

# ECRI

European Commission against Racism and Intolerance  
Commission européenne contre le racisme et l'intolérance

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## European Commission against Racism and Intolerance

SECOND REPORT ON DENMARK

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## **Foreword**

*The European Commission against Racism and Intolerance (ECRI) is a body of the Council of Europe, composed of independent members. Its aim is to combat racism, xenophobia, antisemitism and intolerance at a pan-European level and from the angle of the protection of human rights.*

*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.*

*At the end of 1998, ECRI finished the first round of its country-by-country reports for all member States. ECRI's first report on Denmark is dated 28 November 1997 (published in January 1999). The second stage of the country-by-country work, initiated in January 1999, involves the preparation of a second report on each member State. The aim of these second reports is to follow-up the proposals made in the first reports, to update the information contained therein, and to provide a more in-depth analysis of certain issues of particular interest in the country in question.*

*An important stage in ECRI's country-by-country work is a process of confidential dialogue with the national authorities of the country in question before the final adoption of the report. A new procedure in the second round of country reports is the organisation of a contact visit for the ECRI rapporteurs prior to the drafting of the second report.*

*The contact visit to Denmark took place on 26-28 April 2000. During this visit, the rapporteurs met with representatives of various ministries and public administrations responsible for issues relating to ECRI's mandate. ECRI warmly thanks the Danish national authorities for their wholehearted co-operation in the organisation of the contact visit, and in particular would like to thank all the persons who met its delegation each of whom provided much valuable information on their own field of competence. ECRI would also like to thank the Danish national liaison officer whose efficiency and collaboration were much appreciated by ECRI's rapporteurs.*

*Furthermore, ECRI would like to thank all the representatives of non-governmental organisations with whom its rapporteurs met during the contact visit for the very useful contribution they made to the exercise.*

*The following report was drawn up by ECRI under its own responsibility. It covers the situation as of 16 June 2000 and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposals made by ECRI.*

### ***Executive summary***

Over recent years, Denmark has taken steps which are relevant to combating racism and discrimination, including measures to provide new arrivals with language, educational and professional skills, steps to combat discrimination and increase ethnic diversity in the labour market and the setting up of a specialised body in the field.

Problems of xenophobia and discrimination persist, however, and concern particularly non-EU citizens – notably immigrants, asylum-seekers and refugees – but also Danish nationals of foreign background. People perceived to be Muslims, and especially Somalis, appear to be particularly vulnerable to these phenomena. Most of the existing legal provisions aimed at combating racism and discrimination do not appear to provide effective protection against these phenomena. Of deep concern is the prevailing climate of opinion concerning individuals of foreign background and the impact and use of xenophobic propaganda in politics. Discrimination, particularly in the labour market, but also in other areas, such as the housing market and in access to public places, are also of particular concern.

**In the following report, ECRI recommends to the Danish authorities that further action be taken to combat racism, xenophobia, discrimination and intolerance in a number of areas. These recommendations cover, *inter alia*, the need to ensure that the legal framework aimed at combating these phenomena is adequate and effective; the need to ensure that policies within the area of integration favour full participation on an equal footing; the need to take measures to address problems of discrimination in various spheres, especially employment, housing and access to public services; the urgent need to fight against the influence of racism and xenophobia in the political sphere and to improve the general climate of opinion towards individuals of a foreign background.**

## SECTION I: OVERVIEW OF THE SITUATION

### A. International legal instruments

1. Denmark has signed and ratified a large number of international legal instruments relevant in the field of combating racism and intolerance. ECRI welcomes the ratification by Denmark of the European Convention for the Participation of Foreigners in Public Life at Local Level and the European Charter for Regional or Minority Languages. As concerns the European convention on Nationality, ECRI is pleased to learn that the Danish Parliament has adopted the necessary enabling legislation and that ratification is expected in the near future. ECRI encourages a rapid finalisation of this process. ECRI has also learned that discussions are underway with respect to ratification of the European Social Charter (revised), and encourages the government to ratify this instrument. ECRI furthermore reiterates that Denmark should sign and ratify the European Convention on the Legal Status of Migrant Workers.
2. In its first report, ECRI noted with concern that Denmark had not accepted any of the provisions of Article 19 of the European Social Charter dealing with the right of migrant workers and their families to protection and assistance. ECRI understands that the question of accepting Article 19 is under consideration, and strongly urges the Danish authorities to accept this article without delay.
3. In its first report ECRI noted that Denmark had incorporated the European Convention on Human Rights into Danish law and recommended that Denmark consider the possibility of incorporating other human rights conventions into national law as well, particularly the Convention on the Elimination of All Forms of Racial Discrimination. In July of 1999, the Ministry of Justice established a Commission to consider this matter. ECRI hopes that this Commission will look favourably upon the incorporation of further human rights conventions into Danish law, and in this way encourage the awareness and implementation of such conventions within Denmark.

