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

### **Second Opinion on Denmark, adopted on 09 December 2004**

#### **EXECUTIVE SUMMARY**

The German minority in Denmark enjoys a commendable level of protection in terms of the system of German minority schools and day care facilities and the consultative structure established for the German minority through the Secretariat of the German Minority in Copenhagen and the Liaison Committee concerning the German minority.

There are, however, current concerns, which need to be addressed by the authorities, about proposed administrative reforms and the impact that these could have on the political representation of persons belonging to the German minority at municipal and regional levels as well as at the level of the Region South-Jutland Schleswig.

There have been significant improvements to the anti-discrimination legal framework in Denmark, notably through the adoption of the Act on Ethnic Equal Treatment. Intolerance, however, remains an issue which needs to be addressed further, *inter alia*, in the political arena as well as in certain media. Legislation such as the reform of the Aliens Act, and policy, such as the Government's policy towards integration, may contribute to a climate of intolerance towards different ethnic and religious groups and should be reviewed as necessary, taking into account, at the same time, the need to tackle discrimination.

The Government is encouraged, following discussions with those concerned, to re-consider its position concerning the personal scope of application of the Framework Convention.

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## **SECOND OPINION ON DENMARK**

1. The Advisory Committee adopted the present Opinion on 9 December 2004 in accordance with Article 26 (1) of the Framework Convention and Rule 23 of Resolution (97) 10 of the Committee of Ministers. The findings are based on information contained in the State Report (hereinafter the State Report), received on 14 May 2004, and other written sources and on information obtained by the Advisory Committee from governmental and non-governmental contacts during its visit to Aabenraa and Copenhagen from 1–4 November 2004.
2. Section I below contains the Advisory Committee's main findings on key issues pertaining to the implementation of the Framework Convention in Denmark. These findings reflect the more detailed article-by-article findings contained in Section II, which covers those provisions of the Framework Convention on which the Advisory Committee has substantive issues to raise.
3. Both sections make extensive reference to the follow-up given to the findings of the first cycle of monitoring of the Framework Convention, contained in the Advisory Committee's first Opinion on Denmark, adopted on 22 September 2000, and in the Committee of Ministers' corresponding Resolution, adopted on 31 October 2001.
4. The concluding remarks, contained in Section III, could serve as the basis for the Committee of Ministers' forthcoming conclusions and recommendations on Denmark.
5. The Advisory Committee looks forward to continuing its dialogue with the authorities of Denmark as well as with representatives of national minorities and others involved in the implementation of the Framework Convention. In order to promote an inclusive and transparent process, the Advisory Committee strongly encourages the authorities to make the present Opinion public upon its receipt.

## I. MAIN FINDINGS

### **Monitoring process**

6. The results of the first monitoring cycle in respect of Denmark were discussed in March 2002 at a meeting of the Liaison Committee concerning the German minority. As a result of this meeting, a working group to facilitate continuous follow-up and discussion on the implementation of both the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages was established, comprising representatives of a number of Ministries and the German minority. This is a welcome step, although it is noted that no specific follow-up activity in Denmark, involving the Advisory Committee and a wider group of concerned persons, was organised between the first and second monitoring cycles. Such follow-up activities contribute greatly to the dialogue and it is important that the opportunity for such a follow-up in Denmark is not lost during the second cycle of monitoring.

7. It is welcomed that the Danish authorities have recognised in the State Report that the Advisory Committee's Opinion and the Committee of Ministers' Resolution "could probably be disseminated in a better and more publicly-oriented manner" and that the authorities have as a result expanded their website to include more information on national minority issues. Regrettably, however, the opinion of the Advisory Committee and the Committee of Ministers' Resolution from the first cycle have not been translated into either Danish or German.

8. It is welcomed that in the preparation of the second State Report that the Danish Government consulted the German Minority's Secretariat in Copenhagen. It is, however, regretted that wider consultation leading to a more inclusive process did not take place with representatives of civil society and other groups concerned by the application of the Framework Convention in Denmark.

### **General legislative framework**

9. The Advisory Committee notes that there are few provisions in domestic law relating directly to national minorities. That said, since the adoption of the first Opinion in respect of Denmark, there have been significant improvements to the anti-discrimination legal framework in Denmark, notably through the adoption of the Act on Ethnic Equal Treatment (Act No. 374 of 28 May 2003) which forbids discrimination on the grounds of race or ethnic origin in a number of societal settings.

10. At the same time, there has been legislation introduced which has been criticised for possibly having a negative impact on the promotion of mutual respect and understanding and co-operation among persons living on the territory of Denmark. This is particularly the case in respect of the Aliens Act 2002 and its amendments.

11. Draft legislation concerning administrative reforms is under preparation. Central to these reforms is the need to enjoy greater economies of scale in local administration through the reduction of the number of municipalities and regional authorities. Proposals are under discussion between the authorities and the German minority to ensure that the reforms do not have an adverse impact on the political representation of the German minority at the regional and municipal level and the cross-border regional level, and to ensure that the reforms do not lead to a reduction in the enjoyment of other rights under the Framework Convention.

### **Personal scope of application of the Framework Convention**

12. The Danish authorities maintain the position that the Framework Convention for the Protection of National Minorities applies only to the German minority in South Jutland.

13. In relation to Greenlanders and Faeroese, the Home Rule Governments have stated clearly that they do not consider the Framework Convention to apply to Greenlanders in Greenland and Faeroese in the Faeroe Islands. No representations to the contrary have been made by persons living on these territories and the Advisory Committee understands that there is no call at this moment in time to apply the Framework Convention to persons belonging to these groups.

14. In relation to Greenlanders and Faeroese living in mainland Denmark and Danes living in Greenland and the Faeroe Islands, the authorities have not sought to ascertain from persons belonging to these groups whether they have an interest in the protection offered under the Framework Convention. The authorities are encouraged to examine this matter further with those persons concerned.

15. In relation to the Roma, it is noted that according to the Government, Roma in Denmark comprise two main groups, namely those arriving at the end of the 1960s and those fleeing the wars in the former Yugoslavia. According to representatives of the Roma, the Roma have had historical ties with Denmark going back to the 16<sup>th</sup> Century. The Government considers, however, that those Roma who took up residence in Denmark prior to 1960 have been completely integrated.

16. It can be noted that persons belonging to the Roma community, as in other parts of Europe, face particular problems, including discrimination and social exclusion, and that they wish to express, preserve and develop their identity in line with the Framework Convention. The Advisory Committee, in line with its conclusions of the first monitoring cycle, considers that the Danish authorities should continue their dialogue on the possible extension of the personal scope of application to Roma. Pending further progress on this issue, the authorities are encouraged to take the basic principles of the Framework Convention into account in their legislation, policies and practices in relation to the Roma.

17. In respect of the application of the Framework Convention to persons belonging to the German minority outside of South Jutland, the Advisory Committee recognises the current lack of demand from persons belonging to the German minority but considers that the Framework Convention could have an application to persons belonging to this group outside of South Jutland.

### **Anti-discrimination legislation**

18. There has been welcome progress in developing anti-discrimination legislation, notably in relation to the passing of the Act on Ethnic Equal Treatment (Act No. 374 of 28 May 2003). This legislation, reflecting the principles of Articles 4 and 6 of the Framework Convention, provides additional safeguards against discrimination on the grounds of race or ethnic origin in a number of societal settings. A further positive development has been the establishment of the Danish Institute for Human Rights along with its Complaints Committee for processing cases and providing opinions on whether there have been contraventions of the prohibition against discrimination.

19. The Government is encouraged to keep under review the operation and functioning of this new legislation and the effectiveness of the Complaints Committee ensuring that this Committee has sufficient powers and funding to carry out its work as it grows.

