

**ECRI CONCLUSIONS
ON THE IMPLEMENTATION OF THE RECOMMENDATIONS
IN RESPECT OF DENMARK
SUBJECT TO INTERIM FOLLOW-UP**

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¹ Except where specifically indicated, any developments which occurred after 9 September 2019, the date on which the response of the authorities of Denmark to ECRI's request for information on measures taken to implement the recommendations chosen for interim follow-up was received, have not been taken into account in this analysis.

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FOREWORD

As part of its fifth round of monitoring work, ECRI has renewed its process of interim follow-up with respect to two specific recommendations made in each of its country reports.

In line with the Information Document on ECRI's fifth monitoring cycle brought to the attention of the Ministers' Deputies on 14 November 2012¹, not later than two years following the publication of each report, ECRI addresses a communication to the Government concerned asking what has been done in respect of the specific recommendations for which priority follow-up was requested.

At the same time, ECRI gathers relevant information itself. On the basis of this information and the response from the Government, ECRI draws up its conclusions on the way in which its recommendations have been followed up.

It should be noted that these conclusions concern only the specific interim recommendations and do not aim at providing a comprehensive analysis of all developments in the fight against racism and intolerance in the State concerned.

¹ CM/Del/Dec(2012)1154/4.2.

1) *In its report on Denmark (fifth monitoring cycle) published on 16 May 2017, ECRI recommended that the Danish authorities set up a comprehensive data collection system for racist and homo-/transphobic hate speech incidents, with fully disaggregated data by category of offence, type of hate motivation, target group, as well as judicial follow-up and outcome. Furthermore, the authorities should take active measures to tackle under-reporting of hate speech, including by taking inspiration from ECRI's General Policy Recommendation No. 15 on combating hate speech.*

ECRI has been informed that the Danish Police's case file processing system (POLSAS) registers reported offences as well as their judicial outcomes. Through the system it is possible to collect data on the number of reported violations of Article 266(b) of the Danish Criminal Code, which penalises certain hate speech offences.¹ The Danish authorities informed ECRI, however, that while it is possible to retrieve the number of charges and convictions, it is still not possible to collect data of a more detailed character, such as category of offence, type of hate motivation or target group, from this system.

The Danish National Police has another, separate, data collection system for racist and homo-/transphobic hate crime and hate speech incidents, which can disaggregate by category of offence, type of hate motivation and target group. However, this database does not provide information about the judicial outcomes.

Thus, as the Danish authorities confirmed to ECRI, there is not yet a comprehensive collection of data on racist and homo-/transphobic hate speech incidents with fully disaggregated data as well as judicial follow-up and outcome in one and the same unified data collection system.

Regarding the need to take active measures to tackle under-reporting of hate speech, ECRI was informed of various promising outreach activities the Danish National Police has conducted. These include information meetings with the Muslim community, awareness-raising visits to a number of asylum-seeker reception centres and presentations in the context of the LGBT Denmark Pride event in August 2019. Further to these activities, the Danish National Police has initiated a broader dialogue with representatives of the Muslim Council, the Jewish community in Denmark, and the National Association of LGBT persons in Denmark, in order to have close and ongoing cooperation with a view to encouraging more victims of hate crimes to report such incidents to the police. ECRI encourages the authorities to continue these efforts.

Overall, ECRI considers that the recommendation has been partially implemented.

2.) *In its report on Denmark (fifth monitoring cycle), ECRI recommended that the authorities take urgent measures to end ethnic segregation in the Langkaer school in Aarhus and prevent any such practices in Danish schools in the future. Furthermore, ECRI reiterates its recommendation made in 2012 to combat school segregation by devising, in consultation with all the parties concerned and taking into account the socio-economic dimension (employment and housing) policies to avoid, in the best interest of the child, pupils from minority groups being overrepresented in certain schools as proposed in its General Policy Recommendation No. 10 on combating racism and racial discrimination in and through school education.*

ECRI has been informed that, in September 2016, the Danish Institute for Human Rights (DIHR) submitted a complaint to the Board of Equal Treatment as it considered that the composition of the classes in the Langkaer school constituted illegal discrimination.

¹ Article 266(b) provides that any person who, publicly or with the intention of wider dissemination, makes a statement or imparts other information by which a group of people are threatened, insulted or degraded on account of their "race", colour, national or ethnic origin, religion, or sexual orientation shall be liable to a fine or to imprisonment for a term not exceeding two years. (See also ECRI (2017): footnote 3.)

In March 2017, the two parties agreed on a friendly settlement which resulted in the case being struck out by the Board. The settlement included a public statement in which the school undertook to refrain from using names as a criterion when creating school classes in the future. The school's headmaster stated that it had not been the intention to discriminate² and that nobody had been disadvantaged by this method. He further explained that in the light of the DIHR complaint he had come to realise that the practice in question had amounted to a form of discrimination and, hence, the school would not apply this method again.

The constructive approach of all sides in the resolution of the case indicates a strong willingness among all relevant stakeholders to prevent any repetition of such incidents not only in Langkaer school, but more generally. The case has also led to ongoing political discussions about the distribution of pupils among schools, including, how a more mixed composition of pupils could be achieved in schools with a high percentage of non-ethnic Danes.

ECRI considers that this recommendation has been fully implemented.

² See also: ECRI (2017): § 81.

