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**ADVISORY COMMITTEE ON THE FRAMEWORK CONVENTION FOR
THE PROTECTION OF NATIONAL MINORITIES**

**COMMENTS OF THE GOVERNMENT OF DENMARK
ON THE THIRD OPINION OF THE ADVISORY COMMITTEE ON THE
IMPLEMENTATION OF THE FRAMEWORK CONVENTION FOR THE
PROTECTION OF NATIONAL MINORITIES
BY DENMARK**

(received on 1 December 2011)

COMMENTS OF THE GOVERNMENT OF DENMARK ON THE OPINION OF THE ADVISORY COMMITTEE ON THE REPORT ON THE IMPLEMENTATION OF THE FRAMEWORK CONVENTION FOR THE PROTECTION OF NATIONAL MINORITIES IN DENMARK

The Danish Government is pleased to respond to the invitation of the Advisory Committee on the Framework Convention for the Protection of National Minorities to comment on the Third Opinion on Denmark, adopted on the 31st of Marts 2011.

These comments have been prepared based on the contributions received from the following ministries: the Ministry of Children and Education, the Ministry of Justice, the Ministry of Culture, the Ministry of Social Affairs and Integration, the Ministry of employment and the Ministry of Foreign Affairs.

The Danish Government would like to draw the Advisory Committees attention to the previous state party reports and comments and would specifically like to reiterate that the international obligations that Denmark has assumed according to the Framework Convention only relate to the German minority in South Jutland and do not apply to any wider extent. This does not mean that other minority-groups have a less or weaker legal status than the one of the German minority. The legal framework and good practices of the government thus results in an equal and fair treatment of all types of minorities inside the territory of Denmark.

The Danish Government continues to hold the view that Denmark is in full compliance with the international obligations laid down in the Framework Convention for the Protection of National Minorities and therefore cannot subscribe to the Issues of Concern raised in the Concluding Remarks of the Opinion of the Advisory Committee. In saying this, the Danish Government would also like to stress its appreciation of the constructive dialogue, which has developed between the Advisory Committee and the Danish authorities.

As to the specific recommendations the Danish Government would like to comment on the following:

Article 4 of the Framework Convention

“Anti-discrimination legislation and Board for Equal Treatment”

34: *“The Advisory Committee notes that the monitoring of the 2003 Act on Ethnic Equal Treatment, which transposed into Danish law the European Council’s Directive 43/2000 of 29 June 2000 on equal treatment between persons irrespective of racial or ethnic origin, is now the responsibility of a new body, the Board for Equal Treatment. This body has replaced the former Complaints Committee and has also taken on a number of functions formerly performed by the Danish Institute for Human Rights. The Board for Equal Treatment is responsible for examining complaints from anyone considering himself/herself to be a victim of discrimination. Its decisions are legally binding and it can award the victim compensation. If the perpetrator of the discrimination fails to comply with its decision, he/she can bring the matter before the courts.”*

The Board of Equal Treatment is an administrative appeal board. The Board deals with concrete complaints and may award compensation and invalidate dismissals to the extent provided for by Danish discrimination Acts. The Board is an administrative authority with judicial powers and is independent as it is not constrained by instructions or opinions from authorities or other bodies.

The Danish Institute for Human Rights (DIHR) has been appointed the Danish national Equal Treatment Body for ethnic equal treatment, and this has not changed with the establishment of the Board of Equal Treatment. The appointment means that DIHR is to promote the equal treatment of all persons irrespective of racial or ethnic origin while making efforts to provide effective protection against discrimination. The mandate was given to DIHR by the Act on Equal Treatment Irrespective of Ethnic Origin (section 10(1) of Act No. 374 of 28 May 2003).

Article 12,3 and article 13 of the Framework Convention

The School Case: Examination of the financing of the German minority schools in Denmark and the Danish minority schools in Schleswig Holstein:

In the spring of 2010 the Danish government and the government of the state Schleswig-Holstein introduced their draft budget for 2011. Both budgets involved a reduction in the subsidies to respectively the German minority schools in Denmark and the Danish minority schools in Schleswig-Holstein.

In this context the Danish prime minister and the prime minister of Schleswig-Holstein appointed a committee to examine the financing of the minority schools.