## **Tolerance**

20. Denmark has a tradition for tolerance and respect for others. Notwithstanding this tradition, a strong seam of intolerance has developed in Danish society, particularly towards immigrants and also Muslims. This has led to prosecutions and convictions under anti-hate speech provisions under Section 266 b of the Danish Criminal Code. There are particular concerns about the introduction of an anti-immigrant agenda in the political arena. Concerns also exist about the way in which certain media portray persons from different ethnic and religious groups<sup>1</sup>, including members of the Muslim faith.

21. The policy and practice of the Government towards immigration, as evidenced by the reform of the Aliens Act, may have contributed to an increase in hostility towards persons belonging to different ethnic and religious groups. The Government's policy towards integration, while following a laudable aim, has been criticised for not sufficiently taking into account the problems, including discrimination, faced by persons from different ethnic and religious groups.

22. The Government is invited to further its efforts to tackle intolerance in society and to reconsider its immigration and integration policy in the light of any discrimination revealed and hostility generated towards persons from different ethnic and religious groups. It is invited to ensure that the integration policy be adapted to take fully into account the problems, including discrimination, faced by persons from different ethnic and religious groups.

## **Roma education**

23. The teaching of Roma children with an especially high rate of absenteeism in separate Roma classes has been held to be not in accordance with the law. In consequence two out of three of these classes have been closed down by the Municipality of Elsinore.

24. Such classes for Roma children raise issues of compatibility with the Framework Convention and the authorities should find an alternative solution for the remaining open class.

## **Danish National Church**

25. The system of State support for the Danish National Church raises issues of equality of treatment with respect to other religions under Article 4 of the Framework Convention. The authorities are encouraged to review this issue.

26. Persons not belonging to the Danish National Church, outside of South Jutland, are required to register names at birth with the Danish National Church. This could pose an issue of conscience for persons not belonging to the Danish National Church. The authorities are invited to examine this issue further.

## **Knowledge of the culture, history, language and religion**

27. Persons belonging to the German minority and other ethnic and religious groups have complained that more could be done to reflect their culture, history, language and religion in the curriculum and textbooks in schools. The authorities are encouraged to examine this issue with the

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<sup>1</sup> The use of the term "ethnic and religious groups or minorities" in this Opinion is not in any way meant to restrict the scope of the term "national minority".

persons concerned with a view to ensuring that their contribution to society is adequately reflected in the curriculum and in textbooks.

28. Concerns have been raised over alleged undue restrictions placed on the use by children of their mother tongue in kindergartens. The authorities are encouraged to look into this matter, taking full account of Article 30 of the United Nations' Convention on the Rights of the Child, with a view to verifying if a problem exists and taking appropriate measures as necessary.

### **Media in German**

29. While the German minority benefits from a large range of printed media as well as radio and television broadcasting from neighbouring Germany, there is little radio and television broadcasting in German within Denmark.

30. Concerning radio broadcasting, the authorities have indicated that it is open to the German minority to request a radio licence. The Advisory Committee, however, understands that the German minority would, at the moment, prefer a window in local public sector radio broadcasting or financial support for language news bulletins currently being broadcast on the private regional radio station Radio *Mojn*. The Advisory Committee encourages the authorities to examine if support can be given to either of these two options.

31. Concerning television broadcasting, there is an interest from both the German minority and the local public sector broadcasting channel to produce a greater number of programmes in German and for the German minority. The authorities are encouraged to examine whether additional funding could be made available to the local public sector broadcaster to reflect the additional costs involved in preparing programmes in Danish/German.

### **Use of German (administrative authorities and public signs)**

32. There is no official framework for the use of German with the administrative authorities although in practice many persons within the administration have knowledge of German. The local authorities should be encouraged to facilitate the use of German with the administrative authorities as possibilities for so doing already exist.

33. Traditional local names, street names and other topographical indications in Denmark are all in Danish. The authorities are, however, encouraged to give due consideration to possible demands from persons belonging to the German minority for the display of bilingual signs in South Jutland.

34. The Advisory Committee considers that facilitating the use of German with the administrative authorities and providing bilingual signs are important facets of public recognition and acceptance towards the existence of the German minority in South Jutland and reflect the special nature and character of the borderland region of South Jutland. As such, they are to be encouraged.

### **Consultative structures**

35. The consultative structures set up for the German minority play an essential and effective part in the dialogue that exists between the German minority, the Government and the Parliament. Central to this is the Liaison Committee concerning the German minority and the Secretariat of the German Minority set up in Copenhagen. The Working Group appointed to facilitate continuous follow-up and discussion on the implementation of the Framework Convention and the European

Charter for Regional or Minority Languages is also in a position to provide a valuable contribution to this dialogue. Full support should continue to be offered to these structures. These structures could also provide inspiration for developing further mechanisms for intercultural dialogue with other ethnic and religious groups.

### **Proposed administrative reforms**

36. Persons belonging to the German minority are concerned by the possible impact of proposed administrative reforms. These reforms are likely to affect their level of political representation at regional level and municipal level. They fear that this will lead to a reduction of their political influence and that the movement of the administrative centres away from the border region will further reduce their influence. They are also concerned that the proposed reforms may have an adverse impact on the current Danish/German Region South-Jutland Schleswig where they are currently represented. They also fear that lack of representation will adversely affect their ability to safeguard certain other matters such as funding for their schools and day care centres (kindergartens).

37. The Government is aware of these concerns and is in close contact with the German minority on this matter. The Government has made a number of proposals, *inter alia*, to facilitate the participation of the German minority in political affairs at the municipal and also the regional and cross-border levels. These proposals which introduce special rights for persons belonging to the German minority are to be welcomed, but further discussion on these is needed, in particular concerning voting rights on seats at municipal level, to ensure that the proposed reforms do not have an adverse impact on the effective participation of persons belonging to the German minority in public affairs affecting them.

## II. ARTICLE-BY-ARTICLE FINDINGS

### ARTICLE 3 OF THE FRAMEWORK CONVENTION

#### **German minority**

##### *Findings of the first cycle*

38. The Advisory Committee in its first Opinion on Denmark considered that persons belonging to the German minority but living outside the area of Southern Jutland cannot *a priori* be excluded from the personal scope of application of the Framework Convention. The Committee of Ministers in its Resolution considered that the issue merits further consideration by the Government with those concerned.

##### *Present situation*

##### Outstanding issues

39. According to information received by the Advisory Committee, persons belonging to the German minority do not, in principle, seek the protection of the Framework Convention outside their area of traditional inhabitancy, namely South Jutland. This is in part a reflection of the strong desire of persons belonging to this group to safeguard their identity, which they consider to be closely linked to the history and culture of the borderland region of South Jutland. Persons belonging to the German minority have, however, indicated that if the proposed administrative reforms (see under Article 15 below) have the effect of impacting on their identity within the new administrative region, they would need to re-examine their demands.

40. The Advisory Committee understands the position of persons belonging to the German minority who want to ensure first and foremost their traditional identity in the borderland region. The Advisory Committee is, however, conscious that increased mobility, including for education and work, as well as the possible impact of the proposed administrative reforms, could create new difficulties for persons belonging to the German minority keeping their language and culture alive in the region of South Jutland.

##### *Recommendations*

41. The Advisory Committee, while noting the lack of demand for application of the Framework Convention to persons belonging to the German minority outside of South Jutland, considers that the Framework Convention could have an application outside of South Jutland and recommends that the Government should keep this possibility in mind.

#### **Greenlanders and Faeroese and Danes living in Greenland and the Faeroe Islands**

##### *Findings of the first cycle*

42. In its first Opinion on Denmark, the Advisory Committee considered that the *a priori* exclusion of Greenlanders and Faeroese from the implementation of the Framework Convention was not compatible with the Framework Convention. The Committee of Ministers in its Resolution considered that the issue merits further consideration by the Government with those concerned.