### B. Constitutional provisions and other basic provisions

4. As noted in ECRI's first report, the Danish Constitution, which is one of the oldest in Europe, contains no articles that expressly prohibit racial discrimination nor that guarantee the equality of all citizens. Article 70 contains a clause prohibiting any restriction of civic or political rights for reasons of creed or descent. This article dates from the first Constitution of 1849 and appears in the context of other articles addressing the freedom of religion and worship. Whether or not Article 70 should be perceived as a specific manifestation of a more general principle of equality has been a subject of frequent theoretical debate in Denmark. ECRI is aware that there have been ongoing discussions in recent years addressing the possibility of amending the Danish Constitution, and, in particular, considering whether the Constitution should include a more general guarantee against discrimination. ECRI recognizes the difficulty of amending the Danish Constitution, however, it would nonetheless favour an amendment that clearly stipulated the principle of equality before the law and provided a thorough protection against discrimination, including *inter alia* discrimination on the basis of race or ethnicity.

- ***Citizenship law***

5. ECRI regrets that Denmark has recently amended its Nationality Act in such manner as to eliminate the previously automatic right of non-citizens between the ages of 18 and 23 who have lived in Denmark for 10 years or more to acquire citizenship through a facilitated administrative procedure. Henceforth the criminal record of such young people will be examined, and, if they have ever been punished for any crime or misdemeanour, they will have to apply for citizenship via the ordinary naturalisation procedure. ECRI encourages the Danish authorities to closely monitor the impact of this change in order to ensure it does not result in discriminatory practices or delays and complications in the granting of citizenship to long-term resident youths between the ages of 18 and 23 who are so entitled. ECRI also encourages the Danish authorities to consider the possible negative repercussions such an amendment may have upon public attitudes towards Danes of foreign origin and their ability to integrate into Danish society.

**C. Criminal law provisions**

6. Denmark has passed criminal legislation in the field of combating racial discrimination. Sections 1 and 2 of The Act Prohibiting Discrimination on the Basis of Race make it an offence to discriminate on the basis of race, colour, national or ethnic origin, religion or sexual inclination when offering a commercial or non-profit service or in granting access to a public place. Provisions are, however, applied very rarely, despite the fact that discrimination has been reported to constitute a real problem in access to housing and public places such as discotheques and bars.<sup>1</sup> In a period of approximately two years monitored recently by the Danish authorities, charges were brought under the Act in five cases (resulting in three cases of conviction and two cases of acquittal), two cases were settled with out-of-court fines and a further nineteen cases were concluded without anybody being indicted. The main difficulties in application, as in most other countries, are related to the proof of the intention to commit a discriminatory act. The police and prosecuting authorities have also been criticised for being reluctant to enforce the Act, even hesitating to investigate complaints. ECRI urges the Danish authorities to closely monitor the implementation of this Act and to consider possible ways to improve its effectiveness. ECRI feels it would be beneficial if proof of such acts were to be facilitated and specific instructions and training given to police and prosecuting authorities with respect to the investigation of complaints under the Act.
7. Article 266b of the Danish Criminal Code prohibits dissemination of racist statements and racist propaganda. Since 1995 the Public Prosecutor has received 34 complaints of a possible violation of this Article and brought 14 of these cases before the courts, the majority resulting in punishment, usually a fine. ECRI considers that compared to the frequent reports of racist and xenophobic statements in the media and other forum<sup>2</sup> these numbers are very low and indicate a problem with the implementation of this law. ECRI is concerned that

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<sup>1</sup> See Section II of this report, *Access to Public Services*.

<sup>2</sup> See section II of this report, *Climate of Opinion*.

individuals and organisations are not bringing charges due to a belief that it is pointless as the complaints will not succeed. As ECRI signalled in its first report, this article is rather narrowly interpreted based on respect for freedom of expression as enshrined in the Constitution, and the Director of Public Prosecution is rather reluctant to bring charges in such cases. While ECRI recognises the value of freedom of expression and the importance placed upon this value in Danish society, it stresses that the duty to protect members of minority groups against racism and discrimination exists alongside freedom of expression. ECRI therefore reiterates its suggestion to the Danish authorities that they consider initiating a more proactive policy in this area.

8. Racist and xenophobic organisations are not prohibited in Denmark. ECRI stresses the importance of fighting against such organisations and in this regard recalls its policy recommendation N° 1 in which it called on member States to “take measures, including where necessary legal measures, to combat racist organisations... including banning such organisations where it is considered that this would contribute to the struggle against racism”. ECRI encourages the Danish authorities to consider whether the introduction of further measures might assist in combating racist organisations in their country.
9. In its general policy recommendation N° 1, ECRI also recommends that member States ensure that racist and xenophobic acts are stringently punished through methods such as defining common offences but with a racist or xenophobic nature as specific offences or enabling the racist or xenophobic motives of the offender to be specifically taken into account. ECRI notes that section 80(1) of the Criminal Code instructs courts to take into account the gravity of the offence and the offender's motive when meting out penalty, and therefore to attach importance to the racist motive of crimes in determining sentence. While ECRI appreciates this judicial latitude, it favours a more systematic and consistent approach toward combating racist and xenophobic crime, and therefore encourages the Danish authorities to consider the introduction of a provision in this sense.

#### **D. Civil and administrative law provisions**

10. As indicated by ECRI in its first report, Denmark lacks civil and administrative legislation relating to discrimination in the areas of health, education, housing and social security. ECRI considers that such legislation could not only provide an avenue of redress for individuals who are victims of discrimination, but may also serve an important educative and awareness-raising function and allow the mechanisms of hidden or indirect discrimination to be revealed. In some countries the introduction of a single body of anti-discrimination legislation covering discrimination in several fields of life, and providing for effective enforcement, has proved a valuable tool. ECRI encourages the Danish authorities to consider the possible introduction of such a body of legislation. ECRI stresses the fundamental role that a specialised body on combating racism and intolerance could play in supervising the implementation of this legislation.