In Denmark the German minority schools have a special status and they are by both the Danish government and by the German minority in Denmark regarded as the public schools of the German minority, even though they are private schools. Therefore the German minority schools get several special subsidies to service, teaching, and transport that other private schools in Denmark cannot receive.

The response of the committee was published in November 2010. The work of the committee provided the background for the government's awareness of the fact, that the German minority schools did not have the same financial status as the Danish public schools (folkeskoler).

The Danish government decided to increase the special subsidies to the German minority schools by 2,5 mill. Danish kroner in 2011 which are increased to 4,6 mill. Danish kroner in 2014 and in the coming years. This was done in order to secure full financial equality of the German minority schools in Denmark.

Today the German minority schools enjoy the same financial status as the public schools in Denmark.

Danish Institute for Human Rights

44: *"The Advisory Committee invites the authorities to ensure that the Danish Institute for Human Rights continues to have sufficient resources at its disposal to carry out its tasks. It also encourages the authorities to ensure increased visibility to the work of the institute."*

The Danish Government has decided to strengthen the status of the Danish Institute of Human Rights¹. The most noticeable change is, that the institute becomes an independent institution, which will result in an increased visibility of its role as Denmark's National Human Rights Institution and align it more firmly with the Paris principles.

Ad: "Issues of concern"

136: *"The Board of Equal Treatment and the Danish Institute for Human Rights are suffering from a lack of visibility among the population and do not have sufficient human and financial resources to carry out their tasks. Persons belonging to the groups most at risk of becoming victims of discrimination are not adequately informed about the remedies available."*

The Board of Equal Treatment was established 1 January 2009. An initial attempt of awareness raising was done in 2009. The Board held several meetings with organisations and NGOs, who deal with anti-discrimination issues, and participated in a few training sessions for staff, working in the trade unions.

In 2010 the Board received almost 300 complaints. This is a significant increase compared to 2009 where the Board received 200 cases. While cases related to gender and ethnic origin continue to comprise a large number of the cases received, the board in 2010 has especially seen a rise in the number of cases related to age and handicap within the labour market.

To inform the public and other interested parties of the work of the Board all decisions are published on the website anonymously, and the secretariat publishes newsletters and press releases on selected individual cases. The Board has also published a folder on the Board.

Both the media and lawyers with interest in this field follow the work of the Board closely and often quote the decisions taken. The Board also receives a high number of queries by phone or e-mail from individuals, university students, trade unions or others who take an interest in the field of anti-discrimination. Combined with the

¹ "Regeringsgrundlaget" – Programme of the Government, page 39. - http://www.stm.dk/publikationer/Et_Danmark_der_staar_sammen_11/Regeringsgrundlag_okt_2011.pdf

increase in the number of cases received in 2010, the Board can only conclude that the need for information sharing and dialogue is growing.

To ensure the maximum impact of the existing anti-discrimination legislation, in 2011/2012 the government intent to carry out information campaigns in a larger scale than previously in relation to the various grounds of discrimination. This could be done through the media i.e. television or radio spots. The Board also plans to significantly increase the number of dialogue meetings and training sessions with organisations, employer associations and trade unions, to publish folders into other languages such as English and Arabic and to publish "go-card" postcards for the entertainment industry. Finally the government intent to share knowledge of cases and overall trends with other interested parties at conferences and seminars and by writing articles. These activities would hence be aimed at both professionals, dealing with these issues, as well as the broader public.

Parts of the EU directive 2000/43 (implementing the principle of equal treatment between persons irrespective of racial or ethnic origin) are implemented in the Danish Act on Prohibition against Discrimination on the Labour Market. To raise awareness about the antidiscrimination legislation on the labour market the Danish Government plans to update the Guide on the Act on Prohibition against Discrimination on the Labour Market. The current guide is from 2005. Publishing an updated guide will raise awareness about both the anti-discrimination legislation and the work of the Board of Equal Treatment.

Regarding the funding of the Board of Equal Treatment the Danish Government can inform the Advisory Committee that the annual budget of the Board of Equal Treatment currently is 250.000 euro. The level of funding has been set out by the Danish Government. This fall the Ministry of Employment is making a review of the Act on the Board of Equal Treatment. In that connection it will be considered if the actual funding is sufficient in relation to the work carried out by the board.