*Present situation*

a) Positive developments

43. The Danish Government approached both the Faeroese and the Greenland Home Rule Governments in order to obtain their respective views on the status of the Faeroe Islands and Greenland under the Framework Convention. In written replies, both Home Rule Governments have stated clearly that they do not consider that the Framework Convention applies to the people of the Faeroe Islands and Greenland living within their respective territories. In the absence of representations to the contrary from persons belonging to these groups, the Advisory Committee understands that there is no reason at this stage to apply the Framework Convention to them in these areas. Should, however, there be a will manifested in the future by persons belonging to these groups, the Advisory Committee considers that the matter should be examined by the authorities along with the persons concerned.

b) Outstanding issues

44. The application of the Framework Convention to Danes living in the Faeroe Islands and in Greenland remains an issue. There also remains an issue concerning the application of the Framework Convention to Greenlanders and Faeroese living in mainland Denmark.

45. It can be noted from the State Report, that the Faeroese authorities have requested the Danish authorities to contact "Faeroese associations in Denmark with a view to clarifying the extent to which the Council of Europe's Framework Convention on Minorities applies to the national Faeroese minority in Denmark". The Danish Government has not done this<sup>2</sup>. Neither has it contacted persons belonging to the Greenlander community. Similarly no discussions have been held with Danes in Greenland or in the Faeroe Islands.

46. The Advisory Committee notes that notwithstanding the lack of progress on discussions concerning the personal scope of application referred to above, a number of steps have been taken in relation to Greenlanders in mainland Denmark which are within the spirit of the Framework Convention. These include research into the situation of Greenlanders in mainland Denmark and an increase in funding for activities and actions in favour of persons belonging to this group.

*Recommendations*

47. The Advisory Committee considers that the relevant authorities should inform Greenlanders and Faeroese living in mainland Denmark about the Framework Convention. The same applies to Danes living in Greenland and the Faeroe Islands. The relevant authorities are invited to find out from them if they have an interest in the protection offered by the Framework Convention. In the light of these discussions the Danish authorities are invited to re-examine, if necessary, their position concerning the personal scope of application of the Framework Convention to persons belonging to these groups.

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<sup>2</sup> The Advisory Committee did have contacts during its visit with a number of Faeroese living in mainland Denmark who did not express an interest in protection under the Framework Convention. The Advisory Committee, however, considers that these individual contacts should not relieve the responsibility on the Danish Government to have a more informed discussion with Faeroese living in mainland Denmark, in particular as this has been requested by the Faeroese authorities.

## Roma

### *Findings of the first cycle*

48. The Advisory Committee in its first Opinion on Denmark considered that given the historic presence of Roma in Denmark, persons belonging to the Roma community cannot *a priori* be excluded from the personal scope of application of the Framework Convention. The Committee of Ministers in its Resolution considered that the issue merits further consideration by the Government with those concerned.

### *Present situation*

#### a) Positive developments

49. The Danish authorities have had a discussion on the issue of recognition of Roma in Denmark with representatives of the Roma community.

#### b) Outstanding issues

50. Notwithstanding this discussion, and the representations made by representatives of Roma as to their historical presence going back to the 16<sup>th</sup> Century and their desire for protection under the Framework Convention, the Advisory Committee understands that the Danish authorities are unwilling to grant protection to the Roma under the Framework Convention.

51. According to the Danish authorities the Roma in Denmark can be divided into two main groups, namely those arriving at the end of the 1960s and those fleeing the wars in former Yugoslavia in the 1990s. The authorities maintain that those Roma who took up residence prior to the 1960s have been completely integrated and do not emerge as an identifiable group. The authorities indicate that they are prepared to consider and evaluate any other material information on Roma in Denmark that may be made available.

52. The Advisory Committee considers that there is evidence of a historical presence of Roma in Denmark. There is also a clear indication from persons belonging to the Roma community that they would like protection under the Framework Convention, and, as noted also by the Council of Europe Commissioner for Human Rights, there is a renewed eagerness of Roma in Denmark to maintain and rejuvenate the Roma culture, language and traditions<sup>3</sup>. The Advisory Committee considers that the Roma are in a unique position in both western and eastern Europe. Most European countries recognise the Roma as a national minority. While they are not a homogeneous group, they share and maintain certain common elements of their identity making them the largest minority in Europe. The Roma do not have the benefit of support from a kin-State and the results of the first monitoring cycle under the Framework Convention demonstrate clearly that throughout Europe they experience social exclusion and are in special need of protection under the Framework Convention.

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<sup>3</sup> See Report by Mr Alvaro Gil-Robles, Commissioner for Human Rights, on his visit to Denmark, 13<sup>th</sup> – 16<sup>th</sup> April 2004 (CommDH(2004)12 paras. 35 and 36)

### *Recommendations*

53. The Advisory Committee echoes its conclusions of the first monitoring cycle that persons belonging to the Roma community should not *a priori* be excluded from the personal scope of application of the Framework Convention.

54. The authorities are encouraged to further their dialogue with the Roma on the possible extension of the personal scope of application of the Framework Convention. Pending further progress on this issue, the authorities are encouraged to take the basic principles of the Framework Convention into account in their legislation, policies and practice in relation to the Roma.

### **Collection of statistics**

#### *Present situation*

##### **Outstanding issues**

55. Statistical information in Denmark is almost exclusively based on information that is recorded in the Government's Central Population Register. This register contains no information on ethnic groups, religion or language, with certain exceptions such as in relation to citizens of foreign countries, persons born outside of Denmark and information on whether a person is a member of the Danish National Church.

56. The Advisory Committee notes that the Government considers that there is in general no need for a census in Denmark as the Central Population Register generally contains all the information that the Danish authorities need.

57. The Advisory Committee notes that there is no official data on the size of the German minority although estimates range from 12,000 to 20,000 people. The Advisory Committee notes that there is no official data on the size of the Roma population either.

58. The Advisory Committee understands that there is some confusion within society over the procedure and legality of collecting and using ethnicity data.

59. The Advisory Committee welcomes that the Danish Institute for Human Rights is tackling one aspect of this problem by raising awareness about how ethnicity data can be used in the workplace to tackle discrimination and has published a leaflet on this subject together with the Ministry of Employment.

60. The Advisory Committee considers that reliable statistical data on ethnicity, broken down by age, gender and location are essential for targeting, implementing and monitoring measures to ensure full and effective equality. Without such data it is difficult for the State and civil society to operate effectively and for international bodies to ascertain whether Denmark meets its obligations flowing from the Framework Convention.

61. The Advisory Committee considers that there is a need for greater clarity as to the rules concerning the collection and use of ethnicity data in Denmark. The Advisory Committee highlights in this respect that the principles identified in the Committee of Ministers' Recommendation (97) 18 concerning the protection of personal data collected and processed for statistical purposes need to

be respected, along with the principle of voluntary self identification under Article 3 of the Framework Convention.

*Recommendations*

62. The Advisory Committee recommends that the authorities should seek means of obtaining more reliable ethnicity data broken down by age, gender and location and that further clarification should be provided for those wishing to collect or use such data on the rules, regulations and exceptions to the collection of such data.

## **ARTICLE 4 OF THE FRAMEWORK CONVENTION**

### **Anti-discrimination legislation**

*Findings of the first cycle*

63. The Advisory Committee in the first monitoring cycle considered that the Danish Government should examine its legislation in order to ensure that effective remedies are available to all persons who suffer from discrimination, both by public authorities and private entities.

*Present situation*

Positive developments

64. The Advisory Committee welcomes that as part of the transposition into Danish law of Council Directive (2000/43/EC) on implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, that new legislation has been introduced to provide additional safeguards against discrimination on the grounds of race or ethnic origin.

