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

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### **Third Opinion on Denmark adopted on 31 March 2011**

#### **EXECUTIVE SUMMARY**

Since it ratified the Framework Convention, Denmark has maintained a solid and effective policy of support for persons belonging to the German minority in South Jutland. The existing model for consulting the German minority has hitherto enabled negotiated solutions to be found on issues of common interest. Nonetheless, funding for activities of the German minority has become more limited which could, in future, have a negative impact on the continuation of some of its activities.

Progress has been made on combating discrimination, especially with the creation, in 2009, of the Board for Equal Treatment, and new measures have been taken to combat intolerance and racism. Policies to integrate immigrants and promote diversity and intercultural dialogue have also continued to make headway.

Despite these positive developments and the climate of dialogue existing in Danish society, there are still manifestations of intolerance towards members of some groups. Moreover, it seems that those persons most exposed to discrimination are not always aware of the means and remedies available to them for asserting their rights when they consider they have been victims of discrimination.

The administrative reform of 2007, the main aim of which was to make local and regional authorities more efficient, by the merger of several municipalities, appears to have engendered certain negative effects and resulted in a lack of co-ordination between local authorities. This situation may undermine the implementation of some provisions of the Framework Convention in South Jutland, in particular those related to the effective participation in economic, social and cultural life of persons belonging to the German minority.

**Issues requiring immediate action**

- **Raise general public awareness of the Act on Ethnic Equal Treatment of 2003 and of the work of the Board for Equal Treatment, ensure that the funding of the Board for Equal Treatment and the Danish Institute for Human Rights is appropriate for their needs;**
- **Adopt the necessary measures in order to ensure that persons belonging to the German minority maintain print media in their own language; in particular, ensure adequate funding of the German language newspaper;**
- **Adopt additional measures to raise awareness about the Framework Convention and ensure its effective implementation at the local and regional levels in South Jutland.**

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

**THIRD OPINION ON DENMARK**

1. The Advisory Committee adopted the present Opinion on Denmark on 31 March 2011 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 State Report received on 30 March 2010 and other written sources and on information obtained by the Advisory Committee from governmental and non-governmental contacts during its visit to Aabenraa, Elsinore and Copenhagen from 6 to 9 September 2010.

2. Section I below contains the Advisory Committee's main findings on key issues pertaining to the implementation of the Framework Convention in Denmark. These findings reflect the more detailed article-by-article findings contained in Section II, which cover those provisions of the Framework Convention on which the Advisory Committee has substantive issues to raise.

3. Both sections make extensive reference to the follow-up given to the findings in respect of the monitoring of the Framework Convention contained in the Advisory Committee's first and second Opinions on Denmark, adopted respectively on 22 September 2000 and 9 December 2004, and in the Committee of Ministers' corresponding resolutions, adopted on 31 October 2001 and 14 December 2005.

4. The concluding remarks, contained in Section III, could serve as the basis for the Committee of Ministers' forthcoming conclusions and recommendations on Denmark.

5. The Advisory Committee looks forward to continuing its dialogue with the Danish authorities as well as with representatives of the national minority and others involved in the implementation of the Framework Convention. In order to promote an inclusive and transparent process, the Advisory Committee urges the authorities to make the present Opinion public upon its receipt. The Advisory Committee also draws the State Party's attention to the fact that, on 16 April 2009, the Committee of Ministers adopted new rules for the publication of the Advisory Committee's Opinions and other monitoring documents in order to improve transparency and enable all parties involved to share, at an early stage, information on the findings and conclusions of the monitoring procedure (see Resolution CM/Res(2009)3 amending Resolution (97) 10 on the monitoring arrangements under Articles 24-26 of the Framework Convention for the protection of National Minorities).

## I. MAIN FINDINGS

### Monitoring process

6. The Danish authorities have continued to take a constructive approach with regard to the Framework Convention's monitoring process. The Advisory Committee notes in particular that, as was already the case for the first two monitoring cycles, the authorities have organised a number of meetings with the Liaison Committee concerning the German Minority. The authorities have also maintained a regular and positive dialogue with the Secretariat of the German Minority in Copenhagen and with the informal working group, which brings together representatives of several ministries and of the German minority to discuss the implementation of both the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages. The Advisory Committee regrets, however, that no specific follow-up activity involving the Advisory Committee and a broader group of stakeholders has been organised in Denmark since the first monitoring cycle. Such activities contribute greatly to dialogue and it is important that Denmark should not miss this opportunity after the third monitoring cycle. In this connection, the Advisory Committee notes with interest the willingness expressed by the Danish authorities in their State Report to give positive consideration to this possibility at the end of the present monitoring cycle.

7. The Advisory Committee also notes with concern that, although its second Opinion and the Committee of Ministers' second resolution were translated into Danish and circulated within the German national minority, these documents were not translated into the national minority's language. The reason given by the authorities for the lack of a German translation was that everyone belonging to the national minority had a good command of Danish. The Advisory Committee refers the authorities to its comments in the present Opinion in respect of Article 10 of the Framework Convention with regard to the use of the national minority's language. It reiterates that, however proficient persons belonging to national minorities may be in the main language of a State, it is important for the preservation and the promotion of the use of minority languages that they be used wherever possible in official contexts and documents relating to the national minority.

8. The Advisory Committee particularly welcomes the fact that representatives of the German national minority were once again actively involved in the preparation of the third State Report and that the authorities also consulted the Representations of Greenland and the Faeroe Islands in Copenhagen.

9. The Advisory Committee visited Denmark from 6 to 9 September 2010. This visit, organised at the invitation of the Danish Government, provided an opportunity for direct talks with the parties concerned. The additional information obtained from the Government and other sources, including representatives of the national minority, proved particularly valuable. The meetings took place not only in Copenhagen but also Aabenraa (*Åbenrå*) (South Jutland) and Elsinore (*Helsingør*). The Advisory Committee welcomes the willingness to co-operate shown by the Danish authorities during the process leading to the adoption of this Opinion.