137: *"The police sometimes fail to take into account the racist nature of acts of violence, which discourages victims from lodging complaints."*

Various measures have been put in place to ensure effective investigation and prosecution of hate crimes, including efforts to raise awareness of the issue among the public and guidelines and reporting schemes concerning the relevant provisions.

In September 2011 the Director of Public Prosecutions issued a revised regulation to the police and prosecution service concerning inter alia cases on racist violence (Regulation No 2/2011).

The Regulation contains new guidelines on how the police and prosecution service are to handle cases in which circumstances indicate that the act was motivated by the ethnic origin, religious belief, sexual orientation etc. of the victim, thus rendering section 81, no. 6, of the Danish Criminal Code applicable. It follows from the Regulation that the police when such circumstances are present is under an obligation to investigate this aspect of the case. Furthermore the Regulation contains examples of hate-crime indicators (e.g. racist remarks uttered before or during an assault on victim of non-Danish origin).

It also follows from the Regulation that prosecutors are obliged to ensure that evidence concerning a possible hate motive is presented to the court and to ask for an increased sentence in such cases.

In addition to this, the new case handling system of the Danish Police will have a specific section for registering possible hate crimes. The purpose is to ensure that the police officers and prosecutors consider whether a criminal offence could possibly be a hate crime.

138: *“Some media continue to spread a distorted and discriminatory image of the Roma and the Muslims despite the existence of ethical guidelines and a supervisory mechanism implemented by the Press Council. Hostile and racist statements made by certain political leaders have apparently also been disseminated by some media and on the Internet.”*

According to the Danish Radio- and Television regulation radio and television programs cannot incite to hatred on grounds of race, gender, religion, nationality or sexual orientation.

The Radio- and Television Board has in 2010 dealt with one case concerning a local radio that allegedly spread hate-speech against Jews in a programme that was a live transmission of public debate with listeners who phoned in and joined the debate. The Board found that some remarks in the debate could be interpreted as discriminating and threatening. The Board noted that in general it is difficult to intervene in the remarks given by participants in a live transmission of public debate, which might contain illegal remarks and that the programme host dealt with the situation adequately by interrupting the speaker and ending the conversation with this particular speaker. The Board furthermore took note of the fact that the station afterwards had excluded this particular speaker from participation in future transmitted public debates. The Board concluded that the programme did not incite to hatred based on race, religion or nationality.

140: *"In South Jutland, information which is important for persons belonging to the German minority as well as the Advisory Committee Opinions are not translated into the minority language of this group nor disseminated in South Jutland."*

As previously stated in Denmark's reports, it is a common feature of the four municipalities in South Jutland (The Municipality of respectively Haderslev, Tønder, Sønderborg and Aabenrå) that there is broad access to communicate in German with the local authorities.

In order to further improve the access to communicate in German, a number of employees in the Municipality of Haderslev have been participating in German language courses. In addition, a group of employees has been part of an exchange visit to the Bürgerbüro in the German city Lutherstadt Wittenberg (the friendship city of the Municipality of Haderslev). The purpose of the visit was both to exchange experiences and knowledge in relation to administrative issues, as well as to further develop the German language skills of the participants.

The Municipality of Haderslev has developed its German version of the municipality's website in cooperation with the German national minority.

In addition, the Municipality of Tønder has launched a new website in September 2011. The entire website is in German, as well as in Danish. A part of the website is

dedicated to the protection and rights of national minorities. The Framework Convention for the Protection of National Minorities and the explanatory report is available in a German version as well. Together with the launch of the new bilingual website, the municipality of Tønder has also introduced a new e-receptionist (in the form of an electronic information stand) that guides guests around the City Hall in German. The Municipalities of Aabenraa and Sønderborg have also information's in German language on their Websites.

141: *"The installation of signs and topographical indications in German in the South Jutland region is not yet sufficiently advanced."*

The use of bilingual signs is already taking place within several different areas. For instance, all recent information signs on recreational life along the Sønderborg Municipality walking trails and in natural areas in South Jutland are in both German and in Danish.

