



# FIFTH OPINION ON DENMARK

Advisory Committee  
on the Framework  
Convention for  
the Protection of  
National Minorities  
(ACFC)

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## SUMMARY OF THE FINDINGS

1. Denmark has maintained a consistent policy of support to persons belonging to the German national minority in South Jutland,<sup>1</sup> the only recognised national minority in the country. The monitoring period has, however, been subject to a clear negative change in political rhetoric towards refugees, migrants and, subsequently, minorities.

### Scope of application

2. Denmark continues to limit the scope of application of the Framework Convention to the German minority in South Jutland. A debate has taken place within Greenlandic organisations as to whether persons belonging to Greenlandic communities would benefit from recognition as a national minority. While the overall outcome of the debate was not in favour of recognition, persons belonging to the Greenlandic communities living in Denmark expressed a wish for a *de facto* application of some of the provisions of the Framework Convention.

### Non-discrimination

3. The anti-discrimination legislative and institutional framework remains unchanged. Awareness-raising activities are, however, needed in order to reach out to people and groups most frequently targeted by discrimination. Applicable laws and possible remedies need to be further promoted.

### Integration policies and promotion of tolerance

4. Intolerance trends have been observed in political rhetoric as well as in legal and policy measures, notably repeated references to statistical categories referring to 'immigrants and descendants of immigrants with Western origin' and those of 'non-Western' origin, the latter being used as a primary legal criterion to characterise particularly vulnerable public housing areas as "ghettos". Civil society organisations, at the heart of the integration policies in Denmark, have reported the absence of consultation in the recent design of integration policies. Such policies are reported as lacking facts and evidence and as preventing integration efforts. Civil society actors working on the integration and anti-discrimination field also report difficulties in having access to foreseeable and sustainable funding.

5. Non-recognised ethnic and/or religious minorities face different challenges. The Jewish community was targeted by a terrorist attack and faces daily security issues. Increased security measures are financially supported by the state. The Greenlandic communities living in Denmark struggle to have their integration difficulties recognised and call for specific measures to be taken in order to improve their access to the Danish labour market, promote modern Greenlandic culture among the majority Danish population and improve their

access to linguistic rights in Denmark. Concerning Roma, a very low number of them, including Danish Roma, self-identify publicly and the conditions conducive to self-identification are scarcely met. Non-Danish Roma reportedly fear double stigma, as foreigners and as Roma, and are targeted by a discriminatory application of legal provisions criminalising homeless 'camps'.

### Hate speech and hate crime

6. Important efforts have been made to encourage victims of hate crimes to report to law enforcement authorities. Significant training activities have been implemented by prosecution authorities and the police. However, there is no comprehensive data collection system to enable more efficient policy design and better analysis of the hate crimes committed. The National Human Rights Institution and civil society have called for the adoption of a national action plan against racism, in particular to monitor hate speech in political discourse and portrayal of persons belonging to minorities and migrants in the media.

### German minority language rights

7. Financial support to the daily newspaper *Der Nordschleswiger*, the only medium in German language, is satisfactory and to be pursued. Improvements are expected in supporting production of content on the German minority in both Danish and German.

8. Access to the administration allows use of German in practice in the four municipalities where persons belonging to the German minority live in substantial numbers. This practice is, however, not formally recognised in the law, which makes implementation of linguistic rights dependent on the goodwill of public servants.

9. Significant efforts have been made by the German minority in order to have bilingual signs displayed in front of German minority institutions as well as at the entrance of the four municipalities where they live, but, so far, in vain. Conditions conducive to such display shall be created by the local authorities, including by giving more visibility to German cultures in South Jutland, in particular in school curricula.

10. The school system in German is exemplary by its quality and is thanks to the level of funding provided by the Danish authorities.

### Representation and participation

11. The Contact Committee of the German minority, which is essentially a parliamentary body, fulfils its role. There is, however, no formal consultation system between the German representatives and the relevant ministries, nor does any such forum exist at municipal level.

<sup>1</sup> In German, and subsequently in the names of the institutions of the German national minority, *Nordschleswig* is used to refer to the

part of South Jutland where persons belonging to the German minority live.

## RECOMMENDATIONS

12. The Advisory Committee considers that the present concluding remarks and recommendations could serve as the basis for the resolution to be adopted by the Committee of Ministers with respect to the implementation of the Framework Convention by Denmark.

13. The authorities are invited to take account of the detailed observations and recommendations contained in the present opinion of the Advisory Committee. They should, in particular, take the following measures to further improve the implementation of the Framework Convention:

### Recommendations for immediate action

14. 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.

15. The Advisory Committee urges the authorities to adopt a new action plan against racism, including monitoring of hate speech in political and public discourse. Such a strategy should be designed in close and active co-operation with civil society actors as well as with representatives of communities confronted with such forms of abuse and should include, without prejudice to the editorial independence of the press, an assessment of the way persons belonging to minority communities as well as migrants are portrayed in the media. The Advisory Committee also urges the authorities to ensure that integration legislation and policies are based on facts and expertise, look for long-term solutions to guarantee equal access to rights and to ensure inclusive participation of the civil society in relevant decision-making processes, including parliamentary discussions.

16. The Advisory Committee urges the authorities to review the application of the provisions of the Danish Code on Public Order related to homeless people and calls on the authorities to consider developing a more comprehensive and efficient approach to the poverty problems of those concerned, most of whom have a Roma background.

17. The Advisory Committee urges the authorities to take all necessary measures, at local level, to promote intercultural understanding and dialogue in order to create an environment conducive to the display of bilingual signs at the entrance of the four municipalities traditionally inhabited by a substantial number of persons belonging to the German minority.

### Further recommendations<sup>2</sup>

18. The Advisory Committee calls on the authorities to maintain a continuous constructive dialogue with members of the communities which may benefit from the protection provided by the Framework Convention and thus to continue applying a flexible approach, namely an article-by-article application of relevant provisions of the Framework Convention, to such communities irrespective of a formal recognition as a national minority. The Advisory Committee calls on the authorities to ensure that persons belonging to such communities have sufficient awareness of the Framework Convention, in particular its cornerstone that is the right to free self-identification.

19. The Advisory Committee calls on the authorities to step up their efforts to raise awareness among people and groups most frequently targeted by discrimination of the legislative standards that currently apply and of the available remedies to victims of discrimination.

20. The Advisory Committee calls on the authorities to set up a comprehensive data collection system with regard to hate crimes and hate speech, with fully disaggregated data on offence, hate motivation and target group, in order to enable better analysis of the crimes committed and to subsequently design more accurate strategies to combat them, where relevant in co-operation with organisations representing victims.

21. The Advisory Committee calls on the authorities to take proactive integration and inclusion measures aimed at creating an environment where Roma people and communities, including those living in Denmark for several generations, do not refrain from identifying themselves publicly as Roma and from showing their identity.

22. The Advisory Committee reiterates its call on the authorities to ensure that persons belonging to the German minority, in the four municipalities where they live in South Jutland, be able to communicate fully in German, as the case may be also by digital means, with all administrative bodies – including central services – and even when public services are provided through private companies.

23. The Advisory Committee calls on the authorities to ensure an appropriate level of visibility of the German culture within the Danish education system, promoting a positive narrative regarding the German presence in South Jutland. It insists, in this regard, on the importance of including a specific item in the compulsory curricula applicable to the entire South Jutland region.

### Follow-up to these recommendations

24. The Advisory Committee encourages the authorities to organise a follow-up event after the publication of this fifth cycle opinion, as they have done previously. It considers that a follow-up dialogue to review the observations and recommendations made in this opinion would be beneficial. Furthermore, the Advisory Committee stands ready to support the authorities in identifying the most efficient ways to implement the recommendations contained in the present opinion.

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<sup>22</sup> The recommendations below are listed in the order of the corresponding articles of the Framework Convention.

### Preparation of the state report for the fifth cycle

25. The state report was due on 1 February 2019 and was received on 2 April 2019. According to interlocutors of the Advisory Committee, organisations representing and promoting the rights of the German minority were not consulted in the course of the drafting process. The Advisory Committee welcomes that Greenland and Faroe representations were consulted by the authorities on the final draft report, noting, however, that they did not express a wish to comment on it.<sup>3</sup> The Advisory Committee regrets that organisations representing the German minority were not consulted in the same way on the final draft report.

26. In its letter to states parties on 5 July 2018 announcing the fifth monitoring cycle, the Advisory Committee asked member states to pay particular attention to gender equality in their reporting. Unfortunately, the state report does not cover specifically gender-related aspects of minority rights.

### Follow-up activities related to the recommendations of the fourth opinion of the Advisory Committee

27. The fourth opinion is available on the website of the Ministry of Culture and free copies are sent by the ministry upon request. The fourth opinion has, however, not been translated into German.