11. As ECRI noted in its first report, in 1996 Denmark enacted anti-discrimination legislation in the field of employment. The Act on the Prohibition of Discrimination in Respect of Employment and Occupation addresses direct and indirect discrimination with respect to *inter alia* recruitment, transfer, promotion and dismissal, vocational guidance, education/training, pay and working conditions. Only five cases have, however, been brought to court to date, despite the widely acknowledged problem of discrimination in the field of employment.<sup>3</sup> ECRI believes that the Danish authorities should investigate the obstacles to the effective implementation of this Act and take action to make it an effective instrument for combating discrimination in the labour market.
12. The main difficulties in application, as in most other countries, are related to the proof of the intention to commit a discriminatory act. The employee, who shoulders the entire burden of proof, is in a weak position to gather sufficient information to prove to the court that he or she is a victim of discrimination. This task is made additionally difficult under the Act as a result of Article 4, which forbids the employer from keeping records about the ethnic background of employees, thus making it impossible to utilise such information as evidence of discrimination. ECRI encourages the Danish authorities to reconsider the possibility of a shared burden of proof in this area.
13. The Act has also been criticised for not providing a definition of indirect discrimination. ECRI is pleased to learn that educational measures for the police, prosecuting authorities and actors in the labour market are currently being planned and encourages the authorities to ensure that information about the Act as well as about indirect and structural discrimination reaches the relevant actors at the local level. Furthermore ECRI notes that the Danish Government is considering how to amend this Act in light of the recently adopted EU Council directive concerning the implementation of the principle of equal treatment of persons irrespective of race or ethnic origin. ECRI hopes that this process will result in solutions which effectively address the above-mentioned obstacles.

#### **E. Specialised bodies and other institutions**

14. The Danish Parliamentary Ombudsman has the authority to investigate any administrative action within the public sector, including public bodies at the local level. The Ombudsman may act on individual complaints or on his or her own initiative. According to the Danish authorities, the Ombudsman has had great influence in practice. The Office of the Ombudsman is not, however, designed in such a manner as to bring to light discrimination on the basis of ethnicity, and has addressed only a handful of cases where this issue was specifically highlighted by the complainant.
15. As mentioned in ECRI's first report, the Board for Ethnic Equality, established in 1997 has been granted a specific mandate for combating racism and related discrimination. This body is empowered to: advise the authorities and private associations about anything relating to the combating of racism; issue opinions

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<sup>3</sup> See section II of this report, *Employment*.



- on its own initiative or upon request- about differential treatment on the basis of ethnicity in both the public and private sphere and recommend changes in practice or solutions to specific problems. ECRI feels that the Board performs a very important function in the area of combating racial discrimination and hopes that the Danish authorities will continue to pay due respect to its advice and recommendations in the area of its expertise.

16. ECRI notes that the Board for Ethnic Equality does not have the power to address individual complaints, and ECRI is therefore very interested in discussions currently taking place with respect to establishing an Ombudsman against discrimination, which would fill this gap. ECRI encourages the Danish authorities to draw inspiration from its policy recommendation N° 2 on the establishment of specialised bodies at national level for combating racism and intolerance, in order to create such a body or to create a special competence in this regard within the existing Board for Ethnic Equality or Parliamentary Ombudsman. As mentioned above<sup>4</sup>, ECRI considers that the establishment of such an institution should also be examined within the context of the possible adoption of anti-discrimination legislation, in view of the central role it could play in supervising the implementation of such legislation.

#### **F. Education and awareness raising**

17. In its general policy recommendation N° 1 on combating racism, xenophobia, antisemitism and intolerance, ECRI recommends member states "to ensure that school-curricula, for example in the field of history teaching, are set up in such a way to enhance the appreciation of cultural diversity." For instance, ECRI considers that it would be extremely beneficial to develop within the teaching of history in Denmark, a section devoted to the input brought by the immigrant population to Danish society. ECRI is aware that the Danish school system is highly decentralised, placing a primary value upon the freedom of organisation at the local level and that the national authorities do not wish to exert strict control over the local curricula and textbooks. ECRI hopes that the Danish authorities, local and national, will nonetheless find a way to incorporate such material into the education system at all levels.

#### **G. Reception and status of non-citizens**

##### ***Act on Integration***

18. On 26 June 1998, the Danish Parliament passed the Act on Integration of Aliens in Denmark, which completely reformed Danish integration policies. The new legislation, which came into effect on 1 January 1999, provides a comprehensive set of rules and measures applying to all aliens lawfully residing in Denmark, including refugees and immigrants united with refugees or other immigrants through family reunification ("new Danes"). Under the Act municipalities have the responsibility of making accommodation available to refugees. The municipalities must also offer an introduction programme, lasting for a maximum of three years, including courses in understanding Danish society, Danish lessons and 'activation',

<sup>4</sup> See Civil and administrative law provisions.

which involves either labour market experience, training or education. An introduction allowance, equivalent to that offered to Danish citizens on social welfare, is also offered to those individuals in need of such assistance. Furthermore, the Act provides the possibility for Integration Councils to be set up at the municipal level, including members appointed from local refugee and immigrant associations or other corresponding persons in the municipality, and empowered to give advisory opinions on the general integration efforts in the municipality and on the introduction programmes offered by the local authority.

