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**European Commission
against Racism and Intolerance**

**Third report on
Denmark**

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Foreword

The European Commission against Racism and Intolerance (ECRI) was established by the Council of Europe. It is an independent human rights monitoring body specialised in questions relating to racism and intolerance. It is composed of independent and impartial members, who are appointed on the basis of their moral authority and recognised expertise in dealing with racism, xenophobia, antisemitism and intolerance.

One of the pillars of ECRI's work programme is its country-by-country approach, whereby it analyses the situation as regards racism and intolerance in each of the member States of the Council of Europe and makes suggestions and proposals as to how to tackle the problems identified.

The country-by-country approach deals with all member States of the Council of Europe on an equal footing. The work is taking place in 4/5 year cycles, covering 9/10 countries per year. The reports of the first round were completed at the end of 1998 and those of the second round at the end of the year 2002. Work on the third round reports started in January 2003.

The third round reports focus on "implementation". They examine if ECRI's main recommendations from previous reports have been followed and implemented, and if so, with what degree of success and effectiveness. The third round reports deal also with "specific issues", chosen according to the different situations in the various countries, and examined in more depth in each report.

The working methods for the preparation of the reports involve documentary analyses, a contact visit in the country concerned, and then a confidential dialogue with the national authorities.

ECRI's reports are not the result of inquiries or testimonial evidences. They are analyses based on a great deal of information gathered from a wide variety of sources. Documentary studies are based on an important number of national and international written sources. The in situ visit allows for meeting directly the concerned circles (governmental and non-governmental) with a view to gathering detailed information. The process of confidential dialogue with the national authorities allows the latter to propose, if they consider it necessary, amendments to the draft report, with a view to correcting any possible factual errors which the report might contain. At the end of the dialogue, the national authorities may request, if they so wish, that their viewpoints be appended to the final report of ECRI.

The following report was drawn up by ECRI under its own and full responsibility. It covers the situation as of 16 December 2005 and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposal made by ECRI.

Executive summary

Since the publication of ECRI's second report on Denmark on 3 April 2001, progress has been made in a number of the fields highlighted in that report. In 2003, Denmark adopted an Act on Ethnic Equal Treatment and created a Complaints Committee for Ethnic Equal Treatment, whose mandate is to examine complaints of discrimination in all areas, including employment. Moreover, the racist motive of an ordinary crime is now considered to be an aggravating circumstance during the sentencing phase of a criminal trial.

However, a number of recommendations made in ECRI's second report have not been implemented, or have only been partially implemented. The Nationality Act, the Integration Act and the Aliens' Act have been further modified in a manner which disproportionately restricts the ability of members of minority groups to acquire Danish citizenship, to benefit from spousal and family reunification and to have access to social protection on par with the rest of society. The general climate has continued to deteriorate in Denmark, with some politicians and parts of the media constantly projecting a negative image of minority groups in general and Muslims in particular. In this regard, the relevant law on incitement to racial hatred is seldom applied to those who make statements against these groups, thus creating a sense of impunity that contributes to a further worsening of the public climate. There is still no clear and coherent policy for ensuring that minority groups have equal access to employment, housing and education. The Danish Government has also reduced or withdrawn funding from many NGOs, thus making it more difficult for minority groups to have issues of particular concern to them being addressed and brought to the public forum.

In this report, ECRI recommends that the Danish authorities take further action in a number of areas. It recommends that Denmark ratify Protocol No. 12 to the European Convention on Human Rights. It also recommends that any amendments made to the Danish legislation, such as the ones that have been included in the Nationality Act, the Aliens' Act and the Integration Act not, in effect, result in discriminatory measures against minority groups. ECRI recommends that Denmark implement the Act on Ethnic Equal Treatment more actively. ECRI also recommends that more powers be given to the Complaints Committee for Ethnic Equal Treatment in order to enable it to effectively examine complaints of racial discrimination and to offer adequate solutions to the victims. ECRI calls on the Danish Government to allocate sufficient funds to this body as well as to other organisations dealing with racism and racial discrimination. ECRI is of the strong opinion that the media and politicians should play a more responsible role in the manner in which they portray minority groups in general and Muslims in particular. It thus calls on the Danish Government to carefully review the law on incitement to racial hatred. ECRI finally recommends that Denmark adopt and implement a clear and long-term policy for integrating minority groups into the employment, educational and housing sectors.

I. FOLLOW-UP TO ECRI'S SECOND REPORT ON DENMARK

International legal instruments

1. In its second report, ECRI recommended that Denmark ratify the European Convention on Nationality, the (Revised) European Social Charter and the European Convention on the Legal Status of Migrant Workers.
2. ECRI is pleased to note that Denmark ratified the European Convention on Nationality on 24 July 2002. It also notes that although Denmark has indicated that it has nearly finished examining technical and legal matters concerning the ratification of the (Revised) European Social Charter, it could not confirm whether it will ratify this instrument or not. Denmark has indicated that it has not ratified the European Convention on the Legal Status of Migrant Workers.
3. In its second report, ECRI noted that Denmark had not accepted any of the provisions contained in Article 19 of the European Social Charter and strongly urged it to accept this Article without delay.
4. ECRI notes that Denmark has indicated that it has great reservations about most of the provisions contained in Article 19 of the European Social Charter.
5. Since ECRI's second report, Protocol No. 12 to the European Convention on Human Rights entered into force on 1 April 2005. The Additional Protocol to the Convention on cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems was opened for ratification on 28 July 2003. The International Convention for the Protection of the Rights of All Migrant Workers and Members of Their Families also came into force on 1 July 2003.
6. ECRI has been informed by Denmark that it has not yet signed Protocol No. 12 to the European Convention on Human Rights as it is waiting for jurisprudence on this Protocol in order to ascertain the State's positive obligations under this instrument. ECRI welcomes Denmark's ratification, in June 2005, of the Additional Protocol to the Convention on cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems. It notes, however, that Denmark has not ratified the International Convention for the Protection of the Rights of All Migrant Workers and Members of Their Families.

Recommendations:

7. ECRI reiterates its recommendation that Denmark ratify the (Revised) European Social Charter and the European Convention on the Legal Status of Migrant Workers. ECRI also recommends that Denmark ratify Protocol No. 12 to the European Convention on Human Rights and that it accepts the provisions of Article 19 of the European Social Charter. ECRI recommends that Denmark ratify the International Convention for the Protection of the Rights of All Migrant Workers and Members of Their Families.
8. In its second report, ECRI noted that Denmark had incorporated the European Convention on Human Rights into Danish law and recommended that it consider the possibility of incorporating other human rights conventions into national law and, in particular the Convention on the Elimination of All Forms of Racial Discrimination.
9. ECRI notes that apart from the European Convention on Human Rights, Denmark has not taken any steps to incorporate international human rights conventions into its national legislation. It has therefore not incorporated the

Convention on the Elimination of All Forms of Racial Discrimination into its law. This decision was taken despite the recommendation made by a Commission established to examine this question, that Denmark incorporates this Convention as well as the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment into its domestic law. The courts rarely refer to conventions that have not been incorporated into Danish law.

Recommendations:

10. ECRI recommends that Denmark reconsider the incorporation of international human rights conventions, and in particular the Convention on the Elimination of All Forms of Racial Discrimination into its national legislation so that they may be directly applicable before the courts.

Constitutional provisions and other basic provisions

- *Citizenship law*

11. In its second report, ECRI recommended that Denmark closely monitor the effects of the change in the Nationality Act by which non-citizens between the age of 18 and 23 who had lived in the country for 10 years or more would no longer be able to acquire Danish citizenship through an accelerated procedure.
12. ECRI notes that no measures have been taken to implement the above-mentioned recommendation. Moreover, the Nationality Act has also been amended so that only citizens from Nordic countries and former Danish nationals may acquire Danish citizenship by making a declaration. The Danish authorities have informed ECRI that some guidelines have been distributed within the Ministry of Refugee, Immigration and Integration Affairs which state that those who were born in Denmark should be able to obtain Danish citizenship after 3 to 5 years' residence in the country rather than 8 years. The authorities have, however, indicated that these are mere guidelines agreed upon by the Parliament, and that they are thus not binding. The Nationality Act has also been amended so that anyone who has acquired Danish citizenship by fraudulent conduct or has committed a crime against the State may now be deprived of his/her Danish nationality. The Danish authorities have stated that such a measure will not be taken if the person involved would become stateless. However, ECRI notes with concern that if an application for Danish citizenship is refused, the applicant is not informed of the reasons for the refusal. ECRI has thus been informed that the authorities may decide that a person is a danger to Danish society and that he/she will therefore not be given Danish citizenship, without informing the applicant that such a conclusion was reached. ECRI has also received reports according to which the Danish Government plans on requiring that anyone applying for Danish citizenship have worked for four out of the last five years. The Ministry of Refugee, Immigration and Integration Affairs, which has made this proposal, predicts that this will reduce the number of people who would normally qualify for citizenship by 30 percent. ECRI notes that if this proposal is accepted, it will in effect preclude people from acquiring Danish citizenship for purely economic reasons. It is therefore worried that this measure will have a disproportionately discriminatory effect on minority groups, who as discussed below¹, suffer from a much higher rate of unemployment than ethnic Danes.