28. No formal follow-up was organised on the recommendations of the fourth opinion of the Advisory Committee, however, the authorities have informed the Advisory Committee that the opinion was discussed upon its adoption with representatives of the German minority.

### Country visit and adoption of the fifth opinion

29. This fifth cycle opinion on the implementation of the Framework Convention for the Protection of National Minorities (hereinafter “the Framework Convention”) by Denmark was adopted in accordance with Article 26(1) of the Framework Convention and Rule 23 of Resolution (97)10 of the Committee of Ministers. The findings are based on information contained in the fifth state report, other written sources, as well as information obtained by the Advisory Committee from governmental and non-governmental sources during its visit to Aabenraa and Copenhagen from 28 to 30 August 2019, as well as on 30 September and 1 October 2019. The Advisory Committee expresses its gratitude to the authorities for their excellent co-operation before, during and after the visit, as well as to other interlocutors met during the visit for their valuable contributions.

\* \* \*

30. In the following parts of the opinion, a number of articles of the Framework Convention are not addressed. Based on the information currently at its disposal, the Advisory Committee considers that the implementation of these articles does not give rise to any specific observations. This statement is not to be understood as signalling that adequate measures have now been taken and that efforts in this respect may be diminished or even halted. Rather, the Advisory Committee considers that the obligations of the Framework Convention require a sustained effort by the authorities. Furthermore, a certain state of affairs which may be considered acceptable at this stage may not necessarily be so in further cycles of monitoring. Finally, it may be that issues which appear at this stage to be of relatively minor concern prove, over time, to have been underestimated.

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<sup>3</sup> See [state report](#), page 5.

## ARTICLE-BY-ARTICLE FINDINGS

**Scope of application (Article 3)**

31. The territorial and personal scope of application of the Framework Convention with regard to Denmark has remained unchanged since the last monitoring cycle.<sup>4</sup> The Danish authorities apply the Framework Convention to the German minority in South Jutland. They also pursue a dialogue-based approach in their relations with persons identifying themselves as belonging to other minority communities and that might be interested in being given the protection provided by the provisions of the Framework Convention. The State Report includes the main developments related to the German minority in South Jutland, but also some references to Greenlanders living in Denmark, as well as persons belonging to the Roma and Jewish communities.<sup>5</sup>

32. The Faroe Islands and Greenland enjoy a high degree of autonomy within the Kingdom of Denmark.<sup>6</sup> Furthermore, ILO Convention No.169 concerning Indigenous and Tribal Peoples in Independent Countries applies in Greenland.

33. A discussion has taken place over the last monitoring period among representative organisations and persons identifying themselves as Greenlanders in Denmark as to whether it would be beneficial for them to be recognised as a national minority within the meaning of the Framework Convention. No consensus has emerged so far. Interlocutors of the Advisory Committee identifying themselves as Greenlanders living in Denmark, however, expressed a clear wish to have recommendations from the Advisory Committee on the possible *de facto* application of some of the provisions of the Framework Convention to the Greenlandic communities and persons living in Denmark. The same position has been expressed by representatives of the Jewish communities.

34. The Advisory Committee recalls that official recognition as a national minority or the granting of a specific status do not constitute the beginning of the process of minority rights protection, nor are they essential for the application of the Framework Convention or of specific articles of it. Recognition as a national minority has a declaratory rather than a constitutive character. Access to minority rights should therefore not depend on formal recognition.<sup>7</sup>

35. The Advisory Committee welcomes, as it has done in its previous opinion, the flexibility demonstrated by Danish authorities in taking into account the specific needs of Greenlanders living in Denmark (see *The situation of Greenlanders* below), as well as persons belonging to Jewish communities (see *The Situation of the Jews* below).

36. The Advisory Committee is, however, concerned that the situation of Roma in Denmark is not fully conducive to the effective enjoyment of the right to free self-identification, in particular in light of reported stigmatisation targeting Roma coming from outside Denmark (see *The situation of Roma* below) and its subsequent negative impact on communities living in Denmark for a longer period. While the Advisory Committee has not been made aware of any groups seeking formal recognition under the Framework Convention, it observes that the authorities have not necessarily dedicated much effort to spreading and increasing knowledge about the Framework Convention and its objectives amongst communities that could possibly benefit from its application. As a result, overall there is little awareness about the Framework Convention in Denmark, including among persons belonging to the German minority.

37. The Advisory Committee calls on the authorities to maintain a continuous constructive dialogue with members of the communities which may benefit from the protection provided by the Framework Convention and thus to keep applying a flexible approach, namely an article-by-article application of relevant provisions of the Framework Convention, to such communities irrespective of a formal recognition as a national minority.

38. The Advisory Committee calls on the authorities to ensure that persons belonging to such communities have sufficient awareness of the Framework Convention, in particular its cornerstone that is the right to free self-identification.

**Data collection (Article 3)**

39. The authorities have reiterated their long-standing position that it is not possible for the Statistics Agency of Denmark to provide statistical data on national minorities.<sup>8</sup> The Central Population Register, however, includes information on place of birth and citizenship.<sup>9</sup> Such information has been used to create statistics categories such as ‘immigrants and descendants of immigrants of

<sup>4</sup> The declaration handed to the Secretary General at the time of deposit of the instrument of ratification, on 22 September 1997, reads as follows: “In connection with the deposit of the instrument of ratification by Denmark of the Framework Convention for the Protection of National Minorities, it is hereby declared that the Framework Convention shall apply to the German minority in South Jutland of the Kingdom of Denmark.”

<sup>5</sup> Unofficial figures published by organisations representing the respective minority communities or, by civil society organisations, indicate that approximately 15 000 Germans, 23 000 Faroese, [16472 Greenlanders](#), 7000 Jews, and between 2000 and 15000 Roma live in Denmark. However, in the absence of official data collection, none of the sources is verifiable and the Advisory Committee is not in a position to establish that the same number of people freely self-identifies to those groups.

<sup>6</sup> [Fourth opinion](#) of the Advisory Committee on Denmark, adopted on 20 May 2014, para. 17.

<sup>7</sup> [Thematic Commentary No. 4](#), The Framework Convention: a key tool to managing diversity through minority rights. The scope of application of the Framework Convention for the Protection of National Minorities, adopted on 27 May 2016, para. 28.

<sup>8</sup> To the authorities on both sides of the Danish-German border the Bonn-Copenhagen Declarations from 1955 are of great importance. Article II para. 1 of the Copenhagen Declaration reads as follows: “(...) is commonly interpreted that no statistics and census questions on the belonging to a national minority are followed”.

<sup>9</sup> State report, page 12.

Western origin' and 'immigrants and descendants of immigrants of non-Western origin'.<sup>10</sup>

40. The Advisory Committee recalls that reliable information about the ethnic composition of the population is an essential condition for implementing effective policies and measures to protect minorities, for helping to preserve and assert their identity as well as for addressing their needs. Population statistics should be collected regularly and should be complemented and analysed by independent qualitative and quantitative research.<sup>11</sup> The Advisory Committee further recalls that international standards do not prevent states from collecting data on citizenship, ethnicity and languages spoken at home.<sup>12</sup>

41. The Advisory Committee regrets therefore the absence of data on national or ethnic affiliation that could be collected through an exercise respectful of the right to free self-identification, such as a well-designed population census. Echoing its interlocutors from the academic community, it also expresses serious concerns that the current concepts referring to immigrants and descendants<sup>13</sup> from 'Western' or 'non-Western' countries are based on an aggregation of data related to place of birth or citizenship and dividing countries into two arbitrary categories, having therefore little significance. Furthermore, while similar concepts do exist in a few other countries, Danish authorities' use such concepts, *inter alia*,<sup>14</sup> for the purpose of identifying so-called "ghettos"<sup>15</sup> and apply specific measures to these areas such as the reduction of the share of non-profit housing, restriction to access to non-profit housing and doubling of punishment for certain crimes. In the view of the Advisory Committee, this latter measure in itself raises serious

concerns and possible incompatibilities with the European Convention on Human Rights.

42. Moreover, contrary to a well-designed population census, these concepts do not allow those concerned to freely self-identify, or not to identify, to such categories, nor to be withdrawn from them. The Advisory Committee therefore warns against using arbitrarily aggregated statistical data – as objective as original data can be such as place of birth or citizenship – whose major consequence is the emergence of a "them against us" rhetoric.

43. The Advisory Committee further questions the relevance of the word 'descendants' and the nature of the message it sends to Danish citizens with 'Western' or 'non-Western' background. It underlines the counter-effect it may have on such people's feeling of belonging and forming an integral part of Danish society. These concerns are all the more regrettable since, if ethnic data collection were done in accordance with human rights-based standards, such data would both comply with human rights and further facilitate the adoption of legislation based on facts and expertise (see *Integration policies and promotion of tolerance* below).