19. Refugees, after being granted a temporary residence permit, are dispersed throughout the country by the Danish Immigration Service. The decision is based upon a system of quotas agreed and arranged with counties and municipalities as well as the personal situation of refugees and the specific conditions of the municipality. Such distribution is, according to the Danish authorities, aimed at creating a more even geographical distribution of aliens in Denmark. As such, certain municipalities, such as Copenhagen, have a zero quota and will, therefore, only accept new Danes under special circumstances. Once assigned to a given municipality, an individual must remain there for the duration of the introduction programme, unless another municipality agrees to accept that individual and continue his or her introduction programme. If an individual moves without such cooperation from the accepting municipality, the individual's introduction allowance may be reduced or terminated.
20. ECRI welcomes the efforts of the Danish authorities to create a comprehensive integration plan for new arrivals and offer them tools they will need for success in Danish society. ECRI is also pleased to learn about the possibility of establishing local integration councils, and hopes these Councils will provide immigrants and refugees with an opportunity for effective representation in expressing their experience of integration efforts. ECRI is concerned, however, that the manner in which new arrivals are to be dispersed throughout the country may involve restrictions on the right to freedom of movement. In particular, the system of quotas, the lack of an adequate possibility to appeal the allocation decision to another body and the need for approval to change municipalities without risking a reduction or termination in social assistance, might, in individual cases, involve an element of compulsion. ECRI notes that the personal situation of the individual, (including particular wishes, linguistic and cultural background, educational and vocational qualifications and needs, family and other forms of attachment to people already residing in Denmark), is an element of the decision of allocation to a given municipality and encourages the Danish authorities to ensure these personal needs and wishes are sufficiently taken into account.
21. ECRI is also worried that the implementation of the Act may, contrary to the Act's stated intention, create conditions whereby individuals will have difficulties participating "in the life of society in terms of politics, economy, employment, social activities, religion and culture on an equal footing with other citizens". In this regard, ECRI emphasises the importance for new arrivals in a country to be able to find strength and orientation in their own cultural, religious and linguistic identity while learning and developing a new parallel and evolving identity within a new society. The possibility of finding family or community networks may also provide invaluable emotional and psychological support, which could prove particularly beneficial for those individuals who have suffered trauma and other

difficulties. Such networks also provide the conditions in which these individuals are able to exercise their cultural, religious and linguistic rights. It does not seem that the Act on Integration and discussion surrounding this Act has taken sufficient account of these important elements of integration.

22. ECRI also believes that a climate where new arrivals do not feel respected or welcome may result in difficulties in integration. The current climate in Denmark will be discussed in section II of this report. ECRI would here like to register its concern that the manner the Integration Act is portrayed and discussed in the public sphere may contribute to a climate of hostility towards new arrivals. The notion presented by certain public opinion leaders and the media that new arrivals should be distributed as they are a burden to society fosters a negative climate of opinion. ECRI therefore urges the Danish authorities to make special efforts to counter such perceptions about immigrants and refugees and emphasize the positive role and contribution of immigrants and refugees to Danish society.

- ***Aliens Act***

23. The trend in Denmark, noted by ECRI in its first report, of tightening policies regarding entry into the country for immigrants, refugees and asylum seekers, has continued. Amendments to the Aliens Act have established further restrictions in the granting of permanent residence and in the area of family reunification. The length of time for which an ~~alien~~ immigrant must have had lawful residence in Denmark has now been increased to six years (instead of the previous five), and certain requirements, including the completion of an introduction programme<sup>5</sup> must normally be met. In the area of family reunification the latest amendments require that persons wishing to bring a spouse to Denmark are over 25 years of age and dispose of a dwelling of reasonable size, unless particular reasons make it inappropriate.. The age requirement, which the Danish authorities explain has been imposed in order to protect young people against forced marriage, may be waived if an individual assessment proves without any doubt that the marriage is based on the free will of the person living in Denmark. There has been considerable criticism of this age requirement from members of minority groups who feel that the change is based on negative stereotypes about the marriage practices of certain minority groups and violates their right to private life, including choosing a spouse. ECRI is concerned that such criteria in the area of family reunification may impact in a discriminatory fashion on certain minority groups, such as Muslims and encourages the Danish authorities to give due consideration to this issue.
24. The Danish Aliens Act also governs the conditions for expulsion of non-citizens, including long-term or life-long residents of Denmark. This Act permits the expulsion of an alien for certain criminal offences, linking the possibility of such action for a given sentence to the length of the alien's lawful stay in Denmark. In July of 1998 the Act was amended in a manner that expanded the list of crimes and decreased the severity of the sentence for which expulsion is possible. A number of cases involving expulsion orders have reached the Danish Supreme Court over the last few years, and in 13 out of 15 cases the

<sup>5</sup> See *Integration Act above*.

Court has overturned expulsion decisions basing its judgement upon the European Convention for the Protection of Human Rights and Fundamental Freedoms, in particular Article 8 (right to respect for private and family life). ECRI feels that the Danish authorities should reconsider legislation in this area in the light of these Supreme Court decisions and European and international norms and standards, recognising the message that legislation in this area may send to the general population and non-citizens residing in Denmark.