In addition, the Municipality of Aabenrå has installed certain signs with service directions in German, such as signs giving direction to German institutions and the library. Further can be mentioned that road signs with directions to the German city Flensburg is in German as well.

142: *"The administrative reform of 2006 appears to have resulted, in some cases, in a lack of awareness of the Framework Convention, which is jeopardising the implementation of certain provisions of the Convention in South Jutland."*

In continuation of the information provided in Denmark's third report (Section 1 d), several local initiatives have been taken in the municipalities in South Jutland to promote awareness and knowledge of the Framework Convention.

With a view to clarify which initiatives that most appropriately can contribute to the dissemination and implementation of the Framework Convention, the municipality of Toender has conducted consultations with the Border Research Institute in Aabenrå. On this basis, the municipality has initiated training of new employees in the rights of national minorities. Staff meetings on the Framework Convention and protection of national minorities have also been arranged.

Ad: "Recommendations"

"Issues requiring immediate action"

Ad: *"raise general public awareness of the Act on Ethnic Equal Treatment of 2003 and of the work of the Board for Equal Treatment; ensure that the funding of the Board for Equal Treatment and the Danish Institute for Human Rights is appropriate for their needs"*

The Danish government has provided funding (app. 134.000 Euro) for a project which aims to raise public awareness on legislation concerning equal treatment and anti-discrimination in Denmark, inter alia, the Act on Ethnic Equal Treatment. The project is carried out in 2011 – 2012 by The Danish Institute for Human Rights in collaboration with local community centres throughout the country.

Ad: *"Adopt the necessary measures in order to ensure that persons belonging to the German minority maintain print media in their own language; in particular, ensure adequate funding of the German language newspaper"*

The Danish Agency for Libraries and Media reports that the German newspaper "Der Nordschleswiger" has received subsidies from the Danish Ministry of Culture's Daily Newspaper Pool since 2007. The pool provides financial support for the distribution of commercially published daily newspapers distributed in Denmark.

Subsidies may be applied according to two different schemes; the main scheme as well as a supplementary scheme. The supplementary scheme provides a subsidy for each distributed copy for special newspapers that can promote diversity in the newspaper market, such as newspapers aimed at a national minority in Denmark. "Der Nordschleswiger" has therefore received subsidies from both schemes since the Ministry of Culture established the Pool for subsidies for distribution in 2007.

The subsidy to the different newspapers alters from year to year depending on the total amount at the pool's disposal, the total amount of newspapers applying for subsidies and the total amount of copies distributed. As for "Der Nordschleswiger" the subsidy has varied from DKK 1.98 million in 2008 as the highest to DKK 1.82 million in 2009 as the lowest and is in 2011 expected to increase to DKK 1.96 million.

Considering a possible need for a revision of the Danish subsidy scheme to the Medias, the Danish Minister of Culture has appointed a committee with the aim to suggest possible changes. This committee is fully aware of the Framework Convention for the Protection of National Minorities and takes it into account in its work with a new future media subsidy. The committee is to finalise its report 1 October 2011.

Ad: *"adopt additional measures to raise awareness about the Framework Convention and ensure its effective implementation at the local and regional levels in South Jutland."*

In addition, the municipality of Sønderborg considers drafting written guidelines outlining the rights and obligations arising from the Framework Convention in order to improve the employees' knowledge and awareness in the area. This information will be made available on the intranet of the municipality and will be integrated into welcoming material to new employees."

"Other recommendations"

Ad: *"Propose additional training for police officers to raise their awareness of the diverse dimensions and manifestation of racism so that they are better able to assess whether or not incidents reported to them are racist in nature."*

The Danish police and prosecution service is and should be very attentive to cases of hate crime. To keep focus on the subject the Director of Public Prosecutions and the National Commissioner of Police in September 2011 reminded all the police districts and regional prosecution services of a number of the recent initiatives, inter alia Regulation No 2/2011 and the below mentioned seminars on hate crime.

The police districts were also encouraged to consider further local initiatives concerning hate crimes.