¹ See "Employment".

Recommendations:

13. ECRI recommends that the Danish Government bear in mind the European Convention on Nationality when it amends its Nationality Act. It also recommends that any amendments to this Act be made in conformity with Article 5 of the European Convention on Nationality, which states, *inter alia*, that rules on nationality shall not contain distinctions or include any practice which amount to discrimination on the grounds of religion, race, colour or national or ethnic origin. The Danish Government should also ensure that the Nationality Act is effectively implemented with due regard for these principles.

Criminal law provisions

14. In its second report, ECRI recommended that Denmark closely monitor the implementation of Sections 1 and 2 of the Act Prohibiting Discrimination on the Basis of Race which forbids discrimination on the basis of, *inter alia*, race, colour, national or ethnic origin, or religion when a commercial or non-profit service is offered or when granting access to a public place. It also recommended that police and prosecuting authorities be given training with respect to the investigation of complaints under this Act.
15. ECRI notes that although there has been increased awareness among the police of the discrimination faced by minority groups in entering places such as bars, discos and restaurants, very few cases concerning this type of discrimination are brought to court. In this regard, ECRI has been informed that between January 2002 and the end of October 2004, only 4 cases were examined by the courts on this issue in Copenhagen. In those cases, the owner of the public place only received a minor fine and the victim was awarded no compensation. For more information on this subject, see "Access to public services" below.

Recommendations:

16. ECRI recommends that the Danish Government ensure that the Act Prohibiting Discrimination on the Basis of Race is implemented more actively. It also recommends that more awareness-raising measures on this law be taken, including outside the Copenhagen Municipality.
17. In its second report, ECRI recommended that Denmark initiate a more proactive policy for implementing Article 266 b) of the Criminal Code, which prohibits the dissemination of racist statements and racist propaganda.
18. ECRI deeply regrets the fact that the police are still very reluctant to register complaints of racist statements and to investigate and press charges under Article 266 b) of the Criminal Code, partly due to the fact that freedom of speech is given priority consideration in Denmark. It has been indicated to ECRI that the few cases that are brought to court only result in a fine. The Danish authorities have informed ECRI that between January 2001 and the end of September 2003, 23 cases were brought to court against 32 people and that 24 convictions were passed, including a 20 days' imprisonment sentence.² On this question, some NGOs have informed ECRI that the number of racist statements made by, *inter alia*, members of the Danish People's Party (which has been supporting the Government since 2002) has increased dramatically in the last few years. In 2003, 16 court decisions were rendered against politicians under Article 266 b) of the Criminal Code and NGOs have noted an increase in 2005 in the number of complaints against politicians, especially for statements made regarding Muslims

² Amongst these cases, 4 concerned words yelled at someone, 7 were about statements made on the Internet, 2 concerned advertisements, 2 concerned statements made at political rallies, 3 were about interviews given in the media and 3 concerned mail sent to politicians.

and Islam.³ NGOs point out that this is partly linked to the local elections held on 15 November 2005 as politicians often resort to populist rhetoric to win votes.

19. ECRI notes with concern that a local neo-Nazis radio station continues to receive State funds, even though it sends out racist statements. Although ECRI has been informed that in 2004, this radio's licence was withdrawn for 3 months as some of the views expressed on it, namely against Muslims, were considered to be a violation of the Criminal Code, it wishes to express its worry at the fact that this radio's licence has been reinstated. Another radio station, which is run by a neo-Nazi and broadcasts racist statements, is also allowed to operate with State funds. On this question, the authorities have explained to ECRI that the law allows any radio to operate as long as it has the support of the local community. Moreover, according to the authorities, this radio station has not lost its licence as it has not broadcast illegal statements.

Recommendations:

20. ECRI urges Denmark to take a more proactive approach in prosecuting anyone who makes racist statements, since Article 266 b) of the Criminal Code as interpreted by the Supreme Court does not appear to be adequate.
21. In its second report, ECRI recommended that Denmark introduce measures to combat racist organisations.
22. ECRI notes that racist organisations are still not prohibited in Denmark. Furthermore, although the Danish authorities have indicated to ECRI that the policy in Denmark is to prosecute individual members of neo-Nazi or skinhead organisations, very few cases, if any, have actually been brought against them.
23. In its second report, ECRI recommended that Denmark introduce into its legislation a provision by which the racist motivation of an ordinary crime would be taken into consideration as an aggravating circumstance.
24. ECRI is pleased to note that the Criminal Code has been amended in accordance with the above recommendation. Article 81 of this Code thus provides that the racial and ethnic motivation of a crime will be deemed to be an aggravating circumstance. However, as this provision is relatively new, there is as yet no case law on it.

Recommendations:

25. ECRI strongly recommends that the Danish Government penalise the creation or leadership of a group which promotes racism, as well as support for such a group and participation in its activities, as indicated in its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination.⁴ It also recommends that Denmark take a more proactive approach in punishing members of such organisations.

Civil and administrative law provisions

26. In its second report, ECRI noted that Denmark did not have a body of anti-discrimination civil and administrative legislation and recommended that it adopt such laws. ECRI further stressed the fundamental role that an organisation specialised in combating racism and intolerance would play in supervising the implementation of such a body of legislation.

³ For more information regarding the situation of the Muslim community see "Vulnerable groups" below.

⁴ See CRI (2003) 8, paragraph 18 g).

27. ECRI welcomes Denmark's adoption of the Act on Ethnic Equal Treatment in May 2003⁵ in the framework of its implementation of the EU equality Directives⁶. This Act prohibits discrimination in access to social protection, including social security, health care, social advantages and education. It also forbids discrimination in access to goods and services, including housing, as well as harassment on racial grounds or against anyone who has filed a complaint for racial discrimination. The Act further provides for a shared burden of proof and entitles victims to non-pecuniary compensation. ECRI is also pleased to note that Denmark has established a Complaints Committee for Ethnic Equal Treatment⁷ within the Danish Institute for Human Rights, which is empowered to receive complaints of racial discrimination under this Act, including in the employment sector⁸. However, ECRI is concerned by the fact that very few cases have been brought to court under the Act on Ethnic Equal Treatment, as the powers of the Complaints Committee are insufficient to investigate cases. Taking a case to court by him/herself is too difficult and expensive for the average victim. The Danish authorities have thus informed ECRI that only one case concerning employment discrimination has been brought to court under this Act.

Recommendations:

28. ECRI strongly recommends that Denmark take a more proactive role in ensuring the implementation of the Act on Ethnic Equal Treatment by, *inter alia*, ensuring that potential victims of discrimination are also aware of its existence and of the mechanisms for invoking it before the courts.

Administration of justice

29. As indicated above, very few cases are brought to court and there are few convictions in Denmark for racist or discriminatory acts, mainly due to the fact that the judges, prosecutors and lawyers do not take adequate notice of the relevant national and international legislation. The Danish Ministry of Justice has informed ECRI in this regard, that it is considering publicizing the jurisprudence on these questions on its internal WebPages for the benefit of local prosecutors as well as local police forces. However, for the moment, judges, lawyers and prosecutors receive very little formal training on racism and racial discrimination either during their training period or when they have started their career. NGOs have also informed ECRI that the judiciary does not reflect the diversity in Danish society. On this point, the Danish authorities have indicated that measures are being taken to encourage members of ethnic minorities to apply for positions with the Court Administration and the courts. These include, *inter alia*, the amendment of the wording of advertisements for jobs. ECRI is further deeply concerned by reports according to which some judges show prejudice towards ethnic minority witnesses and defendants.