- ***General climate concerning non-citizens***

25. ECRI is concerned at the negative climate prevailing in some segments of Danish society concerning non-EU citizens, notably immigrants, asylum-seekers and refugees. ECRI deals with this particular aspect in Section II of this report<sup>6</sup>. However, ECRI registers here its concern at the impact of this situation on policies in the area of immigration and asylum, and the corresponding effect of these policies upon perceptions about Danes of foreign origin and their role in Danish society.

**H. Access to public services**

- ***Access to education***

26. ECRI notes that in several municipalities immigrant and ethnic minority children are over-represented in certain public schools, to a degree often going well beyond their representation within the local population. In some schools, almost the entire student population is composed of children of non-Danish background. While recognising the complexity of the situation and the efforts and resources devoted to this issue by the authorities, ECRI encourages local and national authorities to further examine this phenomenon and further enhance measures to combat the school segregation of ethnic minority and immigrant children. ECRI is aware that the Danish education system is highly decentralised and is pleased to learn that various municipalities are undertaking initiatives to mix children of Danish ethnic origin with children of foreign origin within schools. ECRI encourages the development of similar initiatives in other municipalities, for example by ensuring that schools with a high population of children of foreign origin offer education of an equal quality with other schools and that the children's ethnic diversity is incorporated in a positive and enriching manner into the school curriculum and environment, reinforcing existing efforts. Teachers should also be offered special training in teaching in a multicultural environment and ECRI welcomes the efforts that are being made to recruit teachers of ethnic minority background.
27. ECRI has learned that youth from certain minority groups are experiencing difficulties in the Danish school system and, in some cases, dropping out early, in spite of existing efforts by the Danish authorities. ECRI suggests that this issue should be further investigated and addressed. ECRI also believes that additional measures should be taken to assist children with a mother tongue

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<sup>6</sup> See section II of the report, *Climate of Opinion*.

other than Danish to be able to participate fully and successfully within the mainstream school system. In this respect, ECRI notes interesting initiatives involving language stimulation, mother tongue education and the teaching of Danish as a second language. ECRI considers that it would be extremely beneficial if such initiatives were further extended and integrated into the mainstream activities of schools. The Danish authorities may also wish to consider ways in which they may offer special support to recently arrived children experiencing particular difficulties arising from events relating to their migration.

## I. Vulnerable groups

*This section covers certain minority groups which may be particularly vulnerable to problems of racism, discrimination and intolerance in the country in question. It is not intended to provide an exhaustive overview of the situation of all minority groups in the country, nor to imply that groups not mentioned face no problems of racism and discrimination*

### - Muslims

28. Muslims are particularly vulnerable to racism and discrimination in Denmark. Negative stereotypes and prejudices about Muslims as well as over-generalisations and misperceptions about Islam are promoted by public opinion leaders, including political elites from across the political spectrum, intellectuals and journalists. This anti-Muslim climate leads to intolerance and discrimination directed towards members of this group in various spheres of life, especially as regards access to the labour market, housing and public places. Muslim women wearing veils reportedly experience hostility on streets and buses and particular discrimination in the labour market, such as being refused jobs in the service sector in roles involving interaction with customers.
29. ECRI is deeply concerned about this situation and urges the Danish authorities to address these problems, drawing inspiration from ECRI's policy recommendation N° 5 on combating intolerance and discrimination against Muslims. In particular, ECRI recommends that the Danish authorities undertake awareness-raising measures in the public sphere as well as in the education system in order to promote a more objective and informed perception of Muslims, emphasising the diversity within the community and religion and their positive contribution to Danish society. ECRI also encourages public opinion leaders to promote a more informed and diverse image of Muslims and Islam, avoiding negative stereotypes, generalisations and other expressions that promote intolerance and hostility. The Danish authorities should engage in discussions with representatives of the Muslim community and consistently involve them in measures directed at improving the situation of Muslims.
30. Muslims also experience difficulties practicing their religion. In some regions they have been unable to build mosques or exercise funeral rites due to administrative obstacles. ECRI calls attention in this respect to its policy recommendation N° 5 where it recommends that countries "take the necessary measures to ensure that the freedom of religious practice is fully guaranteed; in this context particular attention should be directed towards removing

unnecessary legal or administrative obstacles to both the construction of sufficient numbers of appropriate places of worship for the practice of Islam and to its funeral rites.”

- **Somalis**

31. Throughout the 1990s Somalis constituted one of the largest groups of asylum seekers and refugees in Denmark, and today this community numbers approximately 13 500. Somalis are in a particularly vulnerable position, suffering the racism and discrimination against Muslims discussed above combined with additional discrimination related to their culture. Parts of the media and other public opinion leaders have promoted a negative perception of this community, which has contributed to a quite widely accepted belief that Somalis are difficult, if not impossible, to integrate into Danish society. Members of the Somali community report that this negative image has affected the self-perception of members of their community encouraging feelings of inferiority and leading Somali children to attempt to hide their identity. A particularly high level of unemployment prevails within this community, whereby even university educated and professional Somalis experience difficulties entering the labour market. Somali children are reportedly becoming increasingly demoralised, leading some to drop out of the school system.
32. ECRI urges the Danish authorities to immediately address this situation as a matter of urgency. In this regard, ECRI encourages the Danish authorities to enter into dialogue with representatives of the Somali community in order to develop measures to improve their relations with the majority and to combat racism and discrimination against them. ECRI also considers it important that public opinion leaders make efforts to provide a more positive image of this community, portraying its diversity and the positive contribution of Somalis to Danish society.