44. 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.

<sup>10</sup> Statistics Denmark, [Documentation of statistics for Immigrants and Descendants 2017 Month 01](#). This publication indicates that "The concepts "Immigrants and descendants" and "Western and non-western countries" is defined by Statistics Denmark. These concepts do not occur in other countries". This publication further indicates that the distinction between the two categories is defined as follows: "Western countries: All 28 EU countries and Andorra, Iceland, Liechtenstein, Monaco, Norway, San Marino, Switzerland, Vatican State, Canada, USA, Australia and New Zealand. Non-western countries: All other countries."

<sup>11</sup> [Thematic Commentary No. 4](#), para. 18.

<sup>12</sup> Conference of European Statisticians Recommendation for the 2020 Censuses of Population and Housing", United Nations Economic Commission for Europe, New York and Geneva, 2015, page 149, para. 701 to 703: "(...) countries with long-established multi-ethnic minority communities and/or recently arrived immigrant populations may wish to collect information on the ethnic composition of the population or of certain sub-groups of the population. The data are relevant for the understanding of the cultural diversity of the population, the position of ethnic groups in society as well as for the definition and monitoring of equality and anti-discrimination policies. Ethnicity provides a more accurate picture of the stock of immigrant populations, than can be obtained from information on country of birth or country of parents' birth alone, which will not be relevant for second and third generation immigrants. However, respondents' understanding or views about ethnicity, awareness of their family background, the number of generations that have lived in a country, and the length of time since immigration are all possible factors affecting the reporting of ethnicity in a census. Moreover, ethnicity is multi-dimensional and is considered to be more of a process than a static concept, and so ethnic classification should be treated as dynamic with movable boundaries. This may mean that classifications of ethnic categories will change between censuses which, while mirroring society at any one time, may lead to a degree of non-comparability between one census and another. Ethnic identity can be measured using a variety of concepts, including ethnic ancestry or origin, ethnic group, cultural origins, nationality, race, color, minority status, tribe, language, religion or various combinations of these concepts. But for census purposes an affiliation with certain ethnic group should be distinct from an affiliation with a language and/or religious group, although overlap may be frequent. The combined collection and analysis of data on several ethno-cultural characteristics is particularly informative for the understanding of a country's cultural diversity."

<sup>13</sup> According to Statistics Denmark, an immigrant is defined as a person born abroad whose parents are both (or one of them if there is no available information on the other parent) foreign citizens or were both born abroad. If there is no available information on either of the parents and the person was born abroad, the person is also defined as an immigrant. A descendant is defined as a person born in Denmark whose parents (or one of them if there is no available information on the other parent) are either immigrants or descendants with foreign citizenship. If there is no available information on either of the parents and the person in question is a foreign citizen, the person is also defined as a descendant.

<sup>14</sup> These data are also used in official Government documents to compare use of social benefits between 'Westerners' and 'non-Westerners': Government of Denmark, [One Denmark without parallel societies, no ghettos in 2030](#), March 2018.

<sup>15</sup> European network of legal experts in gender equality and non-discrimination, [News Report](#), October 2018; Copenhagen Post Online, [Latest edition of contentious 'Ghetto List' includes 29 areas](#), December 2018.



45. The Advisory Committee calls on the authorities to collect data on national or ethnic affiliation in full compliance with the principle of free self-identification, applying relevant human-rights based and data collection standards, and allowing multiple affiliation.

#### Anti-discrimination legislative and institutional framework (Article 4)

46. The anti-discrimination legislative framework remained unchanged over the last monitoring period. Section 70 of the Constitutional Act of Denmark is interpreted as providing that nobody may be discriminated against on account of his or her religion or race. Furthermore, the Act on the Prohibition of Discrimination on the Labour Market and the Act on Ethnic Equal Treatment cover respectively all phases of employment and all aspects of social protection, such as social security and health care, social benefits, education and access to supply of goods and services, including housing. Both instruments prohibit discrimination on the grounds, *inter alia*, of ethnic origin.

47. The Board of Equal Treatment, established in 2009, investigates complaints of differential treatment under both abovementioned acts, including on the grounds of religion or religious belief, and national or ethnic origin.<sup>16</sup> The Board may award compensation and invalidate dismissals. In 2017, it received 294 complaints, the vast majority of which relates to gender and age. 44 cases were, however, related to race or ethnic origin. Since its establishment, however, the Board of Equal Treatment has received only a small number of cases – less than ten – of alleged illegal discrimination, where the complainant has mentioned his or her background as German, Jewish, Roma or Greenlandic as the reason for the alleged discrimination. In none of the cases has the Board considered that illegal discrimination had been demonstrated.

48. The Danish Institute for Human Rights, which is the National Human Rights Institution for Denmark, is, aside from having other tasks, the specialised body for the promotion of equal treatment and effective protection against discrimination. It conducts surveys, advises public authorities and companies, and assists victims of discrimination by processing their complaints and investigating alleged cases of discrimination. Since 1 January 2016, it has the right to file complaints to the Board of Equal Treatment in cases raising matters of principle of importance to the public. It has, in particular, brought before the Board a case concerning an upper secondary school in the city of Aarhus (Langkaer Gymnasium) that formed four classes comprising only ethnic minority students with the aim of keeping ethnic Danish students at the school. The case, which represents, in the view of the Advisory Committee, a segregation practice in education, was eventually settled, the school management conceding that the division of students on the basis of their ethnicity amounted to illegal discrimination.<sup>17</sup> The Danish Institute for

Human Rights does not, however, conduct awareness-raising campaigns.

49. The Advisory Committee has repeatedly criticised practices of segregation of students and welcomed efforts to end such practices,<sup>18</sup> including information and awareness-raising campaigns aimed at society as a whole and, in particular, at the groups most exposed to discrimination. The purpose of such campaigns is of course to disseminate information about possible remedies, but also to prevent discrimination cases, or more extreme situations such as attempts of segregation like the Langkaer Gymnasium case. The Advisory Committee regrets that such campaigns are neither carried out by the Board of Equal Treatment, nor by the National Human Rights Institution in the application of its mandate to promote human rights.<sup>19</sup> The Advisory Committee also notes, in this respect, a significant gap between data collected through recent academic studies or through the government's Integration Barometer (see *Integration policies and promotion of tolerance, The situation of Roma*, or *The situation of Greenlanders* below), where an important percentage of persons belonging to non-Danish communities report having experienced discrimination, and the low number of cases brought before the Board of Equal Treatment, which could also be a consequence of the lack of information campaigns and limited awareness about the remedies available.

50. The Advisory Committee was informed of a recent case where a German minority social welfare organisation saw its application for funding rejected on the grounds that its webpage was only in German, the application was done in German, the services were only provided to the persons belonging to the German minority and its Board was not representing a sufficiently broad "social segment". While such application had been continuously successful since 2012, and despite the fact that the organisation confirmed to the authorities that it does provide services to people other than those belonging to the German minority, its application got rejected for the year 2018, as well as for 2019. The Advisory Committee is concerned that such grounds may be used to reject an application for funding of a German-minority organisation, in particular in the absence of a dedicated funding system for German-minority NGOs. The Advisory Committee also notes that the applicant does not consider filing a complaint to the Board for Equal Treatment as the primary option for redress, but rather opts for political discussions through representatives of the German minority.

51. The Advisory Committee further notes that, over the last monitoring cycle, one of the most active civil society organisations in data collection on discrimination cases had to discontinue its activities (Documentation and Advisory Center on Racial Discrimination, DACoRD). Several other civil society actors have reported to the Advisory Committee similar difficulties in their access to funding, in particular public funding, with the consequence that it undermines their

<sup>16</sup> Act on the Board of Equal Treatment, Act n° 387 of 27 May 2008, Articles 1(3) and 1(4). See also, United Nations, [Common core document forming part of the reports of States Parties - Denmark](#), received on 29 March 2018, para. 214-264.

<sup>17</sup> The Danish Institute for Human Rights, [Human rights on the agenda – Report 2017-18](#), p. 24.

<sup>18</sup> Thematic Commentary n° 1, "Education under the Framework Convention for the Protection of National Minorities", adopted in March 2006, pages 17 & 21.

<sup>19</sup> European network of legal experts in gender equality and non-discrimination, [Country report non-discrimination 2018 on Denmark](#), Item 11.1.

work on equality data collection and anti-discrimination advocacy.

52. The Advisory Committee calls on the authorities to step up their efforts to raise awareness among people and groups most frequently targeted by discrimination of currently applied legislative standards and of the available remedies to victims of discrimination.

53. The Advisory Committee calls on the authorities to ensure that all civil servants dealing with specific requests from persons belonging to and organisations of national minorities, in particular in social affairs, be well aware about minority rights in order to prevent any case of discrimination on the grounds of belonging to a national minority.