### **Progress on implementation of the Framework Convention at the end of the first two monitoring cycles**

10. The authorities have maintained a solid and effective policy of support for persons belonging to the German minority, the only group to have been recognised as a national minority by the authorities since the Framework Convention came into force in respect of Denmark in 1998. This support is mainly concentrated in the region where these persons traditionally live, namely South Jutland, where there are between 15,000 and 20,000 individuals who belong to the German minority, representing 5.5% of the total population. The German minority also continues to be consulted through the representative bodies that exist at the national, regional and local levels.

11. A number of general policy developments affecting the implementation of the Framework Convention have taken place since the first monitoring cycle. Efforts to combat discrimination have been stepped up and new measures have been taken to tackle intolerance and racism. In addition, policies to integrate immigrants and promote diversity and intercultural dialogue have continued to make headway and are currently being discussed within Danish society and various institutions.

### **Legislative framework and institutional structures**

12. The administrative reform of 2006, the main aim of which was to make local and regional authorities more efficient as a result of the merger of several municipalities, is one of the principal legislative developments since the adoption of the Advisory Committee's second Opinion. This reform prompted reservations among the representatives of the German minority, who were concerned that it would weaken their political representation at the local level in South Jutland. These fears were dispelled by the solutions adopted, in close consultation with the German minority, to guarantee that a delegate of the German minority would sit on the council of each of the municipalities affected by the reform. Despite these positive developments, the reform appears to have resulted in certain negative effects, namely a lack of co-ordination between local authorities, which undermines the implementation of certain provisions of the Framework Convention in South Jutland.

13. The Danish authorities have maintained their initial approach concerning the scope of application of the Framework Convention, which still applies only to persons belonging to the German minority in South Jutland. However, they informed the Advisory Committee that they were willing to discuss this matter further with groups currently not afforded protection from the Framework Convention, if a request to that effect were to come from organisations representing those groups.

### **Combating discrimination and racism**

14. In 2003, Denmark adopted the Act on Ethnic Equal Treatment, which contains very extensive provisions against discrimination. In this connection, it set up in 2009 a new body to deal with allegations of discrimination, known as the Board for Equal Treatment. This is an independent body responsible for examining complaints from anyone claiming to have suffered discrimination. It has the competence to award compensation to victims. The number of complaints of discrimination has not risen to any significant extent in the past few years, but discriminatory acts may occur more frequently than the statistics indicate. This situation makes it important to intensify the campaigns to raise public awareness of the provisions of

the 2003 Act and widely inform Danish society, especially the groups most likely to be exposed to discrimination, about the remedies available to victims. To this end, both the Board for Equal Treatment and the Danish Institute for Human Rights should receive adequate human and financial resources to carry out their tasks.

### **Tolerance**

15. Although there is a general climate of tolerance and dialogue in Danish society, there are still manifestations of intolerance towards persons belonging to certain groups, especially the Roma and the Muslims. It is also regrettable that hostile, racist statements are made by a number of political leaders and disseminated by some of the media and on the Internet. Although the authors of these statements are normally prosecuted and punished, since these manifestations of intolerance help to convey a negative image of these groups, the authorities should take more determined steps to combat them.

16. The situation regarding the education of Roma children has improved since the previous monitoring cycle. There are no longer any special classes for these children and the adoption of specific measures, such as the employment of school mediators and appropriate additional tutoring, has enabled a reduction in absenteeism and in dropping out of school and improved performance levels among Roma pupils. It is crucial to maintain an ongoing dialogue between the authorities and the Roma representatives, especially parents, so that the initiatives in place continue to have a positive impact over the long term. In addition, it is important to develop further initiatives aimed at promoting knowledge of the Roma culture and history and at valuing the importance of an intercultural element in education.

### **Support for the preservation and development of the German language and culture**

17. The authorities continue to provide financial support for the numerous educational and social activities run by the representatives of the German minority. A legal framework permitting the use of the language of persons belonging to the German minority in dealings with administrative authorities is not in place in the South Jutland region. However, some public officials in the municipalities of this region are bilingual. With regard to the installation of road signs and topographical indications in German, there are still a number of obstacles to the development of such initiatives. In addition, the German minority's local newspaper is encountering financial problems which will jeopardise its distribution in the future.

18. Teaching in German is well developed in the educational system.

### **Participation of persons belonging to national minorities**

19. In Denmark, bodies for consulting the German minority are in place at the national, regional and local levels. These bodies enable persons belonging to the German minority to participate in various ways in the decision-making processes affecting them. The Secretariat of the German Minority in Copenhagen plays an important role in liaising between the German minority's organisations and the authorities at national level. A pragmatic approach, based on co-operation and regular contacts, enables the Danish authorities and representatives of the German minority to find negotiated solutions on all issues of common interest. A climate of dialogue and trust characterises the relations between the authorities and the representatives of the German minority.

## II. ARTICLE-BY-ARTICLE FINDINGS

### Article 3 of the Framework Convention

#### Scope of application

##### *Recommendations of the two previous monitoring cycles*

20. In the previous monitoring cycles the Advisory Committee considered that the Framework Convention could apply outside South Jutland and called on the authorities to bear this possibility in mind.

21. It also encouraged the authorities to consult the Greenlanders and Faroese to determine whether they would like to benefit from the protection afforded by the Framework Convention and, if necessary, to review their position concerning the instrument's personal scope of application in relation to the members of these groups.

22. Lastly, taking the view that persons belonging to the Roma community could not *a priori* be excluded from the scope of the Framework Convention, the Advisory Committee encouraged the authorities to intensify their dialogue with the Roma and take account of the basic principles of the Framework Convention in their legislation, policies and practice in relation to the Roma.