**J. Monitoring the situation in the country**

33. In its first report, ECRI suggested that steps be taken to record statistics relating to complaints concerning racial discrimination. ECRI reiterates the importance of recording detailed information about the number of complaints relating to racism and discrimination in various spheres of life, the subsequent investigation by police and prosecutors where relevant, the judicial assessment of such complaints and the redress or compensation awarded to victims. This information could prove extremely helpful in improving the effectiveness of existing legislation and establishing additional legal and non-legal measures to combat these phenomena. In gathering such information due respect should be paid to the right to privacy and to standards of data protection and free and informed consent of the persons in question.

## **K. Media**

34. ECRI is concerned at widespread reports that some of the Danish media is promoting xenophobic and sometimes racist ideas about individuals of non-Danish origin, contributing to a climate that is hostile to these individuals, as discussed in Section II of this report<sup>7</sup>. Some media continue to promote negative stereotypes and prejudices about individuals of non-Danish origin and sensationalise any incidents involving members of minority groups. On the other hand, insufficient coverage is given to the ordinary activities of these individuals as residents and citizens of Danish society. ECRI encourages the Danish authorities to give due consideration to these factors when renewing licences and granting financial support to the media. ECRI welcomes initiatives, such as the plan of action of the Danish Broadcasting Corporation which includes guidelines for multi-ethnic reporting and a plan to introduce ethnic equality as part of recruiting. ECRI hopes that such initiatives will be introduced more widely amongst the Danish media.

## **SECTION II: ISSUES OF PARTICULAR CONCERN**

35. In this section of its country-by-country reports, ECRI wishes to draw attention to a limited number of issues which in its opinion merit particular and urgent attention in the country in question. In the case of Denmark, ECRI would like to draw attention to the climate of opinion as concerns individuals of non-Danish background and the discrimination they face in accessing public services and participating in the labour market.

## **L. Climate of opinion**

36. In recent years Denmark has been experiencing major changes in migration patterns. In the last decade in particular, Denmark has increasingly become a country of immigration. This has contributed to the emergence of a number of significant communities of foreign origin. Today approximately 8% 7% of the total population living in Denmark are of "foreign background", according to figures from the Danish Ministry of Interior.
37. This increasing diversity challenges traditional views of Danish society as relatively homogenous in ethnic and religious terms. There seems to be resistance at many levels of Danish society to recognising and accepting this reality, and fears about the effect that this diversity will have on Danish culture and identity. Political elites and other public opinion leaders such as the media<sup>8</sup> and intellectuals have, in some cases, promoted fears and negative stereotypes about these immigrant communities contributing to a climate of opinion where individuals of foreign background are perceived as a threat to the Danish economy, way of life and value system. This climate has had negative consequences upon the situation of ethnic minorities (new arrivals, long-term residents and citizens of foreign background) and their ability to integrate into

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<sup>7</sup> See *Climate of Opinion*.

<sup>8</sup> See *Media above*.

Danish society. Such an environment provides a breeding ground for discrimination and hostility which ethnic minorities experience on a daily basis. ECRI believes that such an atmosphere may also play a role in explaining displays of anger and frustration amongst second generation immigrant youth. ECRI considers that such developments are worrying and need to be immediately addressed. In this respect, ECRI is pleased to learn that a number of intellectuals, journalists and other public opinion leaders are speaking out publicly against the current atmosphere and encouraging Danes to continue their tradition of tolerance and respect for others. ECRI hopes that such positive initiatives will continue.

38. ECRI is deeply concerned that extreme right political parties, such as the far-right Danish People's Party (which opinion polls estimate currently has the support of 15-20% of the population) have become increasingly prominent on the Danish political scene, promoting racist and xenophobic ideas. The primary targets of such propaganda are Muslims and other individuals originally from non-EU countries, including immigrants, asylum seekers and refugees, with widespread negative repercussions on the perception by the majority population of this category of people living in Denmark. Typically, these people are portrayed as a threat to Danish identity, and blamed for various problems from the economy to street crime.
39. ECRI is particularly concerned about the influence that these extreme right parties exercise upon mainstream political parties. For fear of losing electoral support from segments of the population supposed to be hostile to foreigners, the latter parties tend to adopt a rhetoric portraying non-Danes as a problem within Danish society, thus contributing to a climate of xenophobia and intolerance. This political climate may also be connected with the adoption of restrictive policies and legislation, notably as concerns immigrants, refugees and asylum seekers, but also having repercussions for, and in some cases directly affecting, ethnic minorities who are Danish citizens.
40. ECRI stresses that all political parties and representatives have a responsibility to resist the temptation to approach issues related to ethnic minorities and immigrants, refugees and asylum seekers in a negative fashion in order to gain votes. Political parties should take a firm stand against any forms of racism, discrimination and xenophobia and refuse to adopt policies inspired by such sentiments. Instead politicians should publicly challenge all such ideas with a more well-informed and realistic portrayal of the situation of ethnic minorities and emphasise the positive contribution made by different ethnic minority communities to Danish society. This firm stand should be accompanied by a public recognition of the existence of xenophobia and discrimination in Danish society, as a necessary first step to actively combating these phenomena. The strict enforcement of legislative measures targeting discrimination and hate speech also sends an important signal that racism and discrimination will not be tolerated in Danish society. The manner in which politicians approach sensitive issues such as integration, asylum and immigration also sends an important message about the place of ethnic minorities in Danish society and ECRI therefore encourages an approach recognising the value of diversity. ECRI is of the opinion that an increased acknowledgement of modern Denmark as a society in which various forms of identity can be associated with the traditional



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Danish identity would contribute to enabling all the members of Danish society to enjoy real equality in all fields of life.

