problems associated with the formation of 'parallel societies' which have arisen in the Danish public housing system and to ensure successful integration.

According to the case-law of the Court, the objective of ensuring the successful integration of third-country nationals may constitute an overriding reason in the public interest, since the integration of those nationals is a key factor in promoting economic and social cohesion, a fundamental objective of the European Union stated in the FEU Treaty. Member States enjoy, in principle, broad discretion as regards the adoption of measures to ensure social cohesion and integration, including urban development measures. However, they must comply with the prohibition of all discrimination based on racial or ethnic origin, enshrined in Article 21 of the Charter and given specific expression by Directive 2000/43.

As regards compliance with the principle of proportionality, first, it must be examined whether the measures laid down by the legislation at issue are appropriate for attaining the objective of promoting social cohesion and integration.

In that regard, the referring court will have to assess whether the adoption of development plans intended to resolve socioeconomic problems particularly affecting certain residential areas pursues that objective in a consistent and systematic manner, even though that measure applies only to transformation areas to the exclusion of vulnerable areas, in which similar socioeconomic problems are addressed by other means designed to ensure social cohesion.

Second, in order to determine whether such a measure is necessary, the referring court will have to ascertain whether the objective pursued can be achieved just as effectively by other means that are less restrictive of the rights and freedoms guaranteed to the persons concerned. If not, it will still have to examine whether the disadvantages caused by that measure are disproportionate and whether it unduly prejudices the legitimate interests of residents of transformation areas, in particular with regard to their fundamental right to respect for the home.

¹³ Under Article 2(2)(b) of Directive 2000/43, indirect discrimination is to 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.

¹⁴ Despite being ostensibly formulated or applied in a neutral manner, having regard to factors other than that of ethnic origin.