65. The Act on Ethnic Equal Treatment (Act No. 374 of 28 May 2003) forbids discrimination on the grounds of race or ethnic origin in a number of societal settings. The act also forbids reprisals as a result of complaints against discrimination.

66. The act applies to all public and private enterprises and, *inter alia*, activities concerning social protection, including social insurance and healthcare, social benefits, education and access to and supply of goods and services, including homes. The act also applies to membership of and participation in certain organisations. It contains provisions concerning the sharing of the burden of proof in cases concerning discrimination and the right to compensation for non-financial losses. The act also strengthens the role of the Institute for Human Rights in terms of its powers to process specific complaints and express opinions on the complaints concerning discriminatory treatment under the Act (see also below, The Danish Institute for Human Rights).

*Recommendations*

67. The Advisory Committee recognises that it is too early to analyse the operation and functioning of this new legislation. It does, however, encourage the authorities to keep a dialogue open with the persons and groups most concerned by the legislation as part of a process of onward going evaluation of the effectiveness of the anti-discrimination legislation and its contribution towards encouraging a spirit of tolerance and intercultural dialogue in Denmark (see also under Article 6 below).

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

### *Present situation*

#### a) Positive developments

68. The Advisory Committee welcomes the passing of the Act on the Establishment of the Danish Centre for International Studies and Human Rights (Act No. 411 of 6 June 2002) which establishes within this Centre, the Danish Institute for Human Rights. The Danish Institute for Human Rights has an important role to play in terms of promoting equal treatment of all people regardless of race or ethnic origin. It provides assistance in handling complaints of victims of discrimination, launches independent inquiries into discrimination and publishes reports and submits recommendations in matters regarding discrimination.

69. As has been noted (see above, Anti-discrimination legislation), the Act on Ethnic Equal Treatment has given the Danish Institute for Human Rights additional responsibilities in terms of processing complaints concerning discriminatory treatment and providing opinions on whether there have been contraventions of the prohibition against discrimination and the prohibition against reprisals.

#### b) Outstanding issues

70. The Danish Institute for Human Rights has a wide range of duties, which will undoubtedly increase in importance, in particular with regard to the individual complaints procedure. The Institute will need additional resources to cope with the growing demands placed on it in this respect. It will also need to ensure that there is no duplication and overlap with the Danish Ombudsman in the individual cases examined by the Ombudsman's Office.

71. The Advisory Committee notes that the Complaints Committee lacks the power to enforce disclosure of material information on a case, and that the Complaints Committee can not address direct discrimination on the grounds of religion unless it can be perceived as indirect discrimination on the grounds of race or ethnic origin. The Advisory Committee is aware that there have been calls to remedy these two perceived weaknesses in the functioning of the Complaints Committee.

72. The Advisory Committee considers that within the Danish Institute for Human Rights, the National Department can play an important role in helping to implement the spirit of the Framework Convention in Denmark, in particular for persons belonging to ethnic or religious groups that would like the protection offered by the Convention.

### *Recommendations*

73. The Advisory Committee considers that the Government should keep under review the financial needs of the Danish Institute in view of its important and developing tasks and examine the calls for the Complaints Committee to have the power to enforce disclosure and the competence to look at issues of discrimination on the grounds of religion.

## ARTICLE 6 OF THE FRAMEWORK CONVENTION

### Tolerance

#### *Findings of the first cycle*

74. In its first Opinion the Advisory Committee expressed concern about information on intolerant attitudes in Danish society.

#### *Present situation*

##### a) Positive developments

75. Denmark has a tradition of tolerance and respect for others. The Advisory Committee recognises the importance that the Danish Government attaches to this tradition. This is evidenced by certain steps it has taken to tackle discrimination and manifestations of intolerance through, for example, the non-discrimination legislative framework (see comments under Article 4 above). The Government has also developed an action plan for the promotion of equality of treatment and diversity and for the combating of racism and it provides financial support for projects intended to promote diversity.

##### b) Outstanding issues

76. The Advisory Committee recalls that Article 6 of the Framework Convention has a wide personal scope of application, covering, among others, asylum seekers and persons belonging to other groups that have not traditionally inhabited the country concerned.

77. Notwithstanding the tradition of tolerance and respect for others referred to above, the Advisory Committee is concerned at the existence of a strong seam of intolerance that has developed amongst a small but strong segment within Danish society. This has lead to the introduction of an anti-immigrant agenda in the political arena and has led to an upsurge of intolerance particularly against Muslims and Arabs as well as the Roma. This has been reported by a number of national and international sources and has been reported directly to the Advisory Committee during its visit to Denmark. The Advisory Committee is also aware of the prominence given to anti-immigrant statements in the public field, including by certain politicians, leading to a number of prosecutions and convictions under anti-hate speech provisions under Section 266 b of the Danish Criminal Code.

78. The Advisory Committee considers that politicians and political parties must live up fully to their responsibility for promoting tolerance while refraining from words or action likely to stoke up any form of racism, xenophobia or hatred<sup>4</sup>.

79. There is concern raised in some quarters that some Danish media share responsibility in promoting xenophobic and intolerant ideas (see also below, Portrayal of minorities in the media). There is also concern that more could be done to promote intercultural dialogue by the reflection of the culture, history, language and religion of persons belonging to different ethnic and religious groups in the curriculum and textbooks used in schools (see also under Article 12 below).

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<sup>4</sup> See also in this respect the findings of the United Nations Committee on the Elimination of Racial Discrimination (paragraph 10, CERD/C/60/CO/5 (Concluding Observations/Comments)).

80. The Advisory Committee is concerned not only about the more extreme manifestations of intolerance but also by the climate of hostility that surrounds the issue of immigration.

81. The Advisory Committee notes that, in the current political and social climate in Denmark, there are criticisms of the Government in its attempts to curb immigration and further integration. In relation to immigration there has been criticism at the national and international level<sup>5</sup> of the reform of the Aliens Act including, *inter alia*, certain provisions restricting the right to family reunion.

82. Concerning integration, the Advisory Committee notes the central role that the Government's "Vision and strategies for improved integration" has on policy development in this field. The Government in its work in this area draws on the work of the Think Tank on Integration in Denmark.

83. The Advisory Committee notes that the Government's vision and strategy has a strong focus on education and training, using vocational training and economic incentives to enhance foreigners' active participation in the Danish labour market.

84. The Advisory Committee is aware that this vision and strategy has become the subject of criticism from various ethnic and religious groups and civil society bodies. Concerns have been expressed about dangers, including prejudices that could emerge if this strategy and vision is implemented without proper attention to the existing barriers of discrimination against persons belonging to different ethnic and religious groups. The strategy has also been criticised by some who consider that it goes a step further than integration, leading to a process of assimilation against the will of those concerned.

85. The Advisory Committee, in noting the above concerns, is of the view that this strategy should place a greater emphasis on the positive contribution that foreigner's participation in society, including in the labour market, could make.

86. The Advisory Committee is aware that there are complaints from various sectors of civil society that the Government is not open to criticism and dialogue on the above mentioned issues and that the Government has allegedly responded to criticism by reducing or cutting funding to organisations critical of the Government or sidelining organisations or persons deemed to be unfriendly from consultations or dialogue with the Government.

87. Lack of funding appears to be a recurrent issue for certain groups such as the Roma, who have particular needs in tackling issues of tolerance, discrimination and intercultural dialogue. They struggle to find funding for any projects, whether these are to open an office, provide legal advice and assistance, or carry out research on issues of importance to them.

88. The Advisory Committee is also aware that a solution has still not been found for the opening of the first full-scale mosque in Denmark, a matter that risks undermining intercultural dialogue with persons belonging to the Muslim faith.

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<sup>5</sup> See in this respect the Report by Mr Alvaro Gil-Robles, Commissioner for Human Rights on his visit to Denmark 13<sup>th</sup> – 16<sup>th</sup> April 2004 (CommDH (2004) 12) Paras. 4 – 19.