Recommendations:

30. ECRI strongly recommends that the Danish Government ensure that judges, lawyers and prosecutors receive training on all national and international legal

⁵ Act No. 374 of 28 May 2003.

⁶ Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin and Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.

⁷ For more information on the work of the Complaints Committee, see "Specialised bodies and other institutions" below.

⁸ In accordance with the Act on the Prohibition of Discrimination in the Labour Market.

instruments pertaining to racism and racial discrimination during their formal training as well as throughout their career. ECRI also recommends that Denmark continue taking measures to encourage members of minority groups to apply for positions in all areas of the judicial system.

Specialised bodies and other institutions

- *Complaints Committee for Ethnic Equal Treatment*

31. In its second report, ECRI felt that the Board for Ethnic Equality performed a very important function in combating racial discrimination and hoped that the Danish authorities would continue to take into consideration its advice and recommendations in its area of expertise.
32. ECRI deeply regrets the fact that the Board for Ethnic Equality was closed down on 31 December 2002, following the adoption of a law⁹ establishing the Danish Centre for International Studies and Human Rights. This measure was taken following a decision by the Government, on 11 January 2002, to close down, merge or reduce the mandate or funding of more than 100 organisations, which it considered to be, amongst others, “judges of taste”.¹⁰ Therefore, on 1 January 2003, the Danish Institute for Human Rights became part of the Danish Centre for International Studies and Human Rights, and it was given, amongst other tasks, the mandate of promoting ethnic equality. As previously indicated, in 2003, the Complaints Committee for Ethnic Equal Treatment (hereinafter the “Complaints Committee”) was created within this Institute. ECRI notes with concern that this Committee has many shortcomings which preclude it from meeting all the criteria of a specialised body as mentioned in its General Policy Recommendation No. 2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level.¹¹ The Complaints Committee has informed ECRI that it only examines complaints for discrimination on racial and ethnic grounds, and does not cover religious discrimination. As it does not have the power to hear witnesses, it bases its decisions solely on documentary evidence. The Complaints Committee has no power to compel private entities to give evidence and as a result, where it has been unable to obtain enough evidence, it dismisses the complaint. ECRI has been informed that in the proceedings before the Complaints Committee, the principle of the shared burden of proof is not applicable. ECRI finds it particularly worrying that despite all these evidentiary restrictions, the Committee is only allowed to provide legal aid to those who wish to take their case to court when it finds that there has indeed been discrimination. ECRI has been informed in this regard, that this Committee has only taken one case to court (in 2003) and that this case was only scheduled to be examined in November 2005.
33. The Complaints Committee has informed ECRI that it has dealt with 153 complaints so far and that the majority of them (30%) concern access to social benefits and to social services¹². Many cases also deal with housing and educational issues.¹³ The Complaints Committee has further stated that when there are evidential issues in a case, it makes general recommendations about a

⁹ See Act No. 411 of 6 June 2002.

¹⁰ See “Other non-governmental organisations and institutions” below for more information regarding this decision.

¹¹ See CRI (97) 36.

¹² For more information on access to social benefits see “Reception and status of non-citizens” and “Employment” below.

¹³ For further information on these questions, see “Access to public services” below.

particular problem, such as for example, segregation in schools. The purpose of these recommendations is to raise awareness of the law and to establish guidelines on its interpretation. ECRI is deeply concerned that one of the other major problems faced by the Complaints Committee is the lack of adequate funds and staff to enable it to function to the best of its ability. The Committee is thus only composed of three part-time members and a secretariat of two lawyers. The Danish authorities have indicated on this matter, that they allocate six million Danish Crowns (i.e., 800,000 euros) on a yearly basis to this body. The authorities have also informed ECRI that the Complaints Committee itself, which has fewer powers than the body set up to deal with gender discrimination issues, has requested more powers and funding. ECRI notes however that the authorities appear to be reluctant to change its mandate or increase its funding. It also notes with regret that although the Complaints Committee's decisions are published in the Danish Institute for Human Rights' Annual Report, its work is not widely disseminated. Moreover, the Committee is unable to open offices outside Copenhagen due to lack of funds.

- ***Other institutions and non-governmental organisations***

34. As indicated above, the Danish Government made a decision, in 2002, to either withdraw or limit the funds previously allocated to many NGOs and other specialised bodies, as they were considered by the Government to be “judges of taste” who were attempting to “repress public debate with their tyranny”.¹⁴ As a result, many NGOs and bodies dealing with racial discrimination have either closed down or have severely limited the scope of their activities. This, compounded with the many problems faced by the Complaints Committee, has created a vacuum that has placed minority groups in an even more vulnerable situation than noted in the second report, as there are now very few organisations which are able to address issues of particular concern to them. The lack of voices that can bring the problems faced by minority groups, refugees and asylum seekers to the forefront of the public debate and thus provide a counterbalance to the manner in which they are perceived by the public at large has contributed to a climate of intolerance against them.¹⁵ In this regard, many NGOs have indicated that a Discrimination Ombudsman who would take up cases of racial discrimination in the Danish administration is needed in Denmark. They consider such a measure all the more necessary as the current Parliamentary Ombudsman does not examine whether there is a discriminatory element in the manner in which public authorities implement the law.

Recommendations:

35. ECRI strongly urges the Danish Government to provide the Complaints Committee on Ethnic Equal Treatment with sufficient powers and financial means to enable it to effectively function as a specialised body within the meaning of its General Policy Recommendation No. 2. It further calls on the Government to ensure that the Complaints Committee's jurisprudence and general recommendations are widely disseminated to the public at large as well as to all Government bodies both at the national and local levels.
36. ECRI strongly recommends that the Danish Government provide NGOs and other specialised bodies with sufficient funds to enable them to adequately assist minority groups in solving the problems that they face.

¹⁴ See, NGO-report supplementing the Danish Governments fifteenth periodic report concerning the UN Convention on the elimination of all forms of racial discrimination Given according to art. 9(1) of ICERD, Submitted by The Documentation and Advisory Centre on Racial Discrimination (DACoRD), March 2002, p. 5.

¹⁵ For a more in-depth discussion of the current public climate in Denmark, see “Specific issues” below.

Education and awareness-raising

37. In its second report, ECRI recommended that Denmark develop within the teaching of History in Denmark, a section devoted to the immigrant population's input into Danish society.
38. ECRI notes that since its second report, no measures have been taken to change the manner in which History is taught in schools, along the lines recommended in its General Policy Recommendation No. 1 on combating racism, xenophobia, antisemitism and intolerance.¹⁶ Moreover, the authorities have informed ECRI that diversity and multiculturalism are not taught in Danish schools. ECRI has been informed in this regard, that research has demonstrated that stereotypes are also widespread among young people.¹⁷

Recommendations:

39. ECRI strongly recommends that the Danish Government ensures that school curricula at all levels include teaching on human rights in general and racism and racial discrimination in particular as well as on cultural diversity, in a cross-cutting manner. It also reiterates its recommendation that minority groups' contribution to Denmark be taught in all schools at all levels.

Reception and status of non-citizens

- **Act on Integration of Aliens in Denmark**

40. In its second report, ECRI expressed concern at the fact that although the Act on Integration of Aliens in Denmark (the "Integration Act") was meant to improve the integration of refugees and newly arrived immigrants into Danish society, by, *inter alia*, creating local integration councils, the manner in which it was being implemented ran counter to that aim.
41. ECRI has been informed that since the publication of its second report, new amendments which compound the problems highlighted in that report have been inserted into the Integration Act. The authorities have informed ECRI that in 2002, a "start allowance", which applies to both Danes and foreigners who have not been living in Denmark for 7 out of the last 8 years, was introduced. The amount of this monthly allowance of 5,000 Danish Crowns (i.e., 670 euros), is only approximately 65% of the normal social welfare benefit. ECRI notes with deep concern that, as NGOs have indicated, this provision amounts to indirect discrimination against minority groups because most Danes who have been out of the country for the above-mentioned period do not need it. Therefore, half of the approximately 2,000 people who receive this allowance are either newly arrived immigrants or refugees. The Danish authorities have stated that the aim of this provision is to improve newly arrived immigrants' and refugees' integration into Danish society as it is meant to be an incentive for them to seek employment. However, research has demonstrated that this measure has increased poverty levels among minority groups, with the logical risk of some of them resorting to crime to survive. Experts as well as members of ethnic minority groups fear that the resulting increase in crime statistics among non-ethnic Danes will then be used to further stigmatise them, in an already negative public climate.¹⁸ NGOs have also informed ECRI that this measure has in fact served to isolate refugees and newly arrived immigrants as they do not have the means to

¹⁶ See CRI (96) 43.