54. The Advisory Committee calls on the authorities to ensure that civil society organisations working on improving and monitoring the anti-discrimination legislative framework have access to sufficient public funding in order to fulfil their anti-discrimination advocacy activities and monitoring role.

### Preservation of culture (Article 5)

55. In 2019, the Minister of Culture nominated the Danish-German border country to become a UNESCO intangible cultural heritage, on the basis of a joint application from the Danish minority in South Schleswig and the German minority in Southern Jutland. The initiative is also supported by the German authorities (See also *Bilateral co-operation* below). The State Report lists a number of associations' initiatives taken at local level, in the respective municipalities where members of the German minority live. It further reports on local initiatives aimed at the preservation and promotion of the cultures of the German minority, including the restructuring and translation of information into German and English in the Frøslev Camp Museum in Aabenraa/Apenrade and other projects ahead of the 2020 celebrations gathering together Southern Jutland and Northern Germany municipalities.

56. Representatives of the German minority do not report any particular difficulty in having access to the level of funding aimed at preserving and promoting their minority cultures. However, no procedure or fund exists devoted specifically to award funds supporting the promotion of German minority culture.

57. The Advisory Committee welcomes the support given to the application of the Danish-German border area as a UNESCO intangible cultural heritage. It further welcomes the satisfactory level of cultural funding at present as well as the number of cultural initiatives taken at local level. It highlights, in particular, the work done by the German minority organisation in setting up an accessible physical and online library with different media in German (see *Teaching in and of minority languages* below). The preservation of the culture of the German minority is funded by Danish and German authorities equally; the Advisory Committee notes, however, that in Denmark no specific call exists for grant applications designed with adapted criteria ensuring that the German minority organisations have

access to a minimum level of funding for their cultural activities. It notes the existence of a €10 000 earmarked grant from the Ministry of Culture, but underlines that the rest of the cultural funding is mostly accessible through general calls for applications, at municipal, regional or national levels. While welcoming the fact that the level of funding has so far been satisfactory, the Advisory Committee underlines the lack of legal guarantees and regrets that funding is only available on a project-to-project basis.

58. The Advisory Committee invites the authorities to consider developing specific calls for grant applications, or to adapt the current ones to include specific criteria, in order to ensure that the German minority organisations have a consistent perspective of funding for cultural purposes.

### Integration policies and promotion of tolerance (Article 6)

59. The Danish authorities report various measures aimed at promoting tolerance, mostly focusing on the integration of newly arrived refugees and immigrants into the labour market. A Council of Ethnic Minorities advises the Minister of Immigration and Integration on issues relating to refugees, immigrants and integration. Its mandate focuses on finding long-term solutions to the existing problems in the Danish integration effort. It is active in legislative consultation and participates in a number of committees and follow-up groups in the area of integration, at municipal, national and international levels. One of the objectives of the Council is also to generate nuanced images of ethnic minorities in the media to help promote an inclusive society.

60. In 2014, the composition of the Council of Ethnic Minorities changed. It now has five members appointed by the Minister of Immigration and Integration, including the Chairman, four permanent members representing the four largest municipalities, and five members elected from a large representative body representing all municipalities in Denmark (*Repræsentantskabet*). Its secretariat consists of two part-time academic positions, one of them being temporary and to be discontinued in 2020, and an annual budget of 600 000 Danish krone (DKK) (approximately €80 000). The Council considers that these resources are not sufficient to support its new needs and mandate.

61. The civil society sector is also particularly active in the domain of integration. A significant number of projects aim at promoting intercultural dialogue as a means of integration.<sup>20</sup> Interlocutors of the Advisory Committee working in civil society organisations, however, report that, during the monitoring period, several policy measures have been introduced by the authorities for the purpose of reducing access to integration benefits, social benefits, education or health support, affecting, in particular, non-Danish nationals. These measures changed the criteria for access to these benefits, for example by including a proficiency test in the Danish language or requiring a longer presence in the territory of Denmark. These measures have been perceived by civil society as having the sole purpose

<sup>20</sup> See, *inter alia*, the project of the [Danish Red Cross « Friends pave the way »](#) matching refugees with Danish volunteer friends. The role of the volunteer friend is to help the refugee get a good start in Denmark. 7,000 matches have been reported to this day.

of fuelling populist discourse for electoral purposes (see in particular *The situation of Roma* below).

62. Recent studies show that persons with an ethnic minority background have to submit on average 52% more job applications in order to be invited for the same number of job interviews as people of Danish ethnic origin.<sup>21</sup> According to the national integration barometer, 43% of immigrants and descendants of immigrants of non-Western origin have experienced discrimination on account of their ethnicity. The relevance of measures further preventing integration is therefore questioned by civil society actors who regret that integration policies, over recent years, have been adopted without an effective consultation and participation of the civil society, and were not justified by studies based on evidence and facts.

63. The Advisory Committee welcomes the generally high level of social protection offered in Denmark, including for newly arrived refugees or migrants. It observes, however, a significant decrease of their social benefits over recent years as well as a deterioration of the decision-making process in connection to the design of integration policies. It expresses concern about a reported significantly lower level of consultation with civil society actors, while observing that most of them are directly in charge of the reception of newcomers. The Advisory Committee is concerned by reports that the legislative process was not necessarily based on evidence and facts, but rather used for electoral purposes. It regrets in this regard that it has been used to describe newcomers as taking undue advantage of the social system rather than as an asset to Danish society. The Advisory Committee underlines, however, the limited impact of such trends on the overall level of tolerance in Denmark: civil society actors have indeed witnessed, during the so-called “refugee crisis”, a significant rise in the number of volunteers of every age committed to participating in the reception efforts.<sup>22</sup>

64. The Advisory Committee urges the authorities to ensure that integration legislation and policies be based on facts and expertise, to look for long-term solutions to guarantee equal access to rights and to ensure inclusive participation of the civil society in relevant decision-making processes, including parliamentary discussions.

65. The Advisory Committee calls on the authorities to ensure that the resources of the Council of Ethnic Minorities be sufficient to support its needs and mandate.

## Efforts to combat hate crimes/speech (Article 6)

66. The Criminal Code contains provisions to protect against serious threats (section 266b), threats (section 266) and offences against personal honour (sections 267 to 274). Section 81 of the Criminal Code further states that it must be considered as an aggravating circumstance if the motive for the offence stems from the victim’s ethnic origin, religious belief or sexual orientation.

67. In 2016, the Director of Public prosecution issued new guidelines concerning the handling of hate crime cases, including relevant case law on the characterisation of such an offence.<sup>23</sup> The Danish National Police, which, since 2015, has the overall responsibility for the prevention and fight against hate crimes, established an in-service training course on hate crime.<sup>24</sup> A biannual continuous training course focuses now exclusively on hate crimes, completed by guidelines to all police districts on how to detect hate crimes and how to register it correctly. In 2017, the monitoring practice for hate crimes was modified with the effect of being more accurate. In 2017, 446 incidents characterised as hate crimes were registered,<sup>25</sup> giving rise to 95 charges against 102 persons. Half of those crimes were considered as having been committed with an aggravating racist motivation. Due to the change in methodology, however, comparison with earlier statistics can no longer be made.

68. Efforts have also been made to encourage victims of hate crimes to report to the police and remove possible obstacles to such reporting.<sup>26</sup> The Danish National Police co-operates with civil society organisations on an awareness-raising campaign about the importance of reporting hate crimes to the police. Materials take into account the need for basic information to reach out to the victims of foreign origin, and the need to disseminate materials in relevant places, including asylum centres.

69. The Danish Human Rights Institution has called for the adoption of a comprehensive anti-racism strategy.<sup>27</sup> Interlocutors from the civil society also continue to report their longstanding concerns regarding increasingly widespread hate speech in political discourse, in particular towards Muslims and refugees and regret the lack of a comprehensive anti-racism state strategy. They also underline the need to combat hate speech on social media.

70. The Advisory Committee recalls that violence based on ethnicity must be recognised as an especially nefarious form of violence that concerns and threatens society as a whole, and must thus be resolutely opposed and prevented. In order to address hate crime in a comprehensive manner, criminal codes must contain appropriate provisions that criminalise hate speech, threats and violence based on

<sup>21</sup> The Danish Institute for Human Rights, [Human Rights in Denmark, status report 2016-17](#), p. 25.

<sup>22</sup> The Guardian, [Denmark’s ‘anti-ghetto’ laws are a betrayal of our tolerant values](#), Michala Bendixen, July 2018.

<sup>23</sup> [Instruction No. 2/2011](#) of 14 September 2011, reviewed in June 2017, of the Director of Public Prosecutions on processing cases of violation of Section 266b of the Criminal Code and the Act on prohibition of differential treatment based on race and cases in which Section 81 (1) (vi) of the Criminal Code might apply.