*Recommendations*

89. The Advisory Committee considers it important that the Government takes all necessary steps to deal with manifestations of intolerance and xenophobia and uses fully the tools it has available to it to counter these phenomena, including through encouraging the greater use of criminal provisions against hate speech under Article 266 b of the Criminal Code. The Advisory Committee reiterates that politicians and political parties must live up fully to their responsibility for promoting tolerance while refraining from words or actions likely to stoke up any form of racism, xenophobia or hatred.

90. The Advisory Committee considers that the authorities should remain open and sensitive to criticism of the Aliens legislation and the integration strategy, in particular from the parties most affected. The Government should be ready to revise legislation, policy and practice where it is shown to be discriminatory or where it results in an increase in hostility towards immigrants, asylum seekers and refugees. The Government should also be ready to make revisions where the results run counter to the aim of better integration or indeed when they may be shown to lead towards a process of assimilation against the will of the persons concerned.

91. The Advisory Committee furthermore considers that the Danish Government has an important responsibility to conduct a dialogue in this sensitive area of immigration and integration and the authorities should not exclude from dialogue or funding those most critical.

92. The Government is encouraged to examine how it can give support, including financial support, to Roma organisations.

93. The Advisory Committee encourages the authorities to make further efforts to find a solution for establishing the first full-scale mosque in Denmark.

**Portrayal of minorities in the media**

*Present situation*

a) Positive developments

94. The Advisory Committee considers that Danish media overall displays a professional attitude towards the portrayal of persons belonging to different ethnic or religious groups in the media.

95. As an example of good practice, the Advisory Committee notes the initiative of the Danish School of Journalism to introduce a two-year diploma course in journalism for persons from different ethnic backgrounds. The inclusion of persons from different ethnic and religious backgrounds in the media can but have a positive influence on reporting and coverage of issues relevant to different ethnic and religious groups in the media.

b) Outstanding issues

96. Notwithstanding the overall professional attitude of Danish media, there are reported incidents of certain media promoting xenophobic and intolerant ideas which contribute to a climate of hostility towards persons belonging to immigrant groups such as the Somali, as well as persons belonging to the Muslim communities.

97. There is a concern about incidents of negative stereotyping in the media, as well as a concern that there is not sufficient coverage about the positive contribution that persons belonging to different ethnic and religious groups make to Danish society in general.

98. To tackle these complaints, the Advisory Committee considers that, where relevant, persons concerned could make greater use of the Press Council, which deals with complaints against the Press. The Press Council itself could, through its power to take up matters of its own volition, also take on a more active role.

99. The Advisory Committee considers that the media not only has a major role in encouraging a spirit of tolerance and intercultural dialogue, but it also holds one of the essential keys for the preservation and promotion of the culture of persons belonging to different ethnic and religious groups.

100. Persons belonging to the German minority has, for example, complained about their near invisibility in the Danish media. The Advisory Committee considers this regrettable as the German minority, together with their culture and language, create an important economic, social and cultural bridge with neighbouring Germany.

101. Other groups have also expressed the need for greater access to the media to promote their own culture and language, and understanding of these within society at large. The Roma have been particularly vocal in expressing their needs on this front.

#### *Recommendations*

102. The Advisory Committee considers that the media itself has a responsibility to promote tolerance, safeguard against xenophobia and intolerance in the media and to avoid stereotyping and negative portrayal of persons belonging to different ethnic and religious groups in the media.

103. Further awareness raising of these issues amongst journalists is recommended. Entry into the media profession of persons belonging to different ethnic and religious groups should be encouraged as should the greater use of minority sources in the preparation of media material.

### **Roma education**

#### *Present situation*

#### *Outstanding issues*

104. The Advisory Committee is aware that for a number of years the Municipality of Elsinore has run special classes for Roma children. According to the Municipality, these Roma children have been put in these classes because of their high rate of absenteeism from school. Following a complaint lodged by a Roma organisation, the Ministry of Education advised, in May 2004, that these classes were not in accordance with legislation for the primary and lower secondary level. This advice was confirmed by the Local Government Office of the County of Copenhagen (*Statsamt*) Legal Control of Municipalities and County Authorities on 13 September 2004.

105. The Advisory Committee understands that two out of three of these classes have now been closed, but that one class, containing pupils from 7<sup>th</sup> form and above, has continued and that the

City Council has applied for an exemption from the Ministry of Education to continue the class until all pupils have completed their compulsory education.

106. The Advisory Committee, while understanding the difficulty of dealing with absenteeism, considers that the creation of these classes only for Roma raises issues under the Framework Convention. In terms of the operation and functioning of these classes, the Advisory Committee has concerns about the equality of education of pupils in these classes<sup>6</sup>. According to the information received by the Advisory Committee, the Roma children in these classes are not of the same age and come from different class levels, they are not placed in these classes as a result of consistent, objective and comprehensive tests, the curriculum in these classes is inferior to that of normal classes and few pupils make the leap back to mainstream education.

107. The Advisory Committee welcomes that two of the three classes have been closed and that the Municipality of Elsinore has sought other methods of tackling absenteeism through, for example, appointing two outreach personnel for increasing contacts with the families concerned.

#### *Recommendations*

108. The Advisory Committee considers that the Municipality of Elsinore needs to find an alternative solution for the children in the remaining classes for Roma only children. The solution needs to address, in consultation with the Roma concerned, the individual needs and skills of the Roma children affected. This should be done in such a way as to encourage the mainstream integration of these children into school life and include, as necessary, special assistance to meet the particular needs of the children.

## **ARTICLE 8 OF THE FRAMEWORK CONVENTION**

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

#### *Findings of the first cycle*

109. In its first Opinion, the Advisory Committee raised the issue of whether State support to the Danish National Church (both through direct funding from income tax and through a Church tax, from which persons not belonging to the Danish National Church can be exempted at their request) is in conformity with the principle of equality before the law and equal protection of the law as guaranteed under Article 4 of the Framework Convention. The Committee of Ministers in its Resolution on Denmark considered that the privileged funding of the Church merits review.

#### *Present situation*

#### *Outstanding issues*

110. The Advisory Committee notes that there has been no change in the situation of the funding of the Danish National Church since the first Opinion of the Advisory Committee and the first Resolution of the Committee of Ministers. In the opinion of the Advisory Committee, the privileged funding of the Danish National Church continues to raise issues in relation to equality of treatment with other religions under Article 4 of the Framework Convention.

#### *Recommendations*

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<sup>6</sup> This is a matter that is also raised in some detail in the Report by Mr Alvaro Gil-Robles, Commissioner for Human Rights on his visit to Denmark, 13<sup>th</sup>-16<sup>th</sup> April 2004 (CommDH(2004)12, paras. 35 –38)

111. The Advisory Committee recommends that the Danish Government should review the situation of the privileged funding of the Danish National Church.

## **ARTICLE 9 OF THE FRAMEWORK CONVENTION**

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

#### *Findings of the first cycle*

112. The Advisory Committee in the first monitoring cycle noted that the implementation of this Article could encompass creating the possibility for broadcasting some German language programmes in the framework of the (regional) public broadcasting system.

#### *Present situation*

##### a) Positive developments

113. The Advisory Committee welcomes that some progress has been made since the first monitoring cycle in terms of access to the media for persons belonging to the German minority, and that a dialogue has been established between the German minority and the Ministry of Culture.

114. The Advisory Committee welcomes that since the beginning of January 2004, the German minority newspaper *Der Nordschleswiger* has been broadcasting German language news bulletins twice daily through the private regional radio station Radio *Mojn* and that these programmes have been well received by listeners.

115. The Advisory Committee also notes that certain radio and television programmes can be received from Germany. The Advisory Committee, while welcoming this situation, considers that the availability of such programmes from a neighbouring country does not obviate the need for ensuring programming on domestic issues concerning national minorities and programming in a minority language.