##### *Present situation*

23. The Advisory Committee notes that the Danish authorities' position concerning the scope of application of the Framework Convention has not changed since the second monitoring cycle. According to the declaration made by Denmark when it ratified the Framework Convention,<sup>1</sup> only members of the German minority living in South Jutland enjoy its protection.

24. The Advisory Committee notes that, as stated in its previous Opinions, the representatives of the German minority whom it met in Copenhagen and Aabenraa (*Åbenrå*) formulated no wish that the Framework Convention should apply to members of the German minority living outside South Jutland.

25. The Advisory Committee also notes that, in connection with the preparation of the third State Report, the authorities consulted the representatives of Greenland and the Faeroe Islands to gather their comments on the status of the Greenlanders and the Faroese under the Framework Convention. According to the authorities, the position of the Greenland and Faeroes Home Rule Governments, which is that they do not wish to benefit from the protection of the provisions of the Framework Convention, has not changed since the second monitoring cycle. This approach was confirmed to the Advisory Committee during its discussions before and during the visit with the Representations of Greenland and the Faeroe Islands in Copenhagen.

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<sup>1</sup> Declaration contained in a note verbale dated 22 September 1997, submitted to the Secretary General at the time of deposit of the instrument of ratification: "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."



26. During its visit, the Advisory Committee was informed that most of the Roma who had chosen to settle in Denmark in the 1960s, and were well integrated into Danish society, did not want to be identified as a Roma community and expressed no desire to be recognised as a national minority under the Framework Convention.

27. In view of the growing cultural diversity of Danish society, the Advisory Committee considers that the protection of the Framework Convention could be extended to groups currently not protected by this instrument if they were to request this at some future date. The Advisory Committee encourages the authorities to bear this in mind.

#### *Recommendation*

28. The Advisory Committee invites the authorities to pursue a dialogue-based approach in their relations with the individuals and groups that might in future be interested in being given the protection provided for by the Framework Convention and to retain the possibility for these persons to come under the protection of the Convention.

### **Collection of statistics**

#### *Recommendations of the two previous monitoring cycles*

29. In the previous monitoring cycles, the Advisory Committee recommended that the authorities obtain reliable data on ethnicity, broken down according to age, gender and location.

#### *Present situation*

30. The Advisory Committee notes that no census is held in Denmark and that the legislation does not permit data to be collected on ethnic origin, religious affiliation or sexual orientation. The only personal data available is recorded in the central population register and solely relates to a person's place of birth, the place(s) of birth of his/her parents, his/her place of residence, age and gender.

31. The Advisory Committee understands the authorities' reluctance concerning the collection and dissemination of personal data deemed to belong to the private sphere, especially on ethnic origin. However, it reiterates that obtaining reliable information on the situation of persons belonging to national minorities is relevant to the implementation of the Framework Convention. This information can be obtained by collecting statistical data or by other means, such as *ad hoc* studies, surveys or specific opinion polls. The authorities could make use of such data while at the same time complying with existing standards for the protection of personal data,<sup>2</sup> in order to be able to respond better to the needs of national minorities and tackle any form of discrimination.

#### *Recommendation*

32. The Advisory Committee invites the authorities to seek means of obtaining more data on the situation of national minorities in co-operation with the persons concerned, while at the same time fully complying with existing international standards for the protection of personal data.

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<sup>2</sup> See for example the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS 108) and Recommendation (97) 18 of the Committee of Ministers to member States on the protection of personal data collected and processed for statistical purposes.

## Article 4 of the Framework Convention

### Anti-discrimination legislation and Board for Equal Treatment

#### *Recommendations of the two previous monitoring cycles*

33. In the previous monitoring cycles, the Advisory Committee encouraged the authorities to assess the effectiveness of the 2003 Act on Ethnic Equal Treatment and to ensure that citizens who suffer discrimination have access to effective remedies.

#### *Present situation*

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

35. The Advisory Committee notes that the number of complaints of discrimination based on ethnic origin is still low, even though it has risen slightly in the last few years. Over the 2006-2008 period, the former Complaints Committee received 134 complaints and carried out 27 investigations on its own instigation. Of the 50 complaints that gave rise to a decision, a violation of the principle of non-discrimination was found in 11 cases – in one instance on the grounds of race or ethnic origin. Since the Board for Equal Treatment took up its duties on 1 January 2009, 30 out of the 200 complaints registered have related to discrimination on the grounds of race or ethnic origin. The Board found violations in five cases. According to the persons whom the Advisory Committee met during its visit, the statistics do not necessarily reflect an increase in discrimination in the country but, rather, a greater awareness of the Board's existence and role, which is prompting more persons to contact it.

36. However, despite all their efforts, the authorities are aware that there is still a feeling among certain population groups that they are discriminated against.<sup>3</sup> The authorities claim it is difficult to measure the extent of discrimination precisely as the number of cases recorded does not reflect reality, since not all cases of discrimination give rise to a complaint. The Government has consequently launched a new research project to draw up a detailed discrimination chart that, in addition to substantiated cases of discrimination or intolerance, will take into account the general impression of persons confronted with such situations.

37. Despite the efforts made by the Board for Equal Treatment in its first year of operation (campaigns in the media and on public transport, the launch of a website and a newsletter), the Advisory Committee is concerned about the inadequacy of the Board's resources. As virtually its entire budget is devoted to the examination of complaints, it does not have the means to develop its visibility outside Copenhagen, especially by setting up regional or local branches. Given the importance of this body, the Advisory Committee considers that the authorities should make additional efforts to support it in the pursuit of its activities.

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<sup>3</sup> In a survey conducted in 2000, 43% of respondents said they considered that they had suffered discrimination. In 2009, this figure had fallen to 32%.

38. Reports which have reached the Advisory Committee seem to indicate that persons belonging to the Roma community, who consider themselves victims of discriminatory acts, are reluctant to initiate proceedings before the Board for Equal Treatment, as they do not have full confidence in this body. In addition, the Advisory Committee notes with concern that this attitude seems to indicate that those most exposed to discrimination are unaware of the means available to them to assert their rights. The Advisory Committee considers that attention should be drawn to the work of the Board for Equal Treatment through awareness-raising campaigns targeting society at large and especially the groups most at risk of being victims of discrimination.