<sup>24</sup> The Danish Institute for Human Rights, Report 2017-18, p. 11

<sup>25</sup> State report, p. 17.

<sup>26</sup> State report, p. 15.

<sup>27</sup> Danish Institute for Human Rights, [Policy Brief](#), May 2019.

ethnicity as well as public incitement to violence and hatred. In addition, racial discrimination must be considered an aggravating circumstance of any offence and law enforcement agents should be trained appropriately to ensure that racially and ethnically motivated attacks and discrimination are identified and recorded, as well as duly investigated and punished through targeted, specialised and prompt action.<sup>28</sup>

71. The Advisory Committee welcomes efforts by the Danish authorities to better identify and prosecute hate crimes, in particular efforts aimed at improving the continuous training of law enforcement officers. The Advisory Committee is not aware that such an identification process is conducted in co-operation with organisations representing victims. It notes, nevertheless, that data collected by the authorities do not give a full picture of hate crimes committed, including the type of hate motivation and the target group. The Advisory Committee further notes with satisfaction that hate speech is covered by the new guidelines of the Director of public prosecution. It is, however, concerned that hate speech remains present in political discourse,<sup>29</sup> despite recommendations of several international monitoring mechanisms.<sup>30</sup> In the view of the Advisory Committee, when tolerance and intercultural dialogue are strained and when hate speech increases, the protection of persons belonging to national minorities is put at risk. It is an obligation for states to take measures to protect those subject to hate speech.

72. The Advisory Committee underlines that leading politicians have a particular responsibility to condemn all hate-motivated crimes, including hate speech, and to systematically and effectively promote a society based on tolerance and mutual respect. It is also a duty of the state to have a clear strategy, designed with the relevant civil society actors, on how to address such problems and what efforts shall be made to implement such obligations of protection. It is also important to analyse and monitor media in order to adopt appropriate strategies aimed at improving the way persons belonging to national minorities are portrayed in the media.<sup>31</sup>

73. The Advisory Committee calls on the authorities to set up a comprehensive data collection system with regard to hate crimes and hate speech, with fully disaggregated data on offence, hate motivation and target group, in order to enable better analysis of the crimes committed and to subsequently design more accurate strategies to combat them, and where relevant in co-operation with organisations representing victims.

74. The Advisory Committee urges the authorities to adopt a new action plan against racism, including monitoring of hate speech in political and public discourse. Such a strategy should be designed in close and active co-operation with civil society actors as well as with representatives of communities confronted with such forms of abuse, and should include, without prejudice to the editorial independence of the press, an assessment of the way persons belonging to minority communities as well as migrants are portrayed in the media.

### The situation of Roma (Article 6)

75. In 2017, amendments were made to the Danish Code on Public Order in order to enhance legal means for the police to arrest homeless people 'camping in public places'. Amendments included unconditional 14-day prison sentences for begging in pedestrian streets, railway stations and public transport, as a first-time offence.<sup>32</sup> While the scope of the legislation is worded in a neutral way, from the 141 persons arrested on the basis of these provisions in 2017, all were reported foreign nationals, with a vast majority of them being Romanian nationals,<sup>33</sup> and most of whom being reported as having a Roma ethnic background. This report is confirmed by official statistics from the Ministry of Justice stating that the law was applied 549 times since its entry into force,<sup>34</sup> out of which 422 cases concern Romanian citizens and 12 concern Danish citizens. According to a recent public study, the number of Danish homeless people in Denmark amounts to 6431. On top of this figure, 519 homeless migrants without a permanent residence – of whom 388 are nationals of another EU country – have been registered.<sup>35</sup>

76. In light of the abovementioned statistics, the Advisory Committee underlines the distinct overrepresentation of foreigners in the number of arrested persons (while foreigners represent less than 8% of the homeless population in Denmark), with a high proportion of them being reported as having a Roma ethnic background. The Advisory Committee therefore expresses its serious concern that such a trend may either reveal a practice of ethnic profiling and/or be the result of a very high proportion of Roma among the population of beggars.

77. The Advisory Committee further observes that, while the law makes its application conditional on a situation of insecurity, law enforcement officials reported to the press that the sole existence of a 'camp' is already considered as constituting a situation of insecurity and may lead to an

<sup>28</sup> Thematic Commentary No. 4, para. 56.

<sup>29</sup> Euronews, [Quran's burning politician gathering support for election candidacy](#), 25 April 2019.

<sup>30</sup> ECRI, [5<sup>th</sup> Report on Denmark](#), Adopted on 23 March 2017, para. 22-40; UN Committee on the Elimination of Racial Discrimination (CERD), [Concluding observations on the twentieth and twenty-first periodic reports of Denmark](#), 15 May 2015, pp. 3-4.

<sup>31</sup> Center for News Research (Center for Nyhedsforskning), Roskilde University, "The People We Talk About" - Ethnic Minorities in Danish News Media ("Dem Vi Taler Om" – Etniske Minoriteter I Danske Nyhedsmedier), February 2017.

<sup>32</sup> [Sections 3\(4\) and 4\(6\) of the Code on Public Order n° 511](#), as amended on 31 March 2017.

<sup>33</sup> SOS Racisme Denmark, Center for Danish-Muslim Relations, Women in dialogue, ENAR Denmark, Refugees welcome, Almen Modstand and DEMOS, Coalition shadow report to the UN Committee on Economic, Social and Cultural Rights on relevant topics concerning Denmark, September 2019, p. 13.

<sup>34</sup> 273 cases in 2017, 178 in 2018 and 98 in 2019, until 13 October 2019.

<sup>35</sup> National Research and Analysis Centre for Welfare, [Homelessness in Denmark 2019 – National Charting](#), pp. 10-11, pp. 109-110.

arrest.<sup>36</sup> These data emphasise the importance of the poverty problem that constitutes begging, which has a European dimension. A national approach focused exclusively on criminal law has limited relevance in a context such as the European Union free movement area. Eventually, the consequence of such law remains the further stigmatisation of a minority community already facing tremendous and complex social difficulties. This statement is further corroborated by recent ethnographic research documenting the climate of suspicion and the discriminatory behaviour of the law enforcement authorities in contact with persons belonging to the Roma communities in Copenhagen.<sup>37</sup>

78. The image of Roma portrayed in the media is also reportedly rarely positive. With the exception of a public production entitled *Romaerne kommer* (“The Roma are coming”),<sup>38</sup> most of the references to persons belonging to Roma communities refer directly or indirectly to negative prejudice. The most striking example is the narrative present in social networks and on television, which tends to pass off a family of notorious criminals<sup>39</sup> as reflecting the archetype of the Roma in Denmark. On one occasion, civil society has also criticised the Police of Copenhagen for having publicly referred to the allegedly Roma ethnic origin of criminals. The police have apologised for the statements, conceding that it was not appropriate.<sup>40</sup>

79. The Advisory Committee notes with concern that experiences of discrimination, stigmatization and anti-gypsyism media rhetoric are reported by Roma as primary reasons to hide their ethnic origin, with the result that Roma people and communities, including those living in Denmark for several generations, refrain from organising themselves in civil society organisations.<sup>41</sup> The Advisory Committee also notes that the National Roma Integration Strategy exists but is not published in Danish and contains no specific initiatives or funding opportunities for Roma either at governmental or at municipal level. Concerns expressed by those belonging to Roma communities about being associated with the media’s negative portrayal, and the increased risk they report of experiencing multiple forms of discrimination (nationality coupled with ethnicity) are signs of a context that appears unable to create a climate conducive to free self-identification (See *Scope of Application* above).

80. The Advisory Committee urges the authorities to review the application of the provisions of the Danish Code on Public Order related to homeless people and calls on the authorities to consider developing a more comprehensive

and efficient approach of the poverty problems of persons concerned, most of whom have a Roma background.

81. The Advisory Committee also calls on the authorities to take proactive integration and inclusion measures aimed at creating an environment where Roma people and communities, including those living in Denmark for several generations, do not refrain from identifying themselves publicly as Roma or from showing their identity.

### The situation of Greenlanders (Article 6)

82. In 2015, the Danish Human Rights Institution completed research on the situation of Greenlanders living in Denmark.<sup>42</sup> It reports several sectors where Greenlanders encounter obstacles in the full enjoyment of their rights. It points out, in particular, difficulties in access to the administration, mostly due to the language barrier, but also reports discrimination and stigmatisation. According to this research, the lack of access to interpreters may hamper access to the social and health system as well as to the judiciary, or to the administration in general. It further notes clear obstacles to the labour market, with a significantly lower employment rate, compared to the ethnic Danish population. The study further recommends reinforcing the knowledge of contemporary Greenland among the majority population as well as in relevant guidelines and curricula for primary school subjects. Furthermore, it underlined the lack of representation of Greenlanders, in particular in the local integration councils and in the Council for Ethnic Minorities, as well as a low level of participation of Greenlanders in Greenlandic associations.