##### b) Outstanding issues

116. Notwithstanding these positive developments, the Advisory Committee notes that as part of its commitments under the Language Charter (Article 11, paragraph 1 b i and paragraph 1 c i), Denmark has undertaken to encourage and/or facilitate the creation of at least one radio station and one television channel in the regional or minority language. As the Committee of Experts on the application of the Charter has noted, these undertakings have not been fulfilled<sup>7</sup>.

117. Concerning radio broadcasting, the Advisory Committee understands that the interest of the German minority is currently focussed on obtaining a window in public sector broadcasting or receiving financial support for the news bulletin service currently provided through Radio *Mojn*, rather than seeking a licence for a dedicated radio channel for the German minority.

118. The Advisory Committee regrets that there appears to be little scope for the local public sector radio broadcaster DR *Syd* accommodating the needs and wishes of the German minority. The

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<sup>7</sup> Report of the Committee of Experts on the application of the Charter in Denmark, 26 May 2004 (ECRML (2004) 2) paras. 87 and 89.

Advisory Committee notes the concern of the local public sector radio broadcaster that Danish listeners would not want to listen to German on the radio. The Advisory Committee considers, however, that this should not exclude all possibility of broadcasting in German, as public sector broadcasting should take into account a range of needs and not just those of the majority population.

119. The Advisory Committee notes that following discussions between representatives of the German minority and the Ministry of Culture, the German minority has been encouraged to apply for Government funding to support the German language news bulletins on Radio *Mojn*.

120. In relation to television broadcasting, the Advisory Committee notes with interest that a number of programmes have been successfully broadcast covering issues relevant to the German minority. It notes for example the programme “When borders divide” produced by TV *Syd*.

121. The Advisory Committee is aware that the German minority would like to have more local television broadcasting in German and on issues relevant to the German minority. The Advisory Committee is also aware that the local public sector television broadcaster, TV *Syd* would, in principle, be prepared to do more should additional funding be made available, in particular in terms of programmes covering the Danish – German border region.

#### *Recommendations*

122. The Advisory Committee encourages DR *Syd*, the local public sector radio broadcaster, to consider giving the German minority some form of window to radio broadcasting. In the absence of such a window, the Advisory Committee considers that the initiative of the newspaper *Der Nordschleswiger* to broadcast news bulletins twice daily on Radio *Mojn* is one which merits support, including possibly through Government funding.

123. In relation to television broadcasting, the Advisory Committee sees scope for further programming in German and for the German minority, including for the German-Danish border region. The Advisory Committee encourages TV *Syd*, the local public sector television broadcaster to explore this issue further with the German minority and encourages the authorities to examine whether additional funding could be made available to TV *Syd* in view of the additional costs incumbent on producing television programmes in German and Danish.

### **German printed media**

#### *Present situation*

##### a) Positive developments

124. The German minority benefits from a large range of printed newspapers, magazines and publications easily available from Germany.

125. A daily newspaper, *Der Nordschleswiger*, is produced in South Jutland, which caters for the needs of the German minority reporting not only on international and national issues but also on local issues of direct relevance to the German minority in South Jutland.

b) Outstanding issues

126. The Advisory Committee recognises the importance of having a local paper catering for the needs and interests of the local German minority. No amount of published materials from neighbouring Germany can replace the need for locally produced material with local significance.

127. For a local regional newspaper in a minority language to flourish, it needs not only a healthy readership, but also a certain level of advertising revenue. In this respect the Advisory Committee notes that advertising by local authorities (in the form of job notices, information on planning consents, etc.) makes an important contribution to a newspaper's survival.

*Recommendations*

128. The Advisory Committee encourages the local authorities to give support to the local minority paper, including through the financial support that advertising brings.

## ARTICLE 10 OF THE FRAMEWORK CONVENTION

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

*Present situation*

Outstanding issues

129. The Advisory Committee understands that persons belonging to the German minority would like to have at least a limited opportunity of using their language with the local administration, where possible. The Advisory Committee understands that there is currently no official framework for the use of German with the local administrative authorities and no local tradition for such usage. When required, however, the Advisory Committee understands that an interpreter may be made available.

130. The Advisory Committee notes the comment of the Government in the first State Report that persons belonging to the German minority in Denmark also speak Danish. The Advisory Committee considers, however, that knowledge of Danish does not totally relieve the authorities from looking into how and under what circumstances a minority language can be used with the authorities.

131. The Advisory Committee notes that the Committee of Experts on the European Charter for Regional or Minority Languages has encouraged the authorities to take the necessary measures in order to ensure that German speakers may submit documents in German<sup>8</sup>.

132. Bearing in mind that a good number of persons working for the local authorities are bilingual Danish and German, the opportunity for the use of German exists. Furthermore in view of the fact that South Jutland is a border region with an important German tourist influx, the use of German has an application that goes beyond the German minority resident in Southern Jutland.

133. The Advisory Committee considers that there is scope to examine further the use of German with the administrative authorities. There may, in particular, be a number of measures that could be

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<sup>8</sup> See Report of the Committee of Experts on the application of the Charter in Denmark, 26 May 2004 (ECRML (2004) 2) para. 84.

easily undertaken which would give some recognition of the bilingual German-Danish heritage of the region. These measures could be quite simple, such as staff of the administration indicating that they are bilingual (notices indicating languages spoken on their desks, badges on their lapels, etc.), prominence being given to translations of texts where available, etc. Such simple steps could also provide an important form of public recognition to the presence of the German minority in the region.

*Recommendations*

134. The authorities are encouraged to examine the measures they could take to improve the possibilities for persons belonging to the German minority using their language with the administrative authorities.

## **ARTICLE 11 OF THE FRAMEWORK CONVENTION**

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

*Findings of the first cycle*

135. In the first cycle of monitoring the Advisory Committee noted that for the registration of names at birth, the Danish National Church is exclusively competent, in all areas of Denmark, except Southern Jutland where a names register exists. The Advisory Committee considered that this raises issues of conscience for persons who do not belong to the State church and that these persons should have the possibility of registering the names of their children directly with the State authorities.

*Present situation*

a) Positive developments

136. The Advisory Committee notes from information provided in the second State Report that registration of names may be made in writing and does not require the presence of individuals in person. The Advisory Committee also notes that under new regulations in force (Section 13, subsection 2 of the Ministry of Ecclesiastical Affairs' Circular of 13 December 2001) the words "the Danish National Church" do not need to appear on the top corner of the certificate. Furthermore, the Advisory Committee understands that a system of electronic registration has been introduced and that persons who are not members of the Danish National Church automatically receive certificates that do not bear the words "the Danish National Church" in the top corner.

b) Outstanding issues

137. Notwithstanding the positive step of removing the reference to the Danish National Church on certificates of those not belonging to the Church, the Advisory Committee continues to feel that the registration of names with the Danish National Church raises issues of conscience for persons not belonging to the Danish National Church.

*Recommendations*

138. The Advisory Committee considers that modifications should be introduced into the system of registrations to allow persons who do not belong to the Danish National Church the possibility of registering their names through an authority independent of the Church.

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

### *Findings of the first cycle*

139. The Advisory Committee noted in the first cycle that there had been no request pertaining to the use of bilingual signs.

### *Present situation*

#### **Outstanding issues**

140. The Advisory Committee understands that there is an interest on the part of persons belonging to the German minority to introduce certain bilingual signs and that the Danish Road Directorate is prepared to consider any application from a local road administration for bilingual signs in German positively if a tangible need is documented.

141. The Advisory Committee encourages persons belonging to the German minority to articulate their interest and demands for bilingual signs to the authorities.