## M. Discrimination in Access to Public Services

### - *Employment*

41. ECRI is concerned about the disproportionately high levels of unemployment amongst immigrants and their descendants. Even highly qualified immigrants and refugees in sectors where Denmark is in need of employees have difficulties finding employment. The Danish authorities are aware of this problem and suggest that there are two main causes for the problem: difficulties satisfying the professional and linguistic requirements of the labour market and reluctance to recruit persons with a different ethnic minority background than Danish. ECRI notes that discriminatory practices and perceptions act as important obstacles for ethnic minorities, not only during the recruitment process, but during all stages of an individual's career.
42. ECRI welcomes the wide variety of measures the local and national authorities have introduced in order to address this problem, and encourages the continuation and extension of such efforts, targeting all relevant actors in the labour market and addressing the different phases of the employment process. ECRI stresses the importance of identifying the concrete ways in which discrimination manifests itself in the Danish labour market so that effective measures may be implemented. In this regard, ECRI believes that ethnic monitoring in the workplace would be an invaluable tool, enabling goals to be set for policies aiming at promoting further equality in the labour market. The Danish authorities might reexamine Article 4 of the Act on the Prohibition of Discrimination in Respect of Employment and Occupation, which prevents such monitoring, and consider amending it in such manner as to permit the voluntary registration of employees with a different ethnic background to be used in the promotion of ethnic equality. ECRI also emphasises the paramount importance of adequately implemented legal provisions in this field and recommends that the application of existing legislation in this area be improved, as discussed above.<sup>9</sup>
43. ECRI notes that much of the Danish labour market, in both the public and private sector, is governed by collective agreements negotiated between employers and unions. Unions have been widely criticised for not paying sufficient attention to the phenomenon of discrimination. Recently, various unions have, at the national level, recognised the importance of combating discrimination and promoting equal opportunity and diversity within the workplace and developed action plans towards this end. ECRI strongly supports such initiatives on the part of the unions and believes it is important that the issue of discrimination be incorporated into collective agreements, enabling members to bring grievances in this area before complaint boards. ECRI also considers that it would be beneficial for training to be carried out at the local level with representatives of unions as well as those involved in

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<sup>9</sup> See *Civil and administrative law provisions*.

grievance procedures in order to assist such individuals in recognising and addressing occurrences of discrimination.

44. ECRI considers that initiatives and measures in this field will be most successful if pursued by all relevant actors in the labour market including the social partners, employment bureaus and training centres, the media and local and national authorities. The Danish authorities at all levels have a central role to play in encouraging dialogue among the relevant actors, stimulating and supporting the adoption of new initiatives and undertaking training and awareness-raising measures. With respect to the latter, information should address all relevant actors and include *inter alia* information about the legal framework aimed at combating discrimination, the phenomenon of indirect or hidden discrimination at different stages of the employment process, the benefits of ethnic diversity in the workplace and the manner in which this can best be accomplished.

- ***Access to Public Places***

45. Members of ethnic and religious minority communities encounter direct and indirect discrimination with respect to their ability to access public places. They report frequent difficulties gaining entry to public places such as discotheques, restaurants and bars, and Muslim women wearing veils have also reportedly been refused transport on public buses. Unwillingness on the part of the local authorities in certain municipalities to meet special needs with respect to dress and changing facilities have hindered the use of swimming facilities and children's participation in physical education classes. ECRI welcomes the positive efforts made by other municipalities in this area and suggests that such good practice could be followed elsewhere. ECRI urges the authorities, as discussed earlier in this report<sup>10</sup>, to effectively implement existing criminal legislation in this area and to consider introducing relevant civil and administrative legislation.

- ***Access to Housing***

46. Within the Danish housing market approximately 54% of housing is owned by the occupier. Although there is no legal obstacle to ownership, only 13% of refugees and 18% of immigrants between the ages of 15 and 66 are owner occupiers, as compared to 67% within the rest of the Danish population. However, members of ethnic minorities living in Denmark encounter difficulties renting housing due to market conditions, housing restrictions and indirect discrimination. Members of minority groups can often only access public housing in poorer neighbourhoods around the big cities, resulting in disproportionately high numbers of first or second generation immigrants clustered in certain neighbourhoods.

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<sup>10</sup> See *Criminal law provisions and Civil and administrative law provisions*.