#### *Recommendations*

39. The Advisory Committee calls on the authorities to step up their efforts to raise public awareness of the 2003 Act on Ethnic Equal Treatment among all ethnic groups and of the work of the Board for Equal Treatment among the population as a whole. Additional human and financial resources should also be allocated to the Board for Equal Treatment.

40. The Advisory Committee urges the authorities to pay particular attention to persons most at risk of discrimination so as to enable them to be fully informed about their rights and the remedies available.

### **Danish Institute for Human Rights**

#### *Recommendations of the two previous monitoring cycles*

41. In the previous monitoring cycles, the Advisory Committee considered that the Government should keep under review the financial resources of the Danish Institute for Human Rights in view of its important and growing tasks.

#### *Present situation*

42. The Advisory Committee welcomes the fact that the Danish Institute for Human Rights continues to be the body responsible for promoting non-discrimination, helping victims who wish to lodge a complaint with the Board for Equal Treatment or the courts, conducting research and submitting recommendations to the Government.

43. During the visit, the Advisory Committee was informed that the Institute for Human Rights was suffering from a lack of visibility among the population and from insufficient funds to carry out the tasks assigned to it. The Advisory Committee has also noted the fears expressed by those responsible for managing the Institute, given that the general budgetary constraints with which the Government has to contend, could have a negative impact on the Institute's next annual budget. Based on information received after its visit, the Advisory Committee notes that a special appropriation, for 2011-2012, of DKK 6 million<sup>4</sup> has been attributed to the Institute in support of the four non-discrimination criteria, namely gender, disability, ethnicity and race.

#### *Recommendation*

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

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<sup>4</sup> 804 506 Euros

## Article 6 of the Framework Convention

### Tolerance and diversity

#### *Recommendations of the two previous monitoring cycles*

45. In the previous monitoring cycles, the Advisory Committee encouraged the authorities to take the necessary measures to deal with manifestations of intolerance or xenophobia, including by fostering more systematic application of the provisions of Article 266b of the Criminal Code, which prohibits incitement to racial hatred. The Advisory Committee also considered that the Government should conduct a dialogue on the sensitive matter of immigration and integration.

46. The Advisory Committee also encouraged the authorities to examine ways of providing support, including financial assistance, for the Roma organisations and to give consideration to strengthening the mechanism for consulting other ethnic and religious groups in Denmark.

47. The Advisory Committee also encouraged the authorities to find a solution to the issue of the construction of Denmark's first mosque.

#### *Present situation*

48. The Advisory Committee is pleased to note that the authorities have continued to implement various schemes aimed at promoting integration and intercultural dialogue and at embracing cultural diversity.<sup>5</sup> In this context, the Advisory Committee welcomes the creation of a Department for Democratic Cohesion and the Prevention of Radicalisation at the Ministry of Refugee, Immigration and Integration Affairs. One task of this new department is to coordinate the implementation of a programme to alert young persons to the dangers of radicalisation and extremism.

49. The Advisory Committee also notes with interest the adoption in July 2010 of the Action Plan for Ethnic Equal Treatment and Respect for the Individual. This updates the activities carried out in this area since 2003 and engages all actors involved in multidisciplinary joint action. The Advisory Committee considers that these measures should have a positive impact on inter-ethnic relations, tolerance and mutual understanding throughout society and thus contribute to the effective implementation of the principles guaranteed by Article 6 of the Framework Convention. The Advisory Committee reminds the authorities that the scope of application of Article 6 is very wide and that the State Parties to the Framework Convention undertake under this provision to promote mutual respect and understanding and co-operation among all persons living in their territory, irrespective of their ethnic, cultural, linguistic or religious identity or nationality.

50. The Advisory Committee notes the improvements to the system for recording racist incidents used by the Danish security service (PET) and the efforts made to encourage the reporting of hate crimes through the development of guidelines on dealing with cases under Article 266b of the Criminal Code. Some sources nonetheless pointed out to the Advisory Committee that, although racist motivation was an aggravating circumstance for any criminal offence, the police sometimes failed to take into account the racist character of acts of violence, thus potentially discouraging victims from lodging complaints.

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<sup>5</sup> About DKK 10 million (1.34 million Euros) was allocated to these schemes between 2007 and 2010.

51. The Advisory Committee notes the authorities' intention to recruit young persons from different ethnic backgrounds into the police force in order to raise police officers' awareness of cultural diversity.

52. With regard to the Roma organisations, the authorities have stated that the organisations representing the Roma are treated differently from other associations and that all have access under the same terms and conditions to sources of public funding for their projects.

53. The Advisory Committee also notes that contacts have taken place between the authorities and a Roma association in order to discuss the matter of the historical presence of Roma in Denmark. The authorities consider that sufficient evidence confirming this presence has not yet been provided but say that they are prepared to review the matter if new elements are made available.

54. In this connection, the Advisory Committee was informed during its visit of the existence of various documents, bibliographies and academic research on the presence of Roma in Denmark in recent decades. Some sources indicated to the Advisory Committee that opinions differed as to the relevance and reliability of these documents.

55. As far as the other ethnic and religious groups are concerned, the Advisory Committee notes that the Ministry of Integration is legally required to consult the Council of Ethnic Minorities every three months. This body is financed by the Government, which also provides it with secretarial support. The Council's members are elected by the local integration councils, which represent the local associations of refugees and immigrants. These local councils are able to make recommendations on municipal programmes relating to the various ethnic groups. The Advisory Committee also notes the authorities' intention to encourage the ethnic groups' participation in the democratic process. For example, the Government action plan for the promotion of equal treatment and diversity is designed to encourage public debate and dialogue between the various ethnic groups.