### *Recommendations*

142. The Advisory Committee invites the Danish authorities to give due consideration to any proposals made to them by the German minority for the display of traditional local names, street names and other topographical indications. In responding to these requests, the Danish authorities should keep in mind that such displays are an important public recognition and sign of acceptance towards the presence of the German minority and reflect the special nature and character of the borderland region of South Jutland.

## **ARTICLE 12 OF THE FRAMEWORK CONVENTION**

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

### *Present situation*

#### a) Positive developments

143. The Advisory Committee notes that the Danish Comprehensive Primary and Lower Secondary School Act states that all pupils should become acquainted with Danish culture and other cultures, although the curriculum does not lay down that teaching should be concerned with specific minorities. The Advisory Committee also notes that instruction in human rights forms part of the teaching in primary and lower secondary school.

#### b) Outstanding issues

144. The Advisory Committee has received representations that more could be done to reflect the culture, history, language and religion of the German minority and other ethnic and religious groups in the curriculum and in the textbooks used in schools.

145. In relation to the German minority, the Advisory Committee considers that any negative suspicion that existed towards this minority in the past should give way to recognition of the specific contribution that the German minority can make to life in Denmark, including through links to Germany, the German language and culture. A clearer reflection of this through the curriculum and through textbooks could benefit both the minority and the majority.

146. The successful integration of ethnic and religious groups in Denmark will also depend on the fostering of knowledge of their culture, history, language and religion within society (see also the comments under Article 6 above). While the Advisory Committee understands that the Ministry of Education has no plans to revise the school curriculum to promote further knowledge of ethnic and religious groups, the Advisory Committee considers that a discussion with those persons concerned on this issue is needed.

147. The Advisory Committee has received information alleging that undue restrictions may be being placed on children in certain day care facilities (kindergartens) in the use of their mother tongue. The Advisory Committee recalls in this context the pivotal importance of the first years of education for children and the importance of their mother tongue at a young age. The Advisory Committee also recalls Article 30 of the United Nations Convention on the Rights of the Child which makes specific provision for children belonging to ethnic, religious or linguistic minorities not to be denied the right, in community with other members of his or her group, to enjoy his or her own language.

#### *Recommendations*

148. The Advisory Committee recommends that the authorities examine further, with those persons concerned, how to better reflect the culture, history, language and religion of persons belonging to the German minority and other ethnic and religious groups in the curriculum and textbooks.

149. The Advisory Committee considers that undue restrictions should not be placed on the use by children of their mother tongue in day care facilities (kindergartens) and that the authorities should look into this matter and examine the extent to which there may be a problem. The Advisory Committee recommends that the authorities provide clarification to parents, teachers and schools on what may be acceptable in terms of limitations on the use of the mother tongue so as to tackle any confusion which may exist concerning this issue.

## **ARTICLE 14 OF THE FRAMEWORK CONVENTION**

### **German minority schools**

#### *Present situation*

##### a) Positive developments

150. The Advisory Committee welcomes the steps taken by the Danish authorities to ensure German minority language education through a system of German minority schools and day care facilities (kindergartens) in the region of South Jutland. The Advisory Committee also recognises that the authorities have shown commitment to safeguarding this level of education.

b) Outstanding issues

151. The German minority is, however, concerned about the implications of the proposed administrative reforms (see under Article 15 below) and the impact these reforms may have on the system of German minority schools and day care facilities (kindergartens) if there is a reduction in the political influence of the German minority.

152. The Advisory Committee is aware of a request by the German minority for additional guarantees for day care facilities (kindergartens) through, for example, the provision of funding at a State rather than a municipal level to assure long-term funding. In this particular instance, the Advisory Committee sees some advantage to this proposal as a safeguard against possible loss of influence at the municipal and regional level.

*Recommendations*

153. The Advisory Committee recommends that the Danish authorities continue in their discussions with the German minority in order to find an acceptable solution for any impact the proposed administrative changes may have on the system of German minority schools and day care facilities (kindergartens).

## **ARTICLE 15 OF THE FRAMEWORK CONVENTION**

### **Consultative structures**

*Present situation*

Positive developments

154. The Advisory Committee is aware of the important and effective role that the Liaison Committee concerning the German minority and the Secretariat of the German Minority set up in Copenhagen, play in protecting and furthering the rights of persons belonging to the German minority. In the absence of parliamentary representation at the national level, the Liaison Committee and the Secretariat are particularly important for ensuring that there is a forum for discussion and a conduit for information on matters of concern to the German minority. The Advisory Committee notes some of the important issues dealt with by the Liaison Committee and the Secretariat in recent years. These include education issues, the economic situation in South Jutland, subsidies for cultural work and most recently local administrative reform and the consequences for the German minority.

155. The Advisory Committee notes that the setting up of an informal Working Group appointed to facilitate continuous follow-up and discussions on the implementation of the Framework Convention and the European Charter for Regional or Minority Languages (see General comments above) has further strengthened the level of consultation between Government departments and the German minority.

156. The Advisory Committee considers that the mechanism for consultation with the German minority set up by the Government is decisive for the good relations and system of protection set up for the German minority. It represents a model of good practice that could also be applied for other ethnic and religious groups in Denmark, supplementing the important role currently played by Integration Councils and the Council of Ethnic Minorities.

*Recommendations*

157. The Advisory Committee recommends that the Government should continue to support the mechanism of consultation with the German minority and give consideration to strengthening the mechanism of consultation for other ethnic and religious groups in Denmark.

**Proposed administrative reforms**

*Present situation*

**Outstanding issues**

158. The Advisory Committee notes that the Government appointed, on 1st October 2002, a commission on administrative structures which presented its report on 9 January 2004, highlighting weaknesses in the administrative structure partly associated with the size of municipalities and counties. In order to enjoy greater economies of scale in local administration, these reforms propose a reduction in the number of municipalities and regional authorities.

159. The Advisory Committee notes that the Commission's report recognises that the proposed reforms could make it more difficult for certain groups, including the German minority, to preserve their political representation and influence in local councils and/or county councils.

160. Under the current administrative system, the Southern Jutland County has approximately 250,000 inhabitants of which it is estimated there are 12,000 – 20,000 persons belonging to the German minority (i.e. 5 to 8 per cent of the population). The German minority through the *Schleswigsche Partei* have one representative in the County Assembly (*Sønderjyllands Amstråd*) and 7 members in 5 municipal councils.

161. The Advisory Committee has registered the serious concern of the German minority that the proposed administrative reforms could adversely impact on their possibility to enjoy effective participation in public affairs as guaranteed under Article 15 of the Framework Convention. While the exact nature and scope of the proposed administrative reforms has yet to be decided, the indications are that there will be a new county (Region South Denmark) with approximately 1.3 million inhabitants in which the German minority will not be able to secure political representation at the level of the county assembly. This county is likely to comprise four or five municipalities in which the German minority are concerned that they would only be able to secure representation in two of the four or five municipalities.

162. The German minority are therefore concerned that the proposed administrative reforms will mean that they lose a voice at county level, and that they will have no voice in at least two of the four municipalities. They point out that under the current system, although they are not represented locally in all municipalities, the seat they hold at county level gives them an overall umbrella representation for the region.

163. The German minority fear that their level of representation will decline. They are also concerned about the impact of moving the centres of administration away from the locality in which the German minority are present. Furthermore, they are concerned about the impact that the proposed administrative reforms will have on cross-border Denmark-Germany regional co-operation under the auspices of the Region South Jutland-Schleswig.