¹⁷ See "Specific issues" below for more information on the current climate in Denmark.

¹⁸ For further information on the misuse of crime statistics among minority groups, see "Conduct of law enforcement officials".

participate in activities that would help them integrate into society. For example, children whose parents are on this “start allowance” do not participate in extra-curricular activities as their parents cannot afford to pay for them.

42. ECRI has also been informed that although, at the time of its second report, the Integration Act provided for the mandatory setting up of integration councils in all municipalities if 50 people so requested, this is no longer the case since 2004. These integration councils were established in order to advise Municipalities on issues pertaining to the integration of newly arrived immigrants and refugees. Since 2004, Municipalities are no longer obliged to establish these councils and will now do so only when they deem it necessary. There are thus 71 integration councils in the currently existing 274 Municipalities in Denmark¹⁹. NGOs have expressed their regret at this decision, as integration councils play a positive role in helping new immigrants and refugees integrate into Danish society. However, they have also indicated that these councils are under funded and that they are often not adequately consulted by the Government on matters falling within their mandate. In this regard, ECRI has, for example been informed that the Government tends to forward to the integration councils important documents such as draft laws without providing them with sufficient time to give their input. Moreover, although integration councils have the power to make proposals to the City Councils on the allocation of funds to projects relating to newly arrived immigrants and refugees, they have full discretion as to whether or not they will take these proposals into consideration. Concerning the funding of integration councils, the Danish Government has stated that they are provided with secretarial assistance and free facilities, such as meeting rooms, by local authorities. The Government has further indicated that research carried out in 2003 indicated that 43% of integration councils had an annual budget of between 10,000 DKK (approximately 1,340 euros) and 50,000 DKK (approximately 6,700 euros), and that 14% received less than 10,000 DKK.
43. ECRI considers that the decision to abolish the mandatory nature of integration councils is all the more regrettable as under the Integration Act, newly arrived refugees and immigrants have no choice as to which Municipality they will be housed in. The Act thus leaves it to the Municipalities to agree among themselves on the number of newly arrived refugees and immigrants they will receive. The Danish authorities have informed ECRI that the aim of this policy is to promote their integration into Danish society. However, ECRI notes that according to the authorities themselves, in 2003, in only 40% of cases were the newly arrived refugees’ and immigrants’ stated preference for living in a particular Municipality taken into account. In addition, in 35% of the cases they were housed in a different Municipality, but in the same County. ECRI considers that this policy should not result in the refugees’ and immigrants’ isolation. Moreover, ECRI also notes with concern that the authorities in some Municipalities have refused, for example to receive anymore foreigners on social welfare.
44. Newly arrived immigrants and refugees must also follow a three-year integration course in the Municipality in which they have been housed. This course includes, *inter alia*, Danish lessons and preparation for the labour market. The Integration Act provides that they must remain in their assigned Municipality for the duration of this course, unless they have been offered employment elsewhere. NGOs have indicated to ECRI that this course is not sufficiently flexible to enable newly arrived refugees and immigrants to enter the Danish labour market. This in turn makes it more difficult for them to move to another Municipality before the end of the course. It has also been brought to ECRI’s attention that if newly arrived

¹⁹ ECRI was informed by the Danish authorities that under a new reform, there will only be 100 Municipalities.

immigrants and refugees lose their job, they must return to the integration course.

Recommendations:

45. ECRI urges the Danish Government to place everyone receiving social welfare on an equal footing as the current “start allowance” amounts to indirect discrimination against newly arrived immigrants and refugees, in violation of international legal norms.
46. ECRI recommends that the Danish Government make integration councils mandatory in order to facilitate newly arrived immigrants’ and refugees’ integration into their Municipalities. ECRI also recommends that these councils be provided with sufficient means to function adequately and that they be given a genuine opportunity to contribute to laws and policies relating to immigrants and refugees.
47. ECRI recommends that the Danish Government continue to monitor the policy of housing refugees and providing them with an integration course in different Municipalities in order to ensure that refugees are not isolated.

- Aliens’ Act

48. In its second report, noting that the tightening of policies regarding the entry into Denmark of immigrants, refugees and asylum seekers in general and concerning, *inter alia*, the right to family reunification, had continued, ECRI was concerned that this would have a discriminatory impact on members of minority groups.
49. ECRI deeply regrets that since its second report, new amendments, which have, *inter alia*, further restricted the right to family reunification, have been inserted into the Aliens’ Act. Other than the requirements that only those over 24 years may apply for spousal reunification, on condition that they possess a reasonably-sized dwelling, Article 9 of the Aliens’ Act²⁰ now provides that anyone wishing to bring a spouse who is not a citizen of an EU Member State or of the European Economic Area to Denmark must also meet the following conditions: 1) if the person applying for spousal reunification has not been a Danish national for 28 years, his/her spouse’s aggregate ties must be stronger with Denmark than the applicant’s ties with his/her spouse’s country; 2) the applicant must not have been on social welfare for one year prior to the date of the application, and 3) he/she must provide a bank deposit of 54,000 Danish Crowns (approximately 7,000 euros), which will be frozen if the applicant loses his/her job in the first 7 years of the spousal reunification. Moreover, his/her spouse’s residence permit may be revoked as a result of the job loss. The Act also provides that refugees may only bring a spouse to Denmark if they had been married or cohabited before the person was granted asylum. On this matter, the Danish Government has stated that a very important factor when deciding on applications for spousal reunification for refugees is whether or not the refugee is able to take up residence in his/her country of origin or in another country. ECRI is deeply concerned by the fact that the 28 years’ aggregate ties with Denmark rule amounts to indirect discrimination between those who were born Danish and people who acquired Danish citizenship at a later stage. The stated purpose of the 24 year old rule, which is to avoid forced marriages, in fact concerns only a very small number of people. According to research recently carried out among members of the Turkish, Lebanese, Pakistani, Somali and former Yugoslavian communities, 80% of the respondents indicated that they chose their spouse themselves, 16 % stated that they did it together with their parents and only 4%

²⁰ See Aliens (Consolidated) Act of 14 July 2004.

indicated that their parents chose their spouse for them. Furthermore, ECRI is seriously worried by the fact that the criteria that the person applying for spousal reunification must not have been on social welfare for one year prior to his/her application and that he/she must provide a bank deposit of 7,000 euros in effect amounts to indirect discrimination against minority groups who, as discussed below²¹, tend to be at the bottom of the socio-economic ladder.

50. ECRI also notes with concern that these spousal reunification rules have compelled many mixed couples to live in Sweden or Germany where they are entitled to family reunification in accordance with EU rules. NGOs have also highlighted the difficulties faced by people applying for family or spousal reunification in reaching the Immigration Services and in receiving information on the status of their case. On this question, the Danish Government has stated that the Immigration Service is continuously doing its utmost to improve the service of its customers. Finally, NGOs have also indicated that one of the consequences of these various restrictions is that spousal and family reunifications have dropped since ECRI's second report.
51. The Danish authorities have informed ECRI that the spousal and family reunification policies permit exemptions for some professionals and students in certain fields from the above-mentioned 24 year and aggregate ties rules. The aim of the policy is to attract workers in fields where there is a manpower shortage in Denmark. In this regard, in the last few years, there has been a sharp decrease in the number of people who have been granted asylum or family reunification permits, whilst inversely, more student and employment visas have been handed out. ECRI deeply regrets the fact that this policy adds another level of discrimination between on the one hand, those seeking asylum or family reunification and on the other hand, people who are perceived as being economically viable for Denmark, in a manner which disproportionately affects minority groups. ECRI is also worried by the fact that this policy has been introduced in a climate where minority groups are being portrayed as a drain on the economy and a threat to the social welfare system.²²
52. ECRI finally notes with concern that although several NGOs and members of civil society, both at the national and international levels, have criticised the discriminatory nature of the above-mentioned aspects of the Aliens' Act,²³ their calls for changes in these laws have mostly gone unheeded.

