

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

COUNCIL OF EUROPE



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**Comments of the Government of Denmark on the Fifth Opinion of the
Advisory Committee on the implementation of the Framework Convention
for the Protection of National Minorities by Denmark –
received on 2 July 2020**

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

The Danish Government is pleased to respond to the invitation of the Advisory Committee to comment on the fifth opinion on Denmark (2019), regarding the implementation of the Framework Convention for the Protection of National Minorities. The government comments have been prepared with the contributions from various ministries and authorities, comprised by the Framework Convention.

General comments

Before commenting on specific recommendations of the Advisory Committee, the Danish Government would like to reiterate its position with respect to the scope of the Framework Convention that the international obligations that Denmark has assumed according to the Framework Convention only relates to the German national minority in South Jutland.

It is the opinion of the Danish Government that the distinctive mark of a national minority is that it is a minority population group, which above all has historical, long-term and lasting links to the country in question – in contrast to refugee- and immigrant groups in general. Therefore, Denmark has identified the German minority in South Jutland as a national minority covered by the Framework Convention. Thus, when ratifying the Framework Convention, Denmark did not identify other minorities, who are living, in Denmark, as a national minority within the meaning of the Convention. Therefore, it is the opinion of the Danish government, that there are no grounds for reviewing the articles of the Convention in consultation with other groups as these groups do not constitute or represent a national minority within the meaning of the Framework Convention.

With this said, the Danish government would like to stress that other minorities that resides in Denmark enjoy the same fundamental rights as do all Danish citizens, including the rights contained in international human rights conventions and frameworks, which Denmark has ratified. Combined with the domestic legal framework and practices, Denmark strives after equal and fair treatment of all minorities residing in Denmark. This includes protection both at national level and through the international instruments, which protect the rights of the individual

and safeguard against discrimination. E.g., The Ministry of Education has consultants, who provide schools with advice, tools and methods to prevent discrimination of all minorities.

The Danish Government will continuously work towards ensuring that the German Minority has the opportunity to raise any potential issues that the minority want to discuss. This includes discussions on the yearly meetings of the Contact Committee, where the German minority is able to raise matters that it deems important, including issues concerning the Framework convention, with the relevant authorities. In the past, these meetings have demonstrated their vital significance as a practical instrument for the solution of the German minority's problems. Further, the Danish Government supports the principle of committed and constructive dialogue between the representatives of the German minorities and the four municipalities located in South Jutland and the Region of South Denmark.

The Danish Government would like to point out that the government is continuously working to promote all human rights – economic, social and cultural, as well as civil and political and the Danish government is always prepared for dialogue with persons or groups regarding the provisions of the Framework Convention.

Finally, the Danish Government would like to express its appreciation of the constructive dialogue between the Advisory Committee and the Danish authorities. Denmark welcomes the report and appreciates the continued dialogue and exchange of information and views.

Specific comments

To the extent possible, this report has been prepared in accordance with the outlines for State Reports and the fifth opinion, adopted by the Committee of Ministers on 7 November 2019, which contained recommendations for immediate action as well as general recommendations. The Danish government wishes to address some of the recommendations on an article- by article basis regarding the German minority. This report has been prepared based on contributions from various ministries and authorities comprised by the provisions of the Framework Convention.

Article 5 Preservation of culture

Denmark has granted the German minority project “Grenzgenial” a funding of 650.000 DKK in 2020 and in 2021. The project is a digital teaching platform, which aims to support teaching of German in the Danish primary schools. This means that the project by the end of 2021 will have received approximately 2 million DDK in funding. The Danish government is always ready to improve and strengthen the

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dialogue with the German minority in order to fulfil the obligations, Denmark has ratified.

In addition, the Danish National Board of Social Services has granted financial support to the German minority organization “Sozialdienst Nordschleswig”, which is a social service that coordinates the social work of the German minority in Denmark. The organization receives 12 million DKK in 2020-2022 and thereafter 300.000 DKK yearly.

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Article 6

Integration policies and promotion of tolerance

The Danish National Police has set up a comprehensive data collection system with regard to hate crimes and hate speech. The data collection system makes it possible for the Danish National Police to extract fully disaggregated data on offence, hate motivation and target group. Hate Crime statistics are made public annually in a report published by the Danish National Police.

According to section 266 b (1) of the Danish Criminal Code, any person who publicly or with intent to disseminate to a wide group of people, issues a statement or otherwise communicates a message that threatens, humiliates or degrades persons of particular group because of their race, color, national or ethnic origin, religious belief or sexual orientation is sentenced to a fine or imprisonment for a term not exceeding two years. Further, section 81(vi) of the Criminal Code states that, when determining a sentence, it must normally be considered an aggravating circumstance that the act was based on the ethnic origin, religious belief or sexual orientation or similar criteria. The section is applicable when determining the sentence for all criminal offences.