83. Interlocutors of the Advisory Committee belonging to the Greenlandic minority communities living in Denmark reported on the discussions held with the Greenlandic organisations in the course of the fifth monitoring cycle and on the lack of consensus as to whether requesting recognition as a national minority would be relevant (See *Scope of application* above). They insisted, however, on their wish to see the provisions of the Framework Convention applied on an article-by-article basis, in particular with regard to their linguistic rights, within the broader understanding of the term, i.e. their right to learn and use Greenlandic language, as well as to have access to classes in and of the majority language. They also insisted on the need to give more visibility in Danish society to modern Greenland.

<sup>36</sup> DR, Police clears more than 30 homeless camps in less than three months ([Politiet rydder mere end 30 hjemløselejre på under tre måneder](#)), June 2017.

<sup>37</sup> Camilla Ida Ravnbøl, *Bottle Hunters – An Ethnography of Law and Life Among Homeless Roma in Copenhagen*, Department of Anthropology, University of Copenhagen, PhD Thesis, September 2018.

<sup>38</sup> In 2017, a series of four episodes depicted the lives of young Roma in Denmark. This series of episodes also addressed the fear of stigma and discrimination that many experience if they need to disclose that they are Roma. The [series](#) are available for streaming only inside Denmark.

<sup>39</sup> One of the members of the family has participated in a TV documentary series in 2017 on TV2. Another member has seen his case before the European Court of Human Rights rejected in 2018. See [Levakovic v. Denmark](#), Application no. 7841/14, 23 October 2018.

<sup>40</sup> Journalisten, Copenhagen Police: We should not have mentioned their ethnicity ([Københavns Politi: Vi skulle ikke have nævnt deres etnicitet](#)), 16 November 2016.

<sup>41</sup> European Commission, DG Justice and Consumers, Civil society monitoring report on implementation of the National Roma integration strategies, focus on structural and horizontal preconditions for successful implementation of the strategy, April 2018, pp. 14-15.

<sup>42</sup> Danish Institute for Human Rights, *Equal treatment of Greenlanders in Denmark* ([Ligebehandling af grønlandere i Danmark](#)), 2015. The study itself warns that socially disadvantaged Greenlanders are probably underrepresented among participants to this study, and that it may therefore show figures not reflecting the reality.

84. The Advisory Committee notes with interest the discussions held within the Greenlandic organisations relating to the possible recognition as a national minority and takes note of the lack of consensus on their outcome. It further notes the wish expressed by representatives of the Greenlanders in Denmark, irrespective of a possible recognition, to see the relevant provisions of the Framework Convention applied on an article-by-article basis so that Greenlanders benefit from the rights enshrined in this instrument. In this regard, the Advisory Committee underlines the need for the authorities to follow-up and implement the recommendations formulated by the Danish Institute for Human Rights in 2015. In this regard, the Advisory Committee considers that the needs of the Greenlanders living in Denmark should be subject to a thorough consultation of their representatives and organisations in order for the authorities and the said organisations to jointly develop a comprehensive and holistic strategy and action plan, taking into account the specific needs of the Greenlanders living in Denmark. It should focus, *inter alia*, on access to the public services and the labour market, political representation, promotion of culture as well as linguistic and education-related rights in particular the development of teacher training in and of the Greenlandic language and access to Danish courses.

85. The Advisory Committee calls on the authorities to continue addressing the needs of Greenlanders living in Denmark and to develop a comprehensive strategy and action plan, jointly with Greenlandic representatives and organisations in order to address such needs, in particular with regard to access to public services and the labour market, linguistic rights, education and representation.

### The situation of Jews (Article 6)

86. The State Report indicates that the debate regarding the circumcision of boys is ongoing in Denmark and currently subject to political debate. It was opened following a citizens' petition which reached 50 000 signatures demanding a minimum age of 18 for circumcision. Circumcision is already regulated by Danish law and thus requires that the circumcision is done by a doctor or in the presence of a doctor and registered by the Ministry of Health. Following a debate in the parliament, the Patients' Safety Authority has been charged with an update of the clinical guidelines on male circumcision. The government has excluded any prohibition of circumcision.

87. Representatives of the Jewish communities underlined that the debate on circumcision has generated reactions in the public opinion which were sometimes hostile and to be assimilated to hate speech. They also reiterated the importance that circumcision has for them as well as for the Muslim communities. As far as the Jewish community is concerned, 10 to 15 circumcisions are practised every year. Being satisfied with the way the practice is currently regulated and implemented, they expressed the hope that the forthcoming session of parliament will close this debate.

88. The Jewish community has also been confronted in the course of the fifth monitoring cycle to critical security issues. On 15 February 2015, a hate-motivated attack committed near the Great Synagogue of Copenhagen killed a 37-year

old Jewish man on security duty at a Bar mitzvah ceremony. Since this incident, the Ministry of Justice has funded most of the security expenses of the Jewish community.

89. Following the attack, the Jewish community, with the support of the municipality of Copenhagen, launched a programme called "BookEdu" consisting of interventions in schools in order to promote intercultural dialogue. The Jewish information centre of Copenhagen also hosts about 1000 schoolchildren at the synagogue every month, in a relentless effort to promote tolerance.

90. The Advisory Committee recalls that Article 6(2) of the Framework Convention contains the obligation of states parties to protect all people against violence and discrimination on ethnic, cultural, linguistic or religious grounds, in other words not only those belonging to recognised national minorities. Minorities cannot thrive in a society in which diversity is not tolerated or even serves as a pretext for hate crimes or hate speech.

91. The Advisory Committee welcomes the support given by the Danish authorities to the Jewish community in ensuring its security. It also considers the pursuit and possible enlargement of any initiative aimed at promoting understanding and intercultural dialogue of utmost importance. Furthermore, it expresses the hope that the debate on circumcision of boys will perpetuate the existing balanced and religiously sensitive approach of the law with regard to the circumcision of boys.

92. The Advisory Committee welcomes the support given by the authorities to ensure the security of the Jewish community and encourages its continuation.

93. The Advisory Committee calls on the authorities to further promote intercultural dialogue, including interreligious dialogue, and to consider supporting the efforts of the Jewish community in extending the "BookEdu" programme at national level, and possibly to other minorities.

94. The Advisory Committee calls on the authorities to continue, with all groups concerned, to apply pragmatic and balanced solutions to the circumcision of boys.

### Media in minority languages (Article 9)

95. The newspaper in German, *Der Nordschleswiger*, which is the only medium available in German in South Jutland, receives public funding from several sources: i) an annual contribution from the Danish media subsidy scheme, variable according to the editorial costs of the newspaper (from 2.9 million DKK in 2015 to 3.2 million DKK in 2019); ii) a grant from the Ministry of Culture to produce content and buy airtime on the local radio station (DKK 246 000 in 2018); and, iii) a grant for the development of media digitalisation (1.7 million DKK annually in 2018 and 2019, and 2.3 million DKK annually in 2020 and 2021).<sup>43</sup> This newspaper, however, cannot be published without additional important funding from Germany.

96. There is no direct access to a TV channel in German in South Jutland unless one pays for a TV package to receive channels broadcast from Germany. The Danish national public broadcaster, by virtue of its public service contact, is,

<sup>43</sup> State report, pages 21-22.

however, obliged to provide a 'broad social coverage' of Denmark and, since 2019, to place emphasis on the coverage of minorities in the Danish-German border area. These obligations, however, are interpreted as not amounting to an obligation to produce or broadcast content in German.

97. Representatives of the German minority do not consider it a priority to set up a TV or radio station in German and find it more appropriate to focus efforts on producing more content on the German minority in Danish and German in the official media. Information received from interlocutors of the Advisory Committee states that *Der Nordschleswiger* has decided that it will no longer be produced in paper format as of February 2021 and thus will operate a 100% switch to digital. It is proposed by representatives of the German minority to transform this grant, after 2021, into a support funding for the production of content about the German minority in Danish and German.

98. The Advisory Committee recalls that it is essential that advances in the digitalisation of the media do not restrict the ability of persons belonging to national minorities to receive media in their languages.<sup>44</sup>

99. The Advisory Committee notes the good level of public funding available to *Der Nordschleswiger*. It notes that subsidies they receive from the Danish authorities are the same as any newspaper is entitled to in Denmark, with the exception of the grant that allows them to buy a 2-minute news item per day in German on a local radio station. This radio station, however, does not cover part of the West Coast of the South Jutland region. The Advisory Committee also underlines the clear strategy of digitalisation adopted by the newspaper itself, and financially supported by the Danish authorities. It notes that the air time bought in order to broadcast daily news in German is also supported by public funding, together with the production costs of such a programme. The Advisory Committee regrets, however, that German TV channels are no longer accessible since TV digitalisation is completed, due to geoblocking, with the consequence that TV channels in German are only accessible through pay-TV packages. The Advisory Committee welcomes the new obligations of the TV broadcasters to broadcast content on minorities in the Danish-German border area, although these obligations now require to be monitored in order to assess their effectivity and relevance in the longer term.