Recommendations:

53. ECRI urges the Danish Government to reconsider the provisions contained in the Aliens' Act on spousal and family reunification, bearing in mind Article 8 of the European Convention on Human Rights. It also urges Denmark not to adopt laws which in effect indirectly discriminate against minority groups. ECRI strongly recommends that the Danish Government take into consideration the recommendations made by various international and national bodies regarding the Aliens' Act.

²¹ See "Employment" below.

²² For more information on the current public climate in Denmark, see "Specific issues" below.

²³ See, amongst others, Report by Mr. Alvaro Gil-Robles, Commissioner for Human Rights, On His Visit to Denmark, 13-16 April 2004, CommDH(2004)12; the Concluding Observations of the Committee on Economic, Social and Cultural Rights: Denmark, E/C.12/1/Add.102, 14 December 2004; the Concluding Observations of the Committee on the Elimination of Discrimination against Women, CEDAW/C/SR.561 and 562, 21 June 2002, and Olsen Birgitte Kofod et al, Spouse Reunification in Denmark, Report No. 1, The Danish Institute for Human Rights, 2004.

- **Refugees and Asylum Seekers**

54. NGOs have expressed a number of concerns to ECRI about the manner in which asylum seekers are treated in Denmark. A very high proportion (90%) of asylum seekers' claims are currently being rejected, whilst in 2002, approximately 50% of those claims were successful. The fact that asylum seekers are not assisted by a lawyer when they fill in their 20 page claim form and are subsequently interviewed by the competent authorities has been stated as one of the main reasons for such a high percentage of rejected claims. ECRI notes with concern that the authorities have indicated that rejected asylum seekers who are unwilling to leave Denmark receive no other assistance than food in a cafeteria and clothes. NGOs have criticised the fact that some rejected asylum seekers are placed in a wing of the Sandholm Centre (in the North of Copenhagen), where they remain isolated, with no supervision and there have been complaints of inadequate food. Moreover, ECRI is worried that as rejected asylum seekers who are placed in this centre receive no money, some of them are reportedly being forced into a life of crime out of desperation to earn some money.
55. A decision rejecting an asylum seeker's claim is examined by the Refugee Board. This three-member quasi-judicial body is chaired by a Judge and is composed of a lawyer from the Ministry of Refugee, Immigration and Integration Affairs and another who's a member of the Lawyers' Association. ECRI notes with concern, that a decision by this Board²⁴ may only be appealed on a procedural matter. In this regard, the authorities have informed ECRI that an asylum seeker whose claim has been rejected by this Board can apply for humanitarian status with the Ministry of Refugee, Immigration and Integration Affairs. However, this status is only afforded to asylum seekers who suffer from a serious illness and cannot receive treatment in their country or who lack any family ties in their country. The Ministry of Refugee, Immigration and Integration Affairs' decision to reject a claim for humanitarian status cannot be appealed either. In this regard, ECRI was informed that very few people are granted humanitarian status. It is therefore worried that some asylum seekers who have a meritorious case may be sent back to a country where they have a well-founded fear of persecution within the meaning of the 1951 Convention Relating to the Status of Refugees.
56. NGOs and specialised bodies have indicated to ECRI that asylum seekers whose claim is still being processed are extremely isolated as they do not have the right to work or study outside the asylum centres in which they are housed; the Danish authorities have indicated on this point that asylum seekers have the right to carry out voluntary work outside the centre. ECRI also notes that their children can only be schooled in these asylum centres. ECRI is further seriously concerned by the fact that, as NGOs and specialised bodies have indicated, the compounded effect of their isolation, the problems they encounter in receiving psychiatric treatment as well as the limited financial means available to them and the lack of certainty about their future have resulted in some asylum seekers being in a worse psychological condition than when they arrived in Denmark. This is all the more worrying as some of them have been living in asylum centres for as long as 8-10 years.

Recommendations:

57. ECRI recommends that asylum seekers be assisted by a lawyer when they submit their claim to the competent authorities and during the entirety of the asylum procedure.

²⁴ Asylum claims are submitted initially to the Ministry of Refugee, Immigration and Integration Affairs.

58. ECRI strongly recommends that Denmark ensures that asylum seekers are able to fully put their case before the authorities by providing them with equal access to all the legal remedies afforded to everyone living in Denmark, including the right to appeal before an independent court.
59. ECRI recommends that asylum seekers have access to employment and professional training as well as to Danish schools for their children in mainstream Danish society in order to avoid their total isolation. ECRI also strongly recommends that asylum seekers be provided with adequate care in accordance with national and international human rights standards.

Employment

60. In its second report, ECRI emphasised the paramount importance of adequately implementing legal provisions in the employment sector and recommended that the application of existing legislation in this area be improved.
61. As indicated above²⁵, only one case has been brought to court so far regarding discrimination under the 2003 Act on Ethnic Equal Treatment. The Danish Institute for Human Rights' Complaints Committee has informed ECRI that 11 cases concerning dismissal, payment, work conditions and promotion issues have been brought before it under this Act. The Committee has informed ECRI that it can only examine such cases where the complainant is not a member of a Trade Union or when he/she has received no assistance from their Union in dealing with their complaint. On this point, the Danish Government has indicated that the Institute for Human Rights is working in cooperation with the Confederation of Danish Employers and the Danish Confederation of Trade Unions. However, ECRI regrets that despite the adoption of the Act on Ethnic Equal Treatment and the powers given to the Complaints Committee therein, there is still a very long way to go before these mechanisms are adequately used to fight discrimination in the employment sector.
62. In its second report, ECRI believed that the issue of discrimination should be addressed by, *inter alia*, trade unions, social partners, employment agencies, as well as local and national authorities.
63. There does not appear to have been any measures taken, since ECRI's second report, to implement the above recommendation. On this matter, ECRI notes with great concern that according to statistics, 50% of people belonging to minority groups are unemployed, due in part to the fact they have on average a lower education level than ethnic Danes²⁶, but also because they face discrimination in obtaining traineeships and jobs when they have the requisite qualifications. In this regard, research has demonstrated that 89% of people belonging to minority groups in Denmark feel that they would have less chance of obtaining a job, training or promotion than the rest of the population.²⁷ ECRI has further been informed that minority groups are often unable to find a job that meets their level of education even when they have, throughout their lives, received their education in the Danish system. The Government has indicated to ECRI that it has taken some measures to address the problem faced by ethnic minority youth in finding traineeship. One of these measures includes providing more funds to vocational training institutions where there are many ethnic

²⁵ See "Civil and administrative law provisions" above.

²⁶ For more information on education among ethnic minority groups, see "Access to public services" below.

²⁷ See, Eurobarometer 57.0 – May 2003, Discrimination in Europe, written by Alan Marsh and Melahat Sahin-Dikmen (Policy Study Institute London) and the European Opinion Research Group (EEIG) for the European Commission, Directorate General Employment and Social Affairs, p.10.

minority students and to businesses that provide additional traineeships. ECRI notes however that the Government does not appear to have established a clear and consistent policy aimed at integrating minority groups into the labour market. ECRI notes with concern that in May 2005, the Ministry of Refugee, Immigration and Integration Affairs launched an official policy paper entitled “A new chance for everyone – the Danish Government’s integration plan”²⁸, part of which will be included into the Danish legislation at the end of 2005. In this policy paper, the Danish Government proposes, *inter alia*, to withdraw the social welfare benefits of young people aged 18 - 25 who do not “commence a relevant job-qualifying course”. It is also stated that family allowance schemes “will be adjusted so that only young people of 15-17 years who have started a qualifying course or have a job with an educational perspective will be eligible for [such an] allowance”.²⁹ Moreover, when both spouses receive social security benefits, one of them will only be entitled to a “lower spousal allowance if [he/she] has not had ordinary paid work for 300 hours in the preceding two-year period”.³⁰ ECRI is concerned that such measures, which will in fact mostly affect minority groups, have a repressive element without being counter-balanced by concrete measures aimed at helping them enter the job market.