56. Concerning the construction of a mosque, the Advisory Committee was informed after the visit that the project has been approved by the Technical and Environment Committee of the Copenhagen Municipality and that the final decision will be taken by the City Council.

### *Recommendations*

57. The Advisory Committee urges the authorities to continue the programmes and policies for promoting integration, diversity and tolerance in Danish society and to monitor them on a regular basis.

58. Additional training should be made available to police officers to raise their awareness of the diverse dimensions and manifestations of racism so as to enable them to assess better whether incidents reported to them are of a racist nature.

59. The Advisory Committee calls on the authorities to pursue their approach of consulting the ethnic and religious groups in order to improve their participation in public affairs that concern them.

## **The media**

### *Recommendations of the two previous monitoring cycles*

60. In the previous monitoring cycles, the Advisory Committee encouraged the authorities to raise media awareness of manifestations of intolerance or xenophobia and promote access to the media professions for members of the various ethnic and religious groups.

*Present situation*

61. The Advisory Committee is concerned about information it has received that some media continue to spread an often distorted and discriminatory image of groups such as the Roma and the Muslims, despite the existence of ethical guidelines and a supervisory mechanism implemented by the Press Council. Hostile and racist statements are increasingly present in political discourse made by certain political leaders and have apparently also been disseminated by some media and on the Internet. Such conduct perpetuates prejudice against some specific groups. The Advisory Committee was also informed that there is often confusion in the Danish media between the members of the local Roma community and other Roma temporarily present in the country. The Advisory Committee notes that Danish Roma are concerned about possible unfair criminalisation of innocent persons, which may result from this confusion.

62. The Advisory Committee regrets that the media regulators are not taking more active measures to combat these phenomena. It also notes that, although the Danish School of Media and Journalism indicates it wishes to recruit students from different backgrounds, the percentage of persons of non-Danish ethnic origin applying for admission has risen by only 3% since 2002. The Advisory Committee considers that the recruitment of young persons from different ethnic backgrounds would make the media more aware of cultural diversity and help them understand this principle better and carry out their role in the promotion of tolerance.

*Recommendations*

63. The Advisory Committee urges the authorities to take the necessary measures to ensure that the media fully complies with the rules of professional conduct, while showing full respect for media independence.

64. The Advisory Committee also calls on the authorities to take more effective measures to encourage the recruitment of persons of non-Danish ethnic origin into the media in order to promote diversity and to further the dissemination of a more accurate image of persons belonging to minority groups.

**Roma education**

*Recommendations of the two previous monitoring cycles*

65. In the two previous monitoring cycles, the Advisory Committee encouraged the municipality of Elsinore (*Helsingør*) to find a solution to reintegrate children from the classes reserved for Roma pupils into mainstream education and, if necessary, adopt special assistance measures to meet these children's specific needs.

*Present situation*

66. The Advisory Committee notes with satisfaction that, following its second Opinion, the last special class for Roma children was closed and all children are now integrated into mainstream education.

67. It is also pleased to note that, in the light of the information it gathered on its visit to Elsinore (*Helsingør*), the problems of absenteeism and dropping out of school have diminished, especially as a result of the day-to-day action taken by social workers in contact

with the families concerned.<sup>6</sup> In addition, educational support measures are provided for all children with specific needs, irrespective of their ethnic origin. The impact of these measures has been rated positively by the authorities, who note that a larger number of young Roma, especially girls, now successfully complete secondary education.

68. While welcoming the improvements that have taken place, the Advisory Committee considers it important that these initiatives continue and be the subject of an ongoing dialogue between the Roma and the authorities.

69. In addition, considering the importance of providing intercultural elements in education, the Advisory Committee believes that further initiatives, aimed at promoting knowledge of the Roma culture and history in schools, should be taken by the authorities.

#### *Recommendation*

70. The Advisory Committee encourages the authorities to ensure that measures aimed at guaranteeing equal access to quality education for Roma children, should continue and be the subject of an ongoing dialogue between the representatives of the Roma and the authorities. It also encourages the authorities to continue to offer specific educational support measures where appropriate and to develop further initiatives aimed at promoting knowledge of the Roma culture and history in schools.

### **Article 8 of the Framework Convention**

#### **Funding of the Danish National Church**

##### *Recommendations of the two previous monitoring cycles*

71. In the previous monitoring cycles the Advisory Committee recommended that the authorities review the issue of the privileged funding of the Danish National Church, especially with regard to persons who did not belong to this church, who could be exempted from payments upon request.

##### *Present situation*

72. The Advisory Committee notes that the specific tax for the Danish National Church is only collected from its members and that non-members are automatically exempted from paying it without having to submit an exemption request.

73. The Advisory Committee welcomes the fact that, on this particular point, the earlier recommendation of the Committee of Ministers has been implemented.

##### *Recommendation*

74. The Advisory Committee encourages the authorities to continue ensuring that the system of funding the Danish National Church does not interfere with the freedom of conscience and religion of persons who do not belong to this church.

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<sup>6</sup> The data made available to the Advisory Committee indicates that the school attendance rate rose from 56% in 2005 to 90% in 2010.

## **Registration of names through the Danish National Church**

### *Recommendations of the two previous monitoring cycles*

75. In the previous monitoring cycles, the Advisory Committee considered that changes should be made to the system for registering the names of newborn children in order to enable persons who did not belong to the Danish National Church to register their children's names with authorities independent of this church.

### *Present situation*

76. The Advisory Committee notes with interest that an electronic system of registration has been in place since 2003 and that the Danish National Church is no longer mentioned on certificates issued to persons who do not belong to this church.

77. The Advisory Committee also notes with satisfaction that all persons with whom it discussed the advisability of changing the present system considered that the current arrangements worked well and that freedom of conscience and religion was respected.

### *Recommendation*

78. The Advisory Committee encourages the authorities to continue ensuring that the system of registering names does not interfere with the freedom of conscience and religion of persons who are not members of the Danish National Church.