100. The Advisory Committee welcomes the support given to the printed media in German language in South Jutland.

101. The Advisory Committee calls on the authorities to support the production of content on the German minority in Danish and German as well as monitor the obligations of the TV broadcasters to distribute and show programmes on minorities in the Danish-German border area.

## Use of minority languages in contacts with the administration (Article 10)

102. The authorities confirm that it is possible for German speakers to communicate orally and in writing with the administrations of the four municipalities where those belonging to the German minority live, as far as daily face-to-face or written interactions with the administration are concerned. They underline that it is always possible in practice to identify a German-speaking member of staff whenever there is a need.

103. Concerning the national tax administration, the authorities report that the official information available online in German have been considerably improved over the last monitoring period and that this continues to be the case. A glossary and a special contact form are being set up, with the purpose of enabling German speakers to communicate with the administration directly by email through the official website or by logging on to the self-service system. More generally, the Digital Strategy 2016-2020 recommends that central government, regions and municipalities develop public sector digital solutions based on a user-centric approach and thus to involve users when initiating new processes so that their needs are taken into account.

104. At municipal level, the websites of the four municipalities where those belonging to the German minority live in substantial numbers are translated into German, although discrepancies are sometimes reported between the Danish and the German versions. Special efforts have been made in the municipality of Aabenraa/Apenrade in order to improve digital access to the administration, through a special platform. As part of a new strategy for digital healthcare and welfare technology, the municipality has set up a communication platform in nursing homes that allows video communication, messages, pictures and calendars, including in German for German-speaking employees and citizens<sup>45</sup>.

105. Representatives of the German minority formulated a clear list of language policy demands in 2015, as well as in September 2019.<sup>46</sup> One of their demands requests the nomination of an identified German-speaking contact person in each of the four municipalities. While Aabenraa/Apenrade has done this, the others have so far not responded positively to this request, rather on a case-by-case basis. Representatives of the German minority also formulated a specific demand for nursing homes to adopt a clear strategy on how to handle the situation of elderly German speakers.

106. The Advisory Committee recalls that the rights of Article 10(2) apply also to areas where only a relatively small percentage of persons belonging to national minorities reside, provided that those belonging to national minorities traditionally inhabit the areas concerned, that there is a request by these persons, and that such a request

<sup>44</sup> [Thematic commentary n° 3](#), « The language rights of persons belonging to national minorities under the Framework Convention », adopted on 24 May 2012, para. 49.

<sup>45</sup> State report, page 23.

<sup>46</sup> Bund Deutscher Nordschleswiger, Language policy demands of the German minority 2019-2022 ([Sprachpolitische Forderungen der deutschen Minderheit 2019-2022](#)), 2 September 2019; see also, Der Nordschleswiger, Minority demands more German in online administration ([Minderheit fordert mehr Deutsch in der Online-Verwaltung](#)), 6 September 2019.

corresponds to a real need. The Advisory Committee has had the opportunity to clarify in this regard that, in such cases, states should carefully study the demand and assess existing needs in the geographical areas where there is substantial or traditional settlement of persons belonging to minorities, taking also into account the specific local situation. "Need" in this context does not imply the inability of persons belonging to national minorities to speak the official language and their consequent dependence on services in their minority language. A threat to the functionality of the minority language as a communication tool in a given region is sufficient to constitute a "need" within the meaning of Article 10(2) of the Framework Convention. Protective arrangements must therefore be put in place to maintain services in the minority language, even if it is not widely used, as it may otherwise disappear from the public sphere.<sup>47</sup>

107. The Advisory Committee notes with satisfaction that, in practice, solutions are indeed found at municipal level in order to meet the needs of the German speakers. It regrets, however, that the implementation of the speakers' rights is conditioned in practice by the goodwill of the civil servants concerned and that effective access to linguistic rights remains dependent on ad hoc circumstances. From the point of view of the Advisory Committee, it will remain so as long as the implementation of such rights are based on a practice only, and not enshrined in a written legal document. In certain cases, in particular when there is a change in the civil servant staffing, the practice is temporarily discontinued. It then takes time and energy for those belonging to the German minority, sometimes through their representatives, to liaise with the administration concerned in order to have their rights respected. It has for example been the case with regard to recent transfers of property for which the Danish authorities have requested a translation of the property act into Danish from the German institution concerned, in contradiction with an established practice.

108. The Advisory Committee also notes that there is still room for improvement when it comes to having access to central administration information tools. While important efforts have been made by the tax administration, the digital solutions for communication between public administration and the citizens, such as the *borger.dk* website, are only accessible in Danish and English. It is also problematic that private service providers, providing public service through outsourcing contracts, do not always take into account the particular needs of those belonging to the German minority, in particular with regard to the right to use German.

109. The Advisory Committee welcomes the efforts made by the authorities, and encourage them to pursue such efforts, to improve access to information in German on the central administration's websites.

110. The Advisory Committee reiterates its call on the authorities to ensure that persons belonging to the German minority, in the four municipalities where they live in South Jutland, be able to communicate fully in German, be it by

digital means, with all administrative bodies or even when public services are provided through private companies.

111. The Advisory Committee encourages the authorities to envisage formally recognising the real need for those belonging to the German minority to use German in the four municipalities where they live, in their relations with the administrative authorities, orally or in writing, and to recognise this well-established practice in the law.

#### Display of bilingual signs (Article 11)

112. Since 2016, secondary legislation (executive order) has made it legally possible for local authorities to decide on displaying signs at the entrance of municipalities in Danish as well as in English or in a 'neighbouring country's official language'. In practice, signs in German are in place for the German institutions, such as libraries, museums and schools, in the municipalities of Tønder/Tondern and Aabenraa/Apenrade<sup>48</sup>.

113. The Advisory Committee was informed by representatives of the Municipality of Haderslev/Hadersleben that, in 2015, the Municipality displayed a bilingual sign at its entrance, but the sign was illegally and intentionally removed soon after. No investigation was conducted as to who removed the sign.

114. Representatives of the German minority insisted that they only request for city signs, i.e. signs marking the entrance of the municipality, to be displayed in Danish as well as in German, in the four municipalities where persons belonging to the German minority live. They also would like to display signs in German in front of all the German institutions. They do not ask for street signs to be bilingual.

115. The Advisory Committee recalls the importance of promoting multilingualism via signs and inscriptions as a means of conveying the message that a given territory is shared in harmony by various population groups.<sup>49</sup>

116. The Advisory Committee regrets that no progress has been achieved on this subject in the course of the fifth monitoring cycle despite a majority of opinions in favour of the display of bilingual signs. It notes that the absence of a consensus to display such signs is still explained by reference to the past occupation of the region by Germany.<sup>50</sup> The Advisory Committee can only regret that more than 70 years of peace have not been sufficient in promoting enough intercultural dialogue and tolerance on the Danish side of the border region to the extent that bilingual signs are not yet displayed at the entrance of the four municipalities where persons belonging to the German minority live.

117. The Advisory Committee urges the municipal authorities to take all necessary measures to further promote intercultural understanding and dialogue in the border region in order to create an environment conducive to the display of bilingual signs at the entrance of the four municipalities where persons belonging to the German minority live.

<sup>47</sup> [Thematic Commentary n° 3](#), para 56.

<sup>48</sup> State report, pages 24-25.

<sup>49</sup> [Thematic commentary n° 3](#), para. 67.

<sup>50</sup> See, *inter alia*, Copenhagen Post Online, [South Jutland against signs in German](#), March 2015.



### Teacher training and promotion of diversity at school (Article 12)

118. A National Centre for Foreign Language was established in 2018 as part of the government's strategy to strengthen foreign languages in the Danish educational system. The Ministry of Education is also in the process of negotiating with the German authorities an exchange agreement for students in upper secondary school with the aim of enhancing language proficiency. The authorities have indicated that, in this context, the Greenlandic language is not considered a foreign language and is not covered by the scope of action of the National Centre for Foreign Language.<sup>51</sup>

119. Representatives of the German minority report increased interaction between students from the majority and students belonging to the German minority, in particular thanks to cultural and sporting regional events. While expressing unequivocal satisfaction in this regard, they also expressed an ambivalent concern that such events may eventually accentuate the possible assimilation process of the German minority rather than proactively promote the positive aspects of cultural diversity.

120. Persons belonging to the Greenlandic communities expressed a wish for modern Greenland to be further promoted to the majority in the education system. They also expressed a wish for more vigorous efforts in the development of teacher training capacities in and of Greenlandic.