64. ECRI has been informed that 90% of Danish companies make no effort to promote ethnic diversity in their workforce. It has also been indicated to ECRI that according to a recent survey, two-thirds of business leaders do not see the importance of having ethnic minority personnel. This reluctance is mainly due to the fact that there are still many prejudices both at the managerial and employee levels about the ability of minority groups in general, and Muslims in particular, to integrate into the workplace. ECRI notes with concern that the Government has not taken adequate measures to fight these prejudices. ECRI therefore welcomes the Danish Institute for Human Rights’ campaign aimed at showing staff in private companies the benefits of a diversified workforce and at increasing awareness of corporate social responsibility. It also notes that the Danish Government has indicated that the Danish Chamber of Commerce published a report at the end of 2005 according to which there are more positive attitudes towards ethnic minority employees in some business sectors, such as IT and trade. ECRI moreover notes that some other initiatives have been taken by other specialised bodies and NGOs to fight discrimination on the job market. However, partly due to the above-mentioned problem of NGOs’ funds being withdrawn or reduced³¹, there has been a limited number of such initiatives. Moreover, trade unions have been reluctant to assist people belonging to minority groups who have suffered discrimination at work in bringing their case either before their management or to court.³² ECRI is thus pleased to note that the Danish Confederation of Trade Unions is currently in the process of adopting equal opportunity measures and that it has established a committee to that end. ECRI regrets, however, that neither employment agencies nor national or local authorities are involved in the fight against discrimination in the employment sector.

²⁸ http://www.inm.dk/imagesUpload%5Cdokument%5CA_new_chance_for_everyone.pdf

²⁹ *Ibid.*, p.2 .

³⁰ *Ibid.*, p.3.

³¹ See “Specialised bodies and other organs” above.

³² See, Breakthroughs and blind spots, Trade union responses to immigrants and minority groups in Denmark and UK, John Wrench, © Fafo 2004, pp. 69-74.

Recommendations:

65. ECRI urges the Danish Government to take more proactive measures to implement the anti-discrimination legislation in the employment sector by, *inter alia*, carrying out information campaigns aimed at minority groups, as well as employers, employment agencies and local and national governmental authorities.
66. ECRI urges the Danish Government to adopt and implement a clear, consistent and long-term policy for integrating minority groups into the labour market. It also urges Denmark to ensure that measures taken to encourage people to enter the job market not be implemented in a manner that will in effect punish minority groups without providing them with the necessary tools and opportunities to find work. It strongly recommends that minority groups, all relevant partners such as the business and NGO sectors, national and local authorities as well as employment agencies be involved in devising and implementing policies aimed at integrating minority groups into the job market. ECRI also strongly recommends that the Danish Government provide adequate funding for any initiatives aimed at offering better job training and employment skills to minority groups.

Access to public services

- *Access to education*

67. In its second report, considering the prevailing de facto segregation in some Danish schools, ECRI encouraged local and national authorities to further examine this phenomenon and enhance measures to combat it.
68. ECRI has been informed that in some schools in Copenhagen for example, 90 % of the children are of an ethnic minority background. In spring 2005, in a drive to fight this de facto segregation, the Danish Government made an executive order by which as of 1 October 2005, children with an ethnic minority background would have to pass a language test and those who were found to be insufficiently fluent in Danish would be moved to another school. However, ECRI has been informed that this measure contravenes a law that was adopted on 1 August 2005, by which all parents are free to choose which primary school they will send their children to. As the spreading of children from minority groups to different schools may be compulsory, this policy would be a violation of the law adopted in August 2005. On this question, the Danish Government has indicated that this measure will only be taken if there are educational reasons for doing so. However, ECRI notes with concern that the decision as to whether a child should be sent to a different school or not will be made by a language and testing expert rather than the school Headmaster. The Complaints Committee has assessed the school integration model in some municipalities and concluded that it constitutes a form of indirect discrimination based on ethnicity. ECRI has been informed that this measure may be compulsory for two years after the children have changed school, after which an assessment will be made as to whether they can go back to their original school. In this regard, ECRI has been informed that a comprehensive approach, which would take into account the housing, employment and social components of this problem, would be a fairer way of ensuring that children from minority groups have equal access to education.
69. In its second report, ECRI recommended that additional measures be taken to assist children whose mother-tongue was not Danish in fully and successfully participating in mainstream schools.
70. ECRI has been informed that all children from minority groups, starting from three year olds, are given a compulsory language test before they start school, to assess their Danish language level. In order to provide them with early-language

stimulation, minority children who do not have the requisite language skills are placed in “reception classes” for one or even two years. ECRI notes with concern reports according to which these children are sometimes forbidden from speaking their mother-tongue in these “reception classes”. Moreover, since 2002, only children from the European Union and the European Economic Area Member are entitled to mother-tongue education. Therefore, Municipalities which continue to provide mother-tongue education to children who do not fall in these categories must pay for it themselves.

71. In its second report, ECRI noted that some minority children were dropping out of school and recommended that this problem be investigated and solved.
72. ECRI was informed by the Danish authorities that there is still a high drop-out rate among ethnic minority youth in vocational schools. Thus, in 2003, 40% of youth from an ethnic minority background dropped out compared to 32% among their ethnic Danes peers. The Danish authorities have also indicated to ECRI that in 2005, they launched a line of action to deal with this problem both among youth from minority groups as well as ethnic Danes. According to the authorities, in August 2005, the Government also started a three-year pilot programme in 15 commercial colleges (out of the 150 existing ones) whereby ethnic minority mentors are placed on call to assist ethnic minority pupils. Some of the pupils have someone acting as a role model for them whilst the best ones act as mentors and teachers for their fellow students. This project targets pupils in the first year, as the highest drop-out rates occur at that stage. ECRI regrets that this project has received very limited funding (500,000 Danish Crowns).
73. In its second report, ECRI recommended that the Danish Government strive to provide teachers with training on teaching in a multicultural environment and to recruit teachers from an ethnic minority background.
74. ECRI has been informed that studies have indicated that approximately 80% of Danish teachers feel that they are not sufficiently qualified to teach in a multicultural environment. It has also been brought to ECRI’s attention that there are teachers who do not have high expectations of ethnic minority children and who tend to teach them at a level that is too low for them. ECRI is aware that there are courses for Danish teachers to improve their ability in teaching in a multicultural environment and that some measures have been taken to recruit minority teachers. Nevertheless, ECRI considers that more could be done in these respects.

Recommendations:

75. ECRI strongly recommends that any measures taken to better integrate children from minority groups be made on a voluntary basis, with the full consultation of the parents and children involved. ECRI also recommends that the Danish Government adopt an all-encompassing policy for fighting school segregation by taking into account the employment, housing and social components of this problem.
76. ECRI recommends that Denmark provide mother-tongue education to children in a non-discriminatory manner. It further strongly recommends that measures aimed at ensuring ethnic minority children’s integration into the school system should not, in fact, amount to forced assimilation.
77. ECRI recommends that the Danish Government continue and expand its programmes for keeping ethnic minority pupils in the educational system. It considers in this regard, that sufficient funds should be allocated to such projects and that they should be part of a long-term policy.

78. ECRI recommends that teachers be provided with more training on teaching in a multicultural environment and that further efforts be made to recruit minority teachers.

- ***Access to housing***

79. In its second report, ECRI recommended that Denmark further investigate minority groups' access to the housing market and that it develop measures to ensure that they are not directly or indirectly discriminated against in this regard.

80. ECRI was informed by the Danish authorities that no specific measures have been taken to monitor the letting or allocation of social housing in order to establish whether there are any discriminatory practices in this area. Since ECRI's second report, the Danish authorities have introduced a policy aimed at breaking-up "ghettos". In this regard, some NGOs have criticised the use of this term as being derogatory because it in fact refers to socially deprived areas where both ethnic Danes and minority groups live. The Danish authorities have thus created two programmes for integrating these socially deprived areas: the first, which consists of "flexible" letting, gives priority to certain groups of people (the elderly, the young, etc.) when apartments are distributed in those neighbourhoods; the second, "combined" letting, precludes people who are on social welfare from living in economically disadvantaged neighbourhoods, by housing them in other areas. ECRI notes with concern that people who fall under the "combined" letting scheme have a limited choice as to where they will be housed. The authorities have indicated that the Danish Institute for Human Rights has stated that it does not, in principle, oppose the "combined" letting programme, but that this programme should not be used to discriminate against minority groups. ECRI is particularly concerned about reports of a sharp increase in the number of homeless people among minority groups. It has been thus informed that 5 years ago, 10% of homeless people were from minority groups and that this number has now increased to 50%, although such groups only comprise 8% of the total population.