## **Article 9 of the Framework Convention**

### **Broadcasting on radio and television for the German minority**

### *Recommendations of the two previous monitoring cycles*

79. In the previous monitoring cycles, the Advisory Committee called on the authorities to increase the proportion of programmes broadcast in German or devoted to issues relevant to this minority.

### *Present situation*

80. The Advisory Committee notes that, owing to the increasing digitalisation of broadcasting in Denmark and Germany, members of the German minority living in South Jutland are gradually losing access to television programmes from Germany unless they have a special decoder.

81. The Advisory Committee was informed that an agreement between the various parties involved was under discussion but no solution had so far been found.

82. The Advisory Committee is of the opinion that locally-produced programmes in German would permit an improved response to the needs of persons belonging to the German minority and avoid their being deprived of access to the media in their minority language as a result of technological developments.

### *Recommendations*

83. The Advisory Committee calls on the authorities to ensure that developments in media digitalisation do not limit the access of persons belonging to the German minority to media in their own language.



84. It also encourages the authorities to look into the possibility of supporting the development of programmes in German within the Danish broadcasting service in order to respond better to the needs of persons belonging to this minority.

### **German print media**

#### *Recommendations of the two previous monitoring cycles*

85. In the previous monitoring cycles, the Advisory Committee encouraged the authorities to support the German minority's local newspaper, including by providing it with a source of revenue in the form of paid advertising.

#### *Present situation*

86. The Advisory Committee notes that the financial situation of the German daily *Der Nordschleswiger* has become very difficult because of competition from the electronic media.

87. The representatives of the German minority are worried that the newspaper might not survive if a way is not found quickly to amend the Danish legislation, which makes the allocation of public subsidies conditional upon a press publication being distributed at least five times a week. The representatives of the German minority are concerned that they might not be able to meet this condition in future given the budgetary constraints they encounter.

88. The authorities informed the Advisory Committee that they were aware of this problem and that the legislation on public funding for the media was currently being reviewed.

#### *Recommendation*

89. The Advisory Committee urges the authorities to adopt the necessary measures in order to ensure that persons belonging to the German minority maintain the print media in their own language. In particular, it encourages the authorities to ensure adequate funding of the German language newspaper.

## **Article 10 of the Framework Convention**

### **Use of German with the administrative authorities**

#### *Recommendations of the two previous monitoring cycles*

90. In the previous monitoring cycles, the Advisory Committee encouraged the authorities to consider which measures they could take to improve the possibilities for members of the German minority to use German in their dealings with local administrative authorities.

#### *Present situation*

91. The Advisory Committee notes that the representatives of the German minority are calling for the adoption of additional measures to promote the use of their minority language in public life, including the translation of the Advisory Committee's Opinions, permission to submit documents in German to local authorities and the possibility of consulting, in their own language, information published on the municipalities' websites.

92. The Advisory Committee was pleased to note from the information it obtained during its visit to Aabenraa (*Åbenrå*) that individuals employed in the four municipalities where most members of the German minority live (Tønder, Aabenraa (*Åbenrå*), Sønderborg and

Haderslev) are bilingual in Danish and German. The municipality of Tønder also informed the Advisory Committee that a bilingual website would be set up in early 2011.

93. The authorities also pointed out to the Advisory Committee that everyone belonging to the German minority had a good command of Danish.

94. The Advisory Committee is, however, of the opinion that the use of a minority language in public life, especially in dealings with the administrative authorities, is a key means of enabling persons belonging to a national minority to preserve their linguistic identity and of making those belonging to the majority population more aware of the identity of the minority.

95. The Advisory Committee considers that the authorities should make a particular effort to translate information of particular relevance to the German minority into German, such as key information on local life and the Advisory Committee's Opinions. These measures would ensure enhanced public recognition of this minority and give greater recognition to the region of their traditional settlement.

#### *Recommendations*

96. The Advisory Committee invites the authorities to translate information that is important for members of the German minority, as well as its Opinions, into their minority language and to ensure that these translations are disseminated in South Jutland.

97. The Advisory Committee encourages the authorities to continue their support for a policy of bilingualism in contacts between persons belonging to the German minority and the administrative authorities in South Jutland.

### **Article 11 of the Framework Convention**

#### **Display of traditional local names, street names and other topographical indications**

##### *Recommendations of the two previous monitoring cycles*

98. In the previous monitoring cycles, the Advisory Committee invited the authorities to give due consideration to any proposals made to them by the German minority for the display of traditional local names, street names and other topographical indications.

##### *Present situations*

99. The representatives of the German minority informed the Advisory Committee that they would be interested in having certain bilingual signs installed.

100. The authorities informed the Advisory Committee that the question had been debated in several South Jutland municipalities but so far no decision had been taken. According to the interlocutors of the Advisory Committee although this matter is no longer taboo, it does have symbolic significance for some elderly Danish citizens given the historical context of the Second World War.

##### *Recommendations*

101. The Advisory Committee invites the authorities to consult the representatives of the German minority with a view to progressively installing topographical indications and other bilingual signs in South Jutland, where appropriate.

102. The Advisory Committee considers that the authorities should make every effort to improve the visibility of the German minority and its language and history and to promote mutual respect.

## **Article 12 of the Framework Convention**

### **Promotion of knowledge of the culture, history, language and religion of national minorities**

#### *Recommendations of the two previous monitoring cycles*

103. In the previous monitoring cycles, the Advisory Committee recommended that the authorities discuss with the persons concerned how better to reflect the culture, history, language and religion of persons belonging to the German minority and other ethnic and religious groups in school curricula and textbooks.

#### *Present situation*

104. The Advisory Committee notes with satisfaction that the Ministry of Education reviewed the general framework of the primary and secondary school curricula in 2009 and decided on that occasion to develop the teaching of human rights related subjects. It also notes that, while all pupils receive teaching that acquaints them with Danish culture and other cultures, particular attention is also paid to the culture, traditions and language associated with the specific history of the German minority in the South Jutland region.