In 2016, the Director of Public Prosecution issued guidelines concerning the handling of cases of violation of Section 266 b of the Criminal Code (replacing instruction No. 2/2011). In order to ensure transparency and a uniform practice by the police and prosecution as to the application of Section 266 b in cases concerning hate speech, the instruction contains detailed guidelines supplemented with relevant case law as to when an act generally should be considered a violation of Section 266 b. New paragraphs discussing the freedom of expression relative to such cases as well as guidelines on the investigation and the sentence claimed in such cases have been inserted in the instruction.

In addition, the Danish National Police has a strong focus on ensuring that hate crimes are being handled and registered correctly in the police districts and that the police officers in that context receive sufficient training. The Ministry of Justice takes note of the strong focus on hate crimes by the Danish National Police and considers that the safeguards for victims of racism under the criminal law are ensured in a sufficient manner.

Article 9 & 10

Media in minority languages and the use of minority languages in contacts with the administration

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The Danish government notes the recognition of the support given to the printed media in German language in Southern Jutland.

The German newspaper “Der Nordschleswiger” aimed at the German minority annually receives a subsidy from the Danish media subsidy scheme. The subsidy is given to production of content independent of platform (printed/digital). Any new written media aimed at the German minority can receive subsidy on the same conditions as the newspaper “Der Nordschleswiger”. The subsidy to the written media granted via the Danish media subsidy scheme alters from year to year depending on the total of the newspaper’s editorial costs. As for “Der Nordschleswiger” the total subsidy was DKK 3.5 million in 2019 and is in 2020 expected to be DKK 3.5 million.

In addition, “Der Nordschleswiger” is also financed by means of an appropriation under the Finance Act for 2018. “Der Nordschleswiger” was granted 1.7 million DKK annually in 2018 and 2019 and receives 2.4 million DKK annually in 2020 and 2021 (2020-price level). The grant is given to further the development of media digitalization thus ensuring that persons belonging to the German minority have access to digital media in their own language. Der Nordschleswiger also receives a subsidy from “*udlodningsmidlerne*” for cultural purposes. The subsidy is used to producing and buying airtime to broadcasting news programs in German in the local radio in southern Denmark. The aim is to make the German minority able to produce and broadcast news in German in Southern Jutland.

As regards the call to support the production of content on the German minority in Danish and German, the government notes that both the main public service broadcaster, DR, and the regional public service-broadcaster, TV SYD, are already as part of their public service obligations required to produce content in Danish on minorities in the border area. The Danish independent media regulatory authority – “Radio- og tv-nævnet” – annually monitors the fulfillment of the obligations of public service-broadcasters including DR and TV SYD. In addition, the Danish Broadcasting legislation offers the opportunity for local broadcasters in South Jutland to apply for a license and financial support to broadcast local radio and television in German.

The municipalities in South Jutland are continuing in their efforts to meet the requirement of being able to communicate with the municipality in German. For example, the citizens of Haderslev Municipality can communicate in German with the organization both in writing and spoken word.

Article 11

Display of bilingual signs

As to the municipality of Haderslev, the German minority is represented in both the City Council, and in two standing committees under the City Council. In this City Council period, the German minority is in the Committee on Culture and Leisure and in the Rural Committee. In both the City Council and the standing Committees, they have the same right and possibilities as the other political City Council members to express their opinion and vote in political polls. Traditional local names, street names and other topographical indications and signs are not translated to other languages. They are only in Danish.

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Article 12

Teacher training and promotion of diversity at school

In the steering documents of upper secondary education, it is confirmed; topics in the subjects are chosen on a local historic basis. On that basis it is expected, that the upper secondary schools in the region of South Jutland have a focus on the culture of the German minority living in Denmark. In addition, the association with "Grænseforeningen" is making an effort to draw attention to the special conditions for the minority in the region.

Article 15

Political representation and participation

The Danish Contact Committee for the German minority consists of members from each of the political parties represented in the Danish parliament and members of the German minority. The aim is to ensure a continuous discussion of matters that the German minority deem important, also including issues concerning the Framework convention. The 56th session of the Danish Contact Committee for the German minority is was held in June 2020.

The right to use the national minority's language has several aspects. It applies to the four municipalities in South Jutland, which are making an effort in order to

secure that the German minority are able to use their language, in contact with public authorities, as the framework convention requires.

Finally, the Danish government and authorities are always ready to improve and strengthen the dialogue with the German minority in order to fulfil the obligations comprised by the Framework convention, which Denmark has ratified.

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Article 17 & 18

Bilateral co-operation

The temporary border control at the German border was established on 4 January 2016 in compliance with the Schengen Borders Code. The decision of the Danish government to establish and maintain the temporary border control is based on a careful and continuous assessment by the Danish police. The Danish government is aware of the potential impact of border control in the border region where people cross the border on a daily basis.

Accordingly, the scope of the internal border checks will continue to be limited to what is strictly necessary to respond to the threat to our public order and internal security. Furthermore, the scope of the internal border checks will be organized in a manner, which ensures that obstacles to the free movement of persons and goods are kept to an absolute minimum. The Danish police maintain a close, ongoing and productive dialog with German police in order to ensure this. Please note that the temporary border control was extended to all borders on March 14 2020 in a response to the spread of the Corona virus.