- ***Access to public places***

81. As previously indicated, the Danish Government has taken some steps to fight discrimination in access to bars, restaurants, discos, etc. In March 2005, the Copenhagen Police ran a two-week campaign to combat discrimination in access to public places such as discos, restaurants and bars, etc., in cooperation with some NGOs and the Danish Institute for Human Rights' Complaints Committee. ECRI notes however that this was a one-off campaign and that there appears to be no plans to carry out this type of campaigns on a regular basis and in other parts of the country.

Recommendations:

82. ECRI strongly recommends that any measures taken to ensure more multicultural neighbourhoods not have an adverse effect on minority groups by housing them in areas where they are, in fact, isolated. It moreover recommends that when members of minority groups are housed in new areas, they be given adequate financial and social support and that measures to promote neighbourly contacts be taken.

83. ECRI encourages the Danish Government in its endeavours to fight racial discrimination in access to public places and recommends that it carry out a long-term and consistent policy for addressing this problem. ECRI recommends in this regard that more awareness-raising campaigns be carried out and programmes implemented throughout the country.

84. ECRI strongly recommends that the Danish Government examine the cause of the disproportionately high number of homeless people among minority groups and find adequate solutions to this problem.

Antisemitism

85. ECRI deeply regrets the fact that Holocaust denial and revisionism are not a crime in Denmark. It has thus been brought to its attention that 90% of Nazi material and memorabilia as well as Holocaust denial material are published and manufactured in Denmark and sold in the rest of Europe, mainly in Russia. ECRI also notes with concern that as freedom of speech prevails in Denmark, antisemitic statements are not monitored. It has further been informed that although there are approximately 5000-6000 Jews in Denmark, very little research is carried out regarding their situation. As a positive matter, ECRI notes that since 2003, each year the Holocaust Memorial Day is commemorated in Denmark on the 27th of January.

Recommendations:

86. ECRI urges the Danish Government to forbid the public denial, trivialization, justification or condoning of the Holocaust as well as the production, publication and dissemination of Nazi memorabilia and Holocaust denial and revisionism material, as recommended in its General Policy No. 9 on the fight against antisemitism.³³

87. ECRI strongly recommends that the Danish Government ensures that antisemitic statements are duly monitored and punished under Article 266 b) of the Criminal Code. ECRI also recommends that research be carried out regarding the situation of the Jewish community in Denmark in order to combat antisemitism in all its forms. ECRI also recommends that the Holocaust be included in all school curricula.

Vulnerable groups

- *Muslims*

88. In its second report, noting with concern the climate surrounding Muslims and Islam in Denmark, ECRI recommended that the Danish Government undertake awareness-raising measures in the public sphere as well as in the education system to promote a more objective and informed perception of Muslims. ECRI also recommended that public opinion leaders promote a more informed and diverse image of Muslims and Islam.

89. ECRI notes with deep concern that the situation concerning Muslims in Denmark has worsened since its second report. ECRI has been informed that, apart from the above-mentioned discrimination that Muslims face together with other minority groups in areas such as employment, education and housing, politicians from some political parties such as the Danish People's Party and some media continue to make incendiary remarks about Muslims.³⁴ Although, in 2003, a number of cases of incitement to racial hatred in general, and against Muslims in particular were successfully prosecuted³⁵, ECRI notes that the police are generally reluctant to investigate complaints made by Muslims concerning hate speech directed against them. ECRI regrets in this regard that the lack of a

³³ CRI (2004) 37, see in particular paragraph e).

³⁴ For more information on the climate concerning minority groups in general, see "Specific issues" below.

³⁵ See, Intolerance and Discrimination against Muslims in the EU, Developments since September 11, Report by the International Helsinki Federation for Human Rights, March 2005, pp. 52-53.

strong message that would be sent by consistently prosecuting those who breach Article 266 b) of the Criminal Code has given some politicians free reign to create an atmosphere of suspicion and hatred towards Muslims. This problem is compounded by the fact that the media mostly interview those imams who express the most extreme views, thus confirming the image that is being given of Muslims as a threat to Danish society.³⁶ In September 2005, with the stated intention of verifying whether freedom of speech is respected in Denmark, a widely-read Danish newspaper³⁷ called on cartoonists to send in caricatures of the Prophet Mohammad; such drawings are considered to be offensive by many Muslims. This newspaper thus published 12 such cartoons, one of which portrayed the Prophet as a terrorist. The issue has caused widespread condemnation and a protest march was organised in Copenhagen as a result. The fact that, according to a survey carried out regarding the publication of these drawings, 56% of the respondents felt that it was acceptable is a testimony of the current climate in Denmark.³⁸ ECRI considers that the goal of opening a democratic debate on freedom of speech should be met without resorting to provocative acts that can only predictably elicit an emotional reaction. ECRI wishes to bring to the Danish Government's attention in this regard, that in its General Policy Recommendation No. 5 on combating intolerance and discrimination against Muslims, it calls on Member States to encourage debate within the media on the image which they convey of Islam and Muslim communities and on their responsibility in this respect in avoiding the perpetuation of prejudice and biased information.³⁹

90. In its second report, ECRI recommended that the Danish Government engage in discussions with representatives of the Muslim communities and consistently involve them in measures directed at improving the situation of Muslims.
91. ECRI welcomes the fact that the Danish Minister for Integration has begun to engage in a dialogue with members of the Muslim communities and that in April and September 2005, this Minister met with a group of Imams in order to involve them in ensuring that Muslim youth get an education and enter the job market. ECRI has also been informed that the Danish Prime Minister has met with representatives from the Muslim communities.

Recommendations:

92. ECRI urges the Danish Government to send a strong signal that incitement to racial hatred against Muslims will not be tolerated, by strengthening Article 266 b) of the Criminal Code to that end. It also strongly recommends that the Government carry out awareness-raising campaigns throughout the country, in which members of Muslim communities, NGOs, the media as well as members of local and national authorities are involved, in order to present a more objective and balanced view of Muslims and Islam and to foster a constructive debate on living in a plural society.
93. ECRI recommends that the Danish Government continue to meet with members of Muslim communities in order to work with them on issues of particular concern to Muslims such as, *inter alia*, access to education and employment.

³⁶ For more information on the role of the media in creating the current public mood, see "Specific issues" below.

³⁷ Jyllands-Posten.

³⁸ For more information on this question, see, " Specific issues" below

³⁹ See, CRI (2000) 21.

- **Roma**

94. Although there are no official figures, ECRI has been informed that there are at least between 1000 to 2000 Roma in Denmark. ECRI notes that Roma representatives consider that there is no place in Danish society for their culture, language or history. They thus deeply regret the fact that Roma are still not recognised as a national minority under the Framework Convention for the Protection of National Minorities, despite the fact that they have held several meetings with the Danish Government to that end. ECRI further considers it important that Roma should not be portrayed in a negative manner. It also notes with concern that there is widespread discrimination against Roma in, amongst others, the employment sector and that many of them are relegated to menial jobs. In this regard, ECRI wishes to bring to the Danish Government's attention its General Policy Recommendation No. 3 on combating discrimination and intolerance against Roma/Gypsies.⁴⁰
95. The biggest Roma population in Denmark is in the town of Helsingor where approximately 200 Roma families live. The Municipality of Helsingor established 3 classes where Roma children were segregated until a complaint was filed against this practice and it was deemed to be a violation of the Danish Act on Public Schools. Although ECRI welcomes the fact that these classes have now been closed, it is nevertheless worried by reports according to which some Roma children are currently being placed in "youth schools" (for 14 to 15 year olds who have left school), despite their parents' opposition to this measure which they consider to be detrimental to their children's education as there is a high level of delinquency in those classes. However, there are also more positive developments in Helsingor. As regards younger school children, the social services of Helsingor have for a year employed on a full-time basis two social workers whose job is to ensure that pupils go to school. This programme includes all children who missed school – both ethnic Dane and Roma children – and has proved to be successful.