105. Representatives of the German minority stressed that, in their opinion and despite these efforts, the information provided on their history and culture through the curricula is still insufficient.

106. The Advisory Committee wishes to underline that the cultural heritage of the German national minority should be deemed an integral part of the cultural wealth and diversity of the country as a whole. In this context, it is important for the authorities to continue implementing the measures designed to promote the cultural diversity of Danish society, especially by continuing to support the teaching of the culture and language of the German minority in the schools throughout the country.

#### *Recommendation*

107. The Advisory Committee calls on the authorities to increase measures aimed at promoting interest in the German culture and language within the Danish educational system in order to strengthen the visibility of the German minority.

## **Article 14 of the Framework Convention**

### **German minority schools**

#### *Recommendations of the two previous monitoring cycles*

108. In the previous monitoring cycles, the Advisory Committee recommended that the authorities continue their discussions with the German minority to address the issue of the possible impact of the proposed administrative reforms on its school and kindergarten system.

*Present situation*

109. During the visit of the Advisory Committee, representatives of the German minority said that the administrative reform had had no impact on the funding of the network of schools and kindergartens available for the German minority in the South Jutland region. According to figures supplied to the Advisory Committee, the financial support provided by the Danish State rose from 31% to 34% between 1997 and 2011 and that of the municipalities from 11% to 15%. However, this does not represent a genuine increase given the cost of living over this period. The contribution of the Federal Republic of Germany, which partly funds the German schools, decreased from 32% to 21%. Under the present system, the amount of the subsidies is calculated on the basis of the number of children attending school. The German kindergartens with very few children enrolled (less than ten in each school) are consequently penalised by this calculation, which does not take into account the school's general operating costs, which are fixed irrespective of the number of children.

110. The Advisory Committee notes that the financial difficulties encountered by the German minority schools seem not to be linked directly to the consequences of the administrative reform but rather to the impact of the economic crisis currently affecting Denmark in the same way as other European countries, and to the reduction in the financial support provided by the Federal Republic of Germany. The Advisory Committee stresses that it is important to continue the dialogue with the representatives of the German minority and the other actors involved in order to find an acceptable solution that does not jeopardise the functioning of the German minority school system. The Advisory Committee wishes to emphasise that the economic crisis must not have a disproportionate impact on the right of persons belonging to national minorities to receive an education in their minority language.

*Recommendation*

111. The Advisory Committee calls on the authorities to continue the dialogue with all actors involved with a view to finding a financially sustainable solution that enables the German national minority education system in South Jutland to be effectively maintained.

## **Article 15 of the Framework Convention**

### **Consultative bodies**

*Recommendations of the two previous monitoring cycles*

112. In the previous monitoring cycles, the Advisory Committee recommended that the authorities continue to support the mechanism for consulting the German minority.

*Present situation*

113. The Advisory Committee notes with satisfaction that persons belonging to the German minority continue to participate effectively in decision-making on all issues affecting them. Representatives of the German minority emphasised the importance of the role played by their two consultation bodies, the Liaison Committee concerning the German Minority and the Secretariat of the German Minority in Copenhagen. They also informed the Advisory Committee that they were very satisfied with the co-operation with the Danish authorities, especially due to the climate of mutual trust which prevails between everyone involved, which enables the adoption of negotiated solutions.

*Recommendation*

114. The Advisory Committee calls on the authorities to continue to support the mechanism for consulting the German minority.

**Administrative reforms***Recommendations of the two previous monitoring cycles*

115. In the previous monitoring cycles, the Advisory Committee recommended that the authorities continue their discussions with the German minority, especially on the question of voting rights at the municipal level, in order to find appropriate solutions to ensure that the proposed administrative reforms did not adversely affect the right to effective participation, as guaranteed by Article 15 of the Framework Convention.

*Present situation*

116. The Advisory Committee notes the entry into force in 2007 of the administrative reform, which grouped together a number of small local government authorities to form enlarged municipalities. In South Jutland, four municipalities, Aabenraa (*Åbenrå*), Haderslev, Sønderborg and Tønder, now house the majority of persons belonging to the German minority.

117. The Advisory Committee notes with interest that, as a result of the dialogue between the authorities and the German minority, which was afraid of losing a seat in at least two of the four municipalities, a satisfactory solution has been found in order to ensure the political representation of this group at the local level.<sup>7</sup> Following this discussion, even if the German minority's political party does not obtain the 25% of votes in local elections that would automatically entitle it to a seat, it can be represented on the municipal council, where it will enjoy the same rights as other members, apart from the right to vote.

118. The representatives of the German minority informed the Advisory Committee that they were satisfied with this solution and did not wish to demand the right to vote in specific circumstances as that would be perceived by parties with no elected representative as discrimination. Moreover, the fact that negotiation was central to the working methods of municipal councils, which take more than 90% of their decisions by consensus, diminished the importance of the right to vote in this particular situation.

119. The Advisory Committee notes with satisfaction that the German minority increased its political representation in the 2009 elections and now has six seats compared with the four it obtained in 2005.<sup>8</sup>

*Recommendation*

120. The Advisory Committee encourages the authorities to pursue their dialogue-based approach in order to maintain the effective participation of representatives of the German minority in decision-making concerning matters that affect this minority.

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<sup>7</sup> The Executive Decree no. 869 of 16 September 2005 on promoting the representation of the German minority in South Jutland, especially in the municipalities of Aabenraa (*Åbenrå*), Haderslev, Sønderborg and Tønder, provides for less strict rules for the German minority which enable it to reach more easily the representation threshold required to obtain a seat.

<sup>8</sup> In the local elections held in 2005, the German minority obtained one seat on the Sønderborg municipal council and one on Tønder's council, two seats on Aabenraa's council and one seat for a representative without voting rights in Haderslev. In the 2009 elections, the German minority obtained two seats in Aabenraa (*Åbenrå*) and Tønder and one in Sønderborg and Haderslev.