121. The Advisory Committee recalls that school education should offer a fair reflection of the linguistic and cultural diversity of society and thereby promote the values of tolerance, intercultural dialogue and mutual respect. In addition to the teaching in and of minority languages, the mandatory curriculum should therefore also include information on the history and contribution of minorities to the cultural heritage and the society of the state party. Such teaching should not be limited to areas traditionally inhabited by national minorities, so that awareness of and respect for the linguistic diversity of society is promoted throughout the country from an early age.<sup>52</sup>

122. The Advisory Committee notes in particular that oppositions to the display of bilingual signs in Danish and German in Southern Jutland (See *Display of bilingual signs* above) is still presented by public officials as a result of wars in the 19<sup>th</sup> century or in the first part of 20<sup>th</sup> century. The Advisory Committee observes that such explanations, as paradoxical as they may be in a context where the Danish-German border region is rightly promoted as a unique intangible heritage (see *Preservation of culture* above), may show a possible vacuum in the tools available to promote intercultural dialogue and mutual respect in the South Jutland region, and in particular in the education system. The Advisory Committee considers it instrumental to work on the promotion of dialogue between the majority and the minorities as early as possible in the school system, so that territories where they live together are effectively shared in harmony. In this context, particular attention should be given to the nature of the interactions between the majority and

the minority, so that they result in an effective understanding of the minority cultures by the majority.

123. The Advisory Committee encourages the authorities to further promote knowledge and awareness of modern Greenland in the educational system throughout Denmark, as well as of other minority communities.

124. The Advisory Committee calls on the authorities to give more visibility to the culture of the German minority living in Denmark within the Danish education system, and to include a specific item in the curricula applicable to the South Jutland region.

125. The Advisory Committee encourages the authorities to further develop, in co-operation with Greenlandic organisations, teacher training capacities in and of the Greenlandic language, in order to increase the number of teachers and ensure the quality of the teaching methods used.

### Teaching in and of minority languages (Article 13)

126. The *Deutsche Schul- und Sprachverein für Nordschleswig* runs 19 kindergartens, 15 schools and one grammar school as private schools. Representatives of the German minority consider that the German school system in place, as well as the financial support it receives from the Danish and German authorities, fully meets their needs for German language schooling in South Jutland. They have also established a German library in Aabenraa/Apenrade funded thanks to the Danish Library Law and Schleswig-Holstein. The choice of textbooks available is not considered problematic either.

127. The Advisory Committee notes with satisfaction that the offer available is of excellent quality, attracting children from the majority, and that the level of funding available duly contributes to this positive state of play. The Advisory Committee also notes that German language lessons are available in the Danish public schools from the 6<sup>th</sup> grade.

128. The Advisory Committee welcomes the support given by the Danish authorities to enable the education system in German in South Jutland to function well and encourage the authorities to pursue such support.

### Political representation and participation (Article 15)

129. The representation of the German minority is ensured, on all fundamental issues, by the German minority's main organisation, the *Bund Deutscher Nordschleswiger*. The relations between the German minority, the government and the parliament (Folketing) are formalised through the Contact Committee for the German minority, whose secretariat is ensured by the Ministry of Culture.<sup>53</sup>

130. The representatives of the German minority are generally satisfied with the relationship they have with the national authorities but express, nevertheless, a wish for a more proactive attitude on their part. They report a more fruitful dialogue at central level than at municipal level, where the culture of consensus may in certain instances

<sup>51</sup> State report, page 25.

<sup>52</sup> [Thematic commentary n° 3](#), para. 82.

<sup>53</sup> Webpage of the [Contact Committee](#) on the website of the Ministry of Culture.

result in a stalemate (see *Use of minority languages in contacts with the administration* and *Display of bilingual signs* above), despite the presence of members of the German minority in the municipal councils of the four municipalities where persons belonging to the German minority live in substantial numbers. Representatives of the German minority are satisfied with the frequency of the Contact Committee meetings. They underline the essentially parliamentary nature of the Contact Committee and would prefer to see added value in the form of the creation of a complementary structure where they could interact directly with the respective ministries and administrations, on a yearly basis.

131. The Advisory Committee recalls that it is important that the meetings of consultative bodies are convened frequently and on a regular basis. In this regard, adequate resources should be made available to support the effective functioning of consultative mechanisms.<sup>54</sup>

132. The Advisory Committee notes that the Contact Committee met once a year over the last five years, which is, according to the website of the Ministry of Culture, the minimum requirement. It further notes that meeting reports of the 54<sup>th</sup> (2017) and 55<sup>th</sup> (2018) sessions of the Committee are not available online and that the website concerned is only available in Danish. The Advisory Committee is of the opinion that a more proactive process could indeed be set up in order to follow up more closely the implementation of the Framework Convention on a regular basis, in full co-operation with the representatives of the German minority, and possibly any other interested communities. The suggestion of an annual meeting where the German minority representatives and the ministries, with their respective administrations, could establish direct contact could appear as a constructive way forward.

133. The Advisory Committee also notes the wish expressed by representatives of the German minority for more fruitful discussions at local level and observes in this regard the importance of the municipal level in Denmark, where two thirds of all public expenditure are approved. The Advisory Committee notes with satisfaction the good level of representation of the German minority in the four relevant municipal councils but considers that a more proactive approach could also be taken at municipal level in order to more frequently and specifically address issues of concern with representatives of the German minority. The Advisory Committee supports the proposal made by the representatives of the German minority of an annual meeting with the four mayors and their heads of administration in order to cover issues of specific concern to the German minority.

134. The Advisory Committee invites the authorities to adopt a more proactive policy towards the German minority representatives and to create the conditions for more regular contacts with the national authorities.

135. The Advisory Committee also calls on the authorities to consider a possible mechanism in order to more frequently and specifically address issues of concern with

representatives of the German minority in the four municipalities where they live.

### Bilateral co-operation (Articles 17 & 18)

136. In 2016, the Danish authorities presented a strategy towards Germany with the main focus being on strengthening economic co-operation and ease of access to Germany for Danish companies by promoting knowledge about Germany and of the German language. The strategy includes new initiatives within the Danish education sector as well as intensified exchange programmes.

137. During the period 2018-2020, the Danish authorities also enhanced their cultural exchanges with Germany.<sup>55</sup> The current Cultural Agreement for South Jutland-Schleswig runs from 1 January 2017 to 31 December 2020. It constitutes a co-operation platform bringing together the municipalities of Aabenraa/Apenrade, Haderslev/Hadersleben, Sønderborg/Sonderburg and Tønder/Tondern as well as the region of North Friesland and Schleswig-Flensburg, the City of Flensburg, the Region of Southern Denmark, and the Ministries of Justice and Culture of Denmark, aimed at creating a “free cultural space” in the Danish-German border region. It also has a wider European dimension.

138. Interlocutors of the Advisory Committee, including local level authorities and civil servants, reported with regret the lack of consultation with the relevant counterparts in the South Jutland region where the nature of border controls has progressively changed since January 2016.

139. The Advisory Committee recalls the crucial importance and success of the Bonn-Copenhagen Declarations of 1955 that have been a cornerstone for developing the rights of persons belonging to the German minority in Denmark and the Danish minority in Germany. These declarations, which can be rightfully perceived as models for amicable and peaceful solutions to minority problems and which have contributed to the development of fruitful relations in the border region, have been tested by time.

140. The Advisory Committee welcomes the efforts made in the Danish-German border region in order to promote a free cultural space and a flourishing economic context. It particularly welcomes the joint application to UNESCO intangible cultural heritage (see *Preservation of culture* above), which underlines the excellency of the relations between both sides of the border. The Advisory Committee, in this context, regrets that local actors have not been consulted when the border controls were reinforced, which significantly contrasts with other policy trends in place in the border region.

141. The Advisory Committee encourages the authorities to pursue their efforts in promoting a free cultural space in the Danish-German border region.

142. The Advisory Committee calls on the authorities to reinforce consultation mechanisms with local actors such as regional and municipal authorities as well as representatives

<sup>54</sup> Thematic commentary n° 2, *The effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs*, para. 117 and 119.

<sup>55</sup> State report, page 27.

of the German minority, when modifying the scope and nature of border controls.

The Advisory Committee on the Framework Convention for the Protection of National Minorities is an independent body that assists the Committee of Ministers of the Council of Europe in evaluating the adequacy of the measures taken by the Parties to the Framework Convention to give effect to the principles set out therein.

The Framework Convention for the Protection of National Minorities, adopted by the Committee of Ministers of the Council of Europe on 10 November 1994 and in force since 1 February 1998, sets out principles to be respected as well as goals to be achieved by the states in order to ensure the protection of national minorities. The text of the Framework Convention is also available in other languages, including German.

This Opinion contains the evaluation of the Advisory Committee following its 5<sup>th</sup> country visit to Denmark.

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