Recommendations:

96. ECRI recommends that the Danish Government enhance Roma's cultural, historical and linguistic heritage by, *inter alia*, envisaging their recognition as a national minority under the Framework Convention for the Protection of National Minorities. ECRI also strongly recommends that Denmark combat all forms of educational segregation against Roma children as well as other forms of discrimination that Roma face, as indicated in its General Policy Recommendation No.3.

Conduct of law enforcement officials

97. Although, according to the Danish authorities, police officers receive some form of basic and on-going training on matters pertaining to relations with minority groups, this does not appear to be enough. In this regard, ECRI deeply regrets the fact that the police often make statements in the media about the disproportionately higher crime rate among youth from minority groups. The words "immigrant crime" have thus become a reoccurring theme, particularly when the media quote the police.
98. The Danish authorities have indicated that there is a complaints procedure for police misconduct, but that there are no statistics about the percentage of complaints filed by minority groups as this type of information is not recorded. As previously indicated, another problem that was consistently brought to ECRI's

⁴⁰ See, CRI (98) 29.

attention by minority representatives is the police's reluctance to bring charges, under Article 266 b) of the Criminal Code, against anyone who makes statements that are likely to incite racial hatred, despite the fact that this is a reoccurring problem.

Recommendations:

99. ECRI strongly recommends that the Danish Government provide basic and on-going training to police officers on issues pertaining to racism and racial discrimination. ECRI also recommends that disaggregated data be collected on the number of complaints of police misconduct filed by members of minority groups and that such complaints be duly followed up.

Monitoring the situation

100. In its second report, ECRI reiterated the importance of collecting data on, *inter alia*, complaints of racism and discrimination in various spheres of life. It stressed that such information should be gathered with due respect for the right to privacy and standards of data protection as well as with the free and informed consent of the people involved.
101. There is no established system in Denmark for collecting information on complaints of racism and racial discrimination. ECRI has been informed by the Danish Data Protection Agency (DDPA), that Article 10 of the Act on Processing of Personal Data⁴¹, allows the processing of ethnic data for the sole purpose of carrying out statistical or scientific studies of a significant social importance and where such processing is necessary in order to carry out these studies. There is no established system of ethnic data collection aimed at assessing the situation of minority groups in areas such as education, employment, housing and health and addressing past and present inequalities. However, data on members of immigrant groups is regularly collected on education, employment and housing. The DDPA has informed ECRI that it has received no complaints regarding the collection of ethnic data. ECRI notes with concern that the DDPA has requested that the Danish National Police Commissioner review the 443 alerts it had issued to the Schengen Information System on foreigners who are to be denied entry into the Schengen area. The DDPA thus found that the reporting had been erroneous in 5.6% of the cases and found other errors (such as failure to update the data) in 15% of the cases. It concluded that these error margins, which included cases of failure to comply with, *inter alia*, the Aliens' Act and the Act on Processing of Personal Data, were unacceptably high.

Recommendations:

102. ECRI recommends that the Danish Government establish and implement a system of ethnic data collection to assess and redress racial discrimination in full compliance with all the relevant national laws, including the Act on Processing of Personal Data Such, as well as European and international regulations and recommendations on data protection and the protection of privacy, as stated in ECRI General Policy Recommendation No.1 on combating racism, xenophobia, antisemitism and intolerance. The Danish Government should ensure that data collection is carried out with full respect for the anonymity and dignity of the people involved and in accordance with the principle of full consent. Furthermore, the data collection system on racism and racial discrimination

⁴¹ Act No. 429 of 31 May 2000. This Act implements Directive 95/46/EC of 24 October 1996 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

should take into consideration the gender dimension, particularly from the viewpoint of possible double or multiple discrimination.

II. SPECIFIC ISSUES

Climate of opinion

103. In its second report, ECRI expressed deep concern about the rise in xenophobia and intolerance in Denmark and stressed that acknowledging Denmark as a multicultural society would contribute to enabling all members of the Danish society to enjoy real equality in all areas of life.
104. ECRI notes with deep concern that, as indicated above, the climate in Denmark has worsened since its second report and that there is a pervasive atmosphere of intolerance and xenophobia against refugees, asylum seekers, as well as minority groups in general and Muslims in particular. The media, together with politicians play a major role in creating this atmosphere. As also previously indicated, members of the Danish People's Party, have, on several occasions, made shockingly racist statements in the media, without being suspended from this party. The police's reluctance to bring charges against those who incite racial hatred in accordance with Article 266 b) of the Criminal Code and the fact that freedom of expression is placed above all else have contributed to giving free reign to some politicians to make derogatory statements in the media about minority groups. Moreover, the fact that the Government depends on the Danish People's Party to maintain its coalition has given this party considerable leverage, which enables it to push through an anti-immigration agenda and to pass laws which in effect disproportionately disadvantage minority groups. The previously mentioned restrictions which have been introduced in, amongst others, the Aliens' Act, the Integration Act and the Nationality Act are a manifestation of this influence. As discussed above, these measures, which are presented as aiming to improve minority groups' integration into Danish society, in fact have a discriminatory effect that only serves to marginalise them further. ECRI has thus been informed that many members of minority groups who have the means to do so have left Denmark because of the current climate.
105. ECRI also notes with deep regret that the current atmosphere in Denmark is such that even initiatives which have, at the outset, a positive aim, such as the Minister of Culture's decision to create a committee on the best of Danish art and culture, is used as an opportunity to make derogatory remarks about minority groups. This project was thus presented by the Minister of Culture as a tool for fighting minority groups' negative influence on Danish society and he only retracted his statement after members of this Committee threatened to resign. He does not appear to have been charged with incitement to racial hatred under Article 266 b) of the Criminal Code. The relative impunity with which politicians in general and members of the Danish People's Party in particular regularly make incendiary statements against minority groups in the media, has contributed to worsening these groups' image with the majority of ethnic Danes. The general public is thus constantly given the impression that integration has failed and that minority groups are to blame as they do not wish to integrate. In this regard, parts of the media do not provide a forum in which minority groups who do not conform to these stereotypes can express themselves. Thus, the disproportionate space given in the media to negative stories about minority groups in general and Muslims in particular has succeeded in convincing many ethnic Danes that these groups are a threat to Danish society.
106. ECRI has also been informed that the fact that ethnic Danes are constantly confronted with negative images of minority groups has increased their level of intolerance to the point where there is a polarisation between those who try to

express a different opinion or to fight discrimination and parts of the Danish society. Although ethnic Danes do not consider that racism and discrimination are a problem in Denmark, a recent study has indicated that only 30% of ethnic Danes are interested in meeting members of other groups. It has also been brought to ECRI's attention that Denmark is still perceived as a homogenous society and that many ethnic Danes will go through the whole education system without ever meeting members of other ethnic groups. The media and politicians thus play a major role in forging their image of minority groups and ECRI deeply regrets the fact that they have unfortunately used this role to divide rather than to unite people. ECRI has also been informed that the onus is constantly placed on minority groups to integrate, to the point where this in actual fact amounts to an attempt to assimilate them. Therefore, any signs of being different are increasingly being perceived as resistance to integration. In this regard, the Danish Broadcasting Corporation will, for example close down its foreign language services. As with many of the measures mentioned above, this decision will in fact have the opposite effect to the stated aim of improving minority groups' integration, as members of these groups will now most likely turn to foreign radio and television stations. In conclusion, ECRI reiterates that the onus is on the political leadership as well as those who transmit their message, namely the media to ensure that equality between all members of society is brought about by inclusion and mutual respect.

Recommendations:

107. ECRI urges the Danish Government to give a more balanced view of issues pertaining to minority groups and their role in Danish society. It also urges the Government to send a strong message that incitement to racial hatred will not be tolerated by ensuring that those who commit such acts are consistently prosecuted in accordance with the Criminal Code. ECRI strongly recommends that awareness-raising campaigns be carried out on the benefits of a multicultural society, and that members of minority groups, relevant NGOs as well national and local authorities work together at all stages of these campaigns. ECRI also wishes to bring to the Government's attention the principles contained in the Charter of European Political Parties for a Non-Racist Society and in its Declaration on the use of racist, antisemitic and xenophobic elements in political discourse.
108. ECRI strongly recommends that the Danish Government encourage and provide financial support to initiatives aimed at training journalists on issues pertaining to human rights in general and to racism and racial discrimination in particular.

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