## **The role played by local authorities**

### *Present situation*

121. The Advisory Committee noted with concern during its visit that some of the South Jutland local authorities were unaware of the obligations arising under the Framework Convention and the responsibilities deriving from it for the authorities responsible for its implementation. These observations were confirmed by the German minority's representatives.

122. According to the local authorities, it cannot be ruled out that, by grouping together several local entities, the administrative reform has engendered a lack of co-ordination between the newly created bodies.

123. The central government authorities state that all information relating to the Framework Convention has been made available to the municipalities but that they enjoy a certain autonomy regarding the implementation measures they wish to adopt.

124. The Advisory Committee, while fully aware of the respective competencies of the national, regional and local authorities, stresses that it is up to the central government to ensure that the Framework Convention is correctly and effectively implemented throughout its territory. Consequently, measures should be taken to enhance the Framework Convention's visibility and knowledge of its requirements within the local government authorities responsible for protecting the rights of persons belonging to the German minority, such as information seminars and specific training courses for officials and locally elected representatives or other appropriate measures.

### *Recommendation*

125. The Advisory Committee urges the authorities to take action to ensure increased knowledge and visibility of the Framework Convention and its effective implementation at the regional and local levels in South Jutland.

## **Article 18 of the Framework Convention**

### **Co-operation between the regions of South Jutland and Schleswig-Holstein**

#### *Recommendations of the two previous monitoring cycles*

126. In the previous monitoring cycles, the Advisory Committee considered that the planned administrative reform (see Article 15) should be implemented in such a way as to guarantee that it would have no adverse effects on the possibility for persons belonging to the German minority to participate in transfrontier co-operation, as currently carried out in the region of South Jutland, and Schleswig-Holstein (Germany).

#### *Present situation*

127. The Advisory Committee welcomes the participation of the German minority in the work of the Euro-region *Region Sønderjylland-Schleswig*, in particular in the Regional Assembly where it is represented by one appointed member and an elected member of the Schleswig Party (*Schleswigsche Partei*). This participation emphasises the important role played by the national minority in the development of co-operation between Denmark and Germany.

128. However, representatives of the German minority pointed out to the Advisory Committee that budgetary problems were threatening the continuation of their transfrontier co-operation activities in the fields of education, the media and social services due to the restrictions announced for 2011.

*Recommendation*

129. The Advisory Committee encourages the authorities to increase their efforts to ensure more effective transfrontier co-operation with regard to the protection of national minorities in the border region between Denmark and Germany.

### **III. CONCLUSIONS**

130. The Advisory Committee considers that these concluding remarks could serve as the basis for the conclusions and recommendations to be adopted by the Committee of Ministers in respect of Denmark.

#### **Positive developments at the end of the two monitoring cycles**

131. In 2003, Denmark adopted the Act on Ethnic Equal Treatment, which contains comprehensive anti-discrimination provisions. In this context, Denmark has set up the Board for Equal Treatment, a new body responsible for monitoring the implementation of the Act. The efforts to combat racism and racist violence have been pursued and various schemes to promote cultural diversity and encourage tolerance are being implemented, in particular the Action Plan for Ethnic Equal Treatment and Respect for the Individual, which was adopted in July 2010.

132. Improvements have been made to the system of registering racist incidents used by the Danish security service (PET) and guidelines have been drawn up to encourage the reporting of hate crimes.

133. There is no longer any special class for Roma children, and the adoption of specific measures, such as the employment of school mediators and appropriate additional tutoring, has enabled a reduction in absenteeism and dropping out of schools among Roma pupils as well as an improvement in their performance at school.

134. Following the introduction of an electronic system for registering the names of newborn children, the Danish National Church is no longer mentioned on certificates issued to persons who do not belong to this church.

135. The authorities have pursued a solid and effective policy of support for persons belonging to the German minority and relations between the authorities and the representatives of the German minority are characterised by a climate of dialogue and trust.

#### **Issues of concern at the end of the two monitoring cycles**

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

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

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

139. The distribution of the German minority's local newspaper is potentially at risk if no solutions are found in order to ensure its financial survival.

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



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

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

### **Recommendations**

143. In addition to the measures to be taken to implement the detailed recommendations contained in Sections I and II of the Advisory Committee's Opinion, the authorities are invited to take the following measures in order to improve further the implementation of the Framework Convention:

### **Issues requiring immediate action<sup>9</sup>**

- **Raise general public awareness of the Act on Ethnic Equal Treatment of 2003 and of the work of the Board for Equal Treatment; ensure that the funding of the Board for Equal Treatment and the Danish Institute for Human Rights is appropriate for their needs;**
- **Adopt the necessary measures in order to ensure that persons belonging to the German minority maintain print media in their own language; in particular, ensure adequate funding of the German language newspaper;**
- **Adopt additional measures to raise awareness about the Framework Convention and ensure its effective implementation at the local and regional levels in South Jutland.**

### **Other recommendations<sup>10</sup>**

- Propose additional training for police officers to raise their awareness of the diverse dimensions and manifestations of racism so that they are better able to assess whether or not incidents reported to them are racist in nature;
- Take additional measures to ensure that the media fully complies with the rules of professional conduct, while respecting media independence; encourage the recruitment of persons of non-Danish ethnic origin into the media in order to promote cultural diversity and encourage the dissemination of a more accurate image of persons belonging to national minorities;
- Translate information which is important for persons belonging to the German minority, as well as the Advisory Committee's Opinions, into the minority language of this group and ensure that these translations are disseminated in South Jutland;
- Consult the representatives of the German minority with the aim of progressively installing topographical indications and other bilingual signs in South Jutland, where appropriate.

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<sup>9</sup> The recommendations below are listed in the order of the corresponding articles of the Framework Convention.

<sup>10</sup> The recommendations below are listed in the order of the corresponding articles of the Framework Convention.