164. The Advisory Committee is aware of the efforts made by the Danish Government to reduce the impact of these proposed changes on the German minority and that it is in close contact with representatives of the German minority to find solutions suitable for all parties concerned. In this context, the Advisory Committee is aware of the proposed safeguards put forward by the Government on 1 December 2004 which go in a positive direction towards meeting certain of the concerns of the German minority. These proposals include, *inter alia*, fixing the number of members of the municipal council at the maximum level of 31 in certain councils to give the German minority, through the *Schleswigsche Partei*, the maximum possibility of holding a seat. A further proposal is for a guaranteed seat, but without the right to vote, if the *Schleswigsche Partei* obtains more than 25% of the number of votes for the “cheapest seat”. In the event that this threshold is not met, provided the German minority obtains 10-24% of the vote for the “cheapest seat” there will be established an advisory committee with the participation of the German minority.

165. The Advisory Committee is also aware of the proposal to safeguard the interests of the German minority at the regional level through participation in a “growth forum” or “growth forums” to be established to handle regional co-operation and regional growth. Furthermore the German minority will be represented in a body to be established to handle cross-national co-operation in the Danish-German border region.

166. Notwithstanding the recent safeguards proposed by the Government, the Advisory Committee is aware that the German minority is, *inter alia*, seeking to ensure that it has a right to vote on all seats at municipal level (whether obtained in their own right or whether obtained as a result of reaching the threshold of 25 % of the “cheapest seat”). The Advisory Committee also understands that the German minority is looking to secure a seat, without the right to vote at regional level, if it obtains more than 25% of the vote of the “cheapest seat”.

167. The Advisory Committee welcomes the willingness of the Government in the proposals published on 1 December 2004 to provide special measures to safeguard the interests of the German minority. It remains, however, concerned about the effective participation of the German minority in those municipalities where they reach the 25% threshold to have a seat but without the right to vote. The Advisory Committee considers that without the right to vote, the room for political manoeuvre is considerably weakened and represents a reduction in the level of political influence for the German minority by comparison with the situation they currently enjoy.

#### *Recommendations*

168. The Advisory Committee recommends that the Danish Government keeps up its discussion with the German minority, in particular on the issue of voting rights at municipal level, in order to find appropriate solutions to ensure that effective participation guaranteed under Article 15 of the Framework Convention is not undermined by the proposed administrative reforms.

## **ARTICLE 18 OF THE FRAMEWORK CONVENTION**

### **Copenhagen-Bonn Declarations**

#### *Present situation*

#### Positive developments

169. The Advisory Committee recognises the importance and success of the Copenhagen-Bonn Declarations that have been a central pillar for developing the rights of persons belonging to the

German minority in Denmark and also the rights of persons belonging to the Danish minority in Germany.

170. The Copenhagen-Bonn Declarations have become models for peaceful solutions to minority problems and have contributed to the development of fruitful relations in the border region. The Advisory Committee notes that the 50<sup>th</sup> Anniversary of the Copenhagen-Bonn Declarations will be celebrated in March 2005 and that this will have a particular political, social and cultural importance for the German minority in Denmark and the Danish minority in Germany.

*Recommendations*

171. The Advisory Committee encourages the Government to seek to resolve outstanding issues relevant to the German minority under the proposed administrative reforms (see under Article 15 above) before the 50<sup>th</sup> Anniversary of the Copenhagen-Bonn Declarations.

### **Region South Jutland-Schleswig**

*Present situation*

Positive developments

172. The cross border co-operation was formalised in 1997 under the Region South Jutland-Schleswig. It consists of a regional council on which the German minority is represented by the chairman of the *Bund deutscher Nordschleswiger* and the county councillor for the *Schleswig* Party.

173. The Advisory Committee notes that the German minority considers this regional council to be an important element of Danish-German co-operation in which the German minority provides an essential link and catalyst through their contacts, shared culture and linguistic abilities.

Outstanding issues

174. The Advisory Committee is aware of concerns raised by the German minority that the proposed administrative reforms could jeopardise the work, structure and level of representation of the German minority in the Region South Jutland-Schleswig. The Advisory Committee is, however, aware that the recent safeguards proposed by the Government on 1 December 2004 go some way to meet the concerns of the German minority (see under Article 15 above).

*Recommendations*

175. The Advisory Committee considers that this issue ties in with the concerns raised under Article 15 above in relation to the proposed administrative reforms and their impact on the effective participation of persons belonging to the German minority. The Advisory Committee considers that the proposed reforms should be implemented in such a way as to ensure that they do not adversely impact on the ability of persons belonging to the German minority to participate in transfrontier co-operation such as currently covered by the Region South Jutland-Schleswig.

### **III. CONCLUDING REMARKS**

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

#### **Positive developments**

177. Denmark has made welcome progress in developing anti-discrimination legislation, notably in relation to the passing of the Act on Ethnic Equal Treatment (Act No. 374 of 28 May 2003), which provides additional safeguards against discrimination in a number of societal settings. A further positive development has been the establishment of the Danish Institute for Human Rights together with its Complaints Committee for processing and providing opinions on complaints of discrimination.

178. Denmark has established good practice in terms of the consultative structure with the German minority in the form of the Secretariat of the German Minority in Copenhagen and the Liaison Committee concerning the German minority.

179. The system of German minority language education through the German minority schools and day care facilities (kindergartens) in South Jutland is to be welcomed.

180. The Copenhagen-Bonn Declarations have been a central pillar for developing the rights of persons belonging to the German minority in Denmark. The proposed 50<sup>th</sup> Anniversary of these in March 2005 will have a particular political, social and cultural importance for the German minority.

#### **Issues of concern**

181. There is concern over the general lack of consultation with representatives of civil society and representatives of different ethnic and religious groups, including in relation to the monitoring under the Framework Convention.

182. The restrictive personal scope of application of the Framework Convention by the Danish authorities continues to be of concern.

183. A strong seam of intolerance within Danish society is noted, *inter alia*, in the political arena as well as in certain media. There are concerns that legislation, such as the reform of the Aliens Act, and policy, such as the Government's policy towards integration, may contribute to a climate of hostility towards different ethnic and religious groups.

184. Concern remains about the equality of education for Roma children taught separately in a class for Roma children with high rates of absenteeism.

185. The privileged funding of the Danish National Church raises issues of equality of treatment with other religions. The registration of names with the Danish National Church raises issues of conscience for persons not belonging to the Danish National Church.

186. There are few possibilities for the use of German in Danish television or radio broadcasting, or for the use of German with the local administrative authorities.

187. The culture, history, language and religion of the German minority and other ethnic and religious groups needs to be better reflected in the curriculum and in the textbooks used in schools.

188. There are concerns over the impact that proposed administrative reforms could have on persons belonging to the German minority, notably in terms of reduced political representation at the municipal and regional levels as well as at the level of the Region South-Jutland Schleswig. There are also concerns on the impact these reforms could have on the system of German minority schools and day care facilities (kindergartens).

## **Recommendations**

189. In addition to the measures to be taken to implement the detailed recommendations contained in sections I and II of the Opinion of the Advisory Committee, the authorities are invited to take the following measures to improve further the implementation of the Framework Convention.

- Consult more widely with representatives of civil society and representatives of different ethnic and religious groups concerning the implementation of the Framework Convention.
- Act upon manifestations of intolerance and xenophobia, including in the political arena, and counter these phenomena with the tools available.
- Address criticisms of the Aliens legislation and the Government's integration strategy in order to further promote tolerance and ensure that issues of discrimination are tackled.
- Find alternative solutions for the Roma children who remain in a separate Roma class in order to guarantee equal education.
- Review the situation of the privileged funding of the Danish National Church and the system of registration of names by the Danish National Church.
- Examine how further support can be provided to local radio and televisions broadcasting for the German minority.
- Examine, with those concerned, how to better reflect the culture, history, language and religion of persons belonging to the German minority and other ethnic and religious groups in the curriculum and textbooks.
- Ensure that the proposed administrative reforms do not have an adverse impact on the effective participation of the German minority at the municipal and regional levels and also at the level of the Region of South-Jutland Schleswig. Similarly ensure that there is no adverse impact on the system of German minority schools and day care facilities (kindergartens).