During the fall of 2011 a couple of one-day seminars on hate-crime will be held in the police districts in Denmark. The Danish Security and Intelligence Service and The Danish Institute for Human Rights have developed the seminar and both police officers and prosecutors are to participate in the seminars. The seminars will address subjects such as international conventions, identification and registration of hate

crimes and guidelines concerning investigation and prosecution of hate-crimes. The first seminar took place on 15 September 2011.

Racism and discrimination also play a central role in the education of the Danish Police College.

Question concerning race, sex, handicap, age, religion and sexual orientation as well as human rights are part of the curricula of the current basic education of the Danish Police College. Among others the students receive 8 lessons by The Danish Institute for Human Rights.

The basic education of the Police College is currently being revised. In the future curricula questions concerning racism, intolerance and the relationship to minorities will play a central role. Among others these questions will be the subject for a five week course about "The Police and Cultural Diversity." The course is aimed at making sure that the police students are able to handle cases involving ethnic, sexual and religious minorities at a professional level.

Ad: *"take additional measures to ensure that the media fully complies with the rules of professional conduct, while respecting media independence; encourage the recruitment of persons of non-Danish ethnic origin into the media in order to promote cultural diversity and encourage the dissemination of a more accurate image of persons belonging to national minorities."*

Denmark has a well-established Press Council. The Danish Press Council was established in 1992 pursuant to the Danish Media Liability Act. The Press Council is an independent, public tribunal which deals with complaints about the mass media.

The Press Council has mandate to rule in cases relating to whether the publication made is contrary to sound press ethics and whether a mass media shall be under an obligation to publish a reply².

According to the Media Liability Act both the content and the conduct of the mass media must be in conformity with sound press ethics. The act does not give a complete description of sound press ethics. However, "sound press ethics" is

² Reply means that the complainant gets the opportunity to correct the information published by the media.

interpreted in the light of the Press Ethical Rules of guidance. Thus, the Press Council assesses the circumstances in every single case.

It is stated in the Press Ethical Rules that when reporting criminal cases the mention of a person's family history, occupation, race, nationality, creed, or membership of organisations should be avoided unless this has something directly to do with the case. In the Press Council's annual report from 2002 it is stated that the purpose of this rule is to avoid stigmatization of a certain ethnic group because of an individual's actions.

In cases concerning sound press ethics the Press Council can express its criticism. In cases about reply the Council may direct the editor of the mass media in question to publish a reply. In both types of cases the Council may direct the editor to publish the decision of the Council to an extent specified by the Council. The Council's decisions are as a general rule complied with by the mass media.

A more specific obligation should be mentioned in this context: the obligation for DR to provide news programmes on specific platforms using the most common languages spoken by immigrants and refugees such as English, Arabic, Somali, Urdu, Turkish and southern Slavic. The Board initially found that the actions taken to fulfil this obligation were not sufficient. DR responded that studies had shown that not all the required platforms were relevant for these parts of the population, as they tend to use internet services instead. As a result of this the specific platforms mentioned in the remit were changed such that news programmes should be delivered on the internet and via teletext. DR's remit for 2011-2014 still contain an obligation to provide such news programmes. However there are no longer any requirements as to specific platforms and the required languages have been reduced to the four mostly used foreign languages, which are at present: English, Arabic, Turkish and Somali. The remit for 2011-2014 still contains an obligation for DR to promote integration although the wording in the remit has been changed.

Ad: *"translate information which is important for persons belonging to the German minority, as well as the Advisory Committee's Opinions, into the minority language of this group and ensure that these translations are disseminated in South Jutland."*

Region South Jutland, which among other things is responsible for operating hospitals, has translated relevant information material into German. Region South Jutland also communicates in German with patients belonging to the German minority and who wants to use the German language.

Ad: *"consult the representatives of the German minority with the aim of progressively installing topographical indications and other bilingual signs in South Jutland, where appropriate."*

As stated in its second and third report (page 20-21 and page 29-30 respectively) existing legislation regarding street signs does not prohibit signs in two languages. The Danish authorities are aware that the forum Region South Jutland-Schleswig has concluded that since the subject of bilingual street signs in a historic perspective is of a sensitive nature, the forum did not find the time ripe to recommend bilingual street signs. This decision was made in consensus with participation of representatives of the Danish minority, the German minority, the four municipalities in South Jutland and the Region of Southern Denmark.