47. The Danish rental housing market is composed of both private rental housing and public utility housing. Within the private housing market, individual rental is usually more expensive and opportunities limited. A certain amount of housing is reserved for individuals with pension schemes, in which few ethnic minorities have been able to participate. Ethnic minorities have also faced difficulties attempting to access co-operative housing as tenants may refuse applicants without justification. The majority of individuals of foreign background are thus obliged to rent public utility housing, access to which operates on the basis of a waiting list whereby when a space becomes available in a given municipality, the housing is to be offered to the first name on the list, subject to approval by the municipality. According to the Act on Public Housing, municipalities may only reject applicants if there is a clear disproportion between the applicant's family income and the rent of the housing in question. Such determination is to be based on a concrete assessment of the applicant's economic situation. Nonetheless, a number of municipalities outside Copenhagen reportedly reject ethnic minority applicants on a regular basis, either with explicit reference to the applicants' ethnicity (a practice that is rare due to legal regulations), or, more frequently, with no explanation at all. In practice, ethnic minorities are also denied such housing in some municipalities through administrative regulations restricting the type of residents who will be accepted.
48. ECRI welcomes government efforts to encourage private landlords and attractive departments of non-profit housing associations to give minority groups wider access to their properties as well as efforts to regenerate distressed areas in order to attract a broader section of the population. However ECRI encourages the Danish authorities to further investigate the situation individuals of foreign origin face in the housing market and develop measures to ensure such individuals are not discriminated directly or indirectly in their access to housing. ECRI believes, as discussed earlier in this report<sup>11</sup>, that existing criminal legislation aimed at combating discrimination should be effectively implemented and that it would be beneficial if civil and administrative legislation addressing discrimination in the housing market were introduced and effectively implemented. It would also be desirable for the Danish authorities to thoroughly investigate, possibly with the participation of the Board for Ethnic Equality, the ways in which indirect discrimination operates in different municipalities. Steps could then be taken in order to address the problems at the local level. ECRI also feels that further information and training should be provided to existing administrative control bodies such as local Supervisory Boards, so that they are able to identify and redress instances of discrimination in the housing market, as well as to relevant officials within the municipality. A specialised body with a mandate in the area of discrimination, discussed above<sup>12</sup>, could also play an important role in addressing this problem.

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<sup>11</sup> See *Criminal law provisions and Civil and administrative law provisions*.

<sup>12</sup> See *Specialised bodies*.

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**The following appendix does not form part of ECRI's analysis and proposals concerning the situation in Denmark.**





## APPENDIX

ECRI wishes to point out that the analysis contained in its second report on Denmark, is dated 16 June 2000, and that any subsequent development is not taken into account.

In accordance with ECRI's country-by-country procedure, a national liaison officer was nominated by the authorities of Denmark to engage in a process of confidential dialogue with ECRI on its draft text on Denmark and a number of her comments were taken into account by ECRI, and integrated into the report.

However, following this dialogue, the national liaison officer expressly requested that the following observations on the part of the authorities of Denmark be reproduced as an appendix to ECRI's report.

### **OBSERVATIONS PROVIDED BY THE AUTHORITIES OF DENMARK CONCERNING ECRI'S REPORT ON DENMARK**

#### ***“Re para. 30***

#### ***The Danish Government wishes to point out the following:***

*Pursuant to Section 67 of the Danish Constitution on religious liberty, any religious community has the right to construct or establish buildings for the worship of the community without permission from the Danish State. A planned building must not be contrary to the regulations of the plan and building legislation. Only proposals for construction of church buildings to be used by the established church must be approved by the Ministry of Ecclesiastical Affairs.*

*The Ministry of Ecclesiastical Affairs is not aware that in some places in Denmark and due to administrative barriers, Muslims cannot use their own burial service. Section 11(3) of Act no. 346 of 26 June 1975 on burial and cremation stipulates that in connection with burial of Muslims at the cemeteries of the established church with a Muslim priest, agreement must be made with the cemetery committee concerning the course of the funeral. However, according to Section 15 of the Act, it is possible for the cemetery committee to leave part of the cemetery to be used by religious communities outside the established church if permission has been obtained from the Minister of Ecclesiastical Affairs. There are Muslim cemetery sections in e.g. Copenhagen, Århus and Odense.*

*According to Section 16(2) of the Act, the Minister of Ecclesiastical Affairs may permit religious communities outside the established church to establish their own graveyards. The present legislation thus makes it possible to found Muslim graveyards. In October 2000 the Minister for Ecclesiastical Affairs ordered an inquiry on whether the State owns a piece of land in Greater*

*Copenhagen which can be sold to the Muslims with a view to establishing a graveyard, and what possibilities the planning legislation gives the Minister for Environment and Energy.*

*On 13 October 2000 the National Forest and Nature Agency stated that it would be possible for the Agency to make such a piece of land available. At present the Agency is going through its land holdings and subsequently health inspections will be carried out, preservation regulations, if any, will be revoked and compliance with the provisions of the planning legislation will be ensured.*

**Re para. 42**

*The Danish authorities are asked to re-examine Article 4 of the Act on the Prohibition against Discrimination on the Labour Market concerning ethnic monitoring in the workplace. Even if monitoring of the workplace is an invaluable tool, it also has its disadvantages. So far the Danish Government has not wished to single out ethnic minorities at the workplace. But this question is currently being considered.*

*A guide to the Discrimination Act has been published in March 2000 and has been forwarded to ECRI for information.*

*Although the Ministry of Labour does not find that a national register should be set up on a voluntary basis, it is today possible to follow the labour market situation etc. of ethnic minorities at a rather detailed level.*

*Statistics Denmark has set up a register of immigrants and descendants which makes it possible to illustrate whether a person is an immigrant or is a descendant of immigrants and all persons can be referred to a country of origin.*

*These data can be combined with all administrative registers. However, for considerations of confidentiality it will not be possible to obtain data from the registers where it would be possible for the public to identify individual persons.*

*The above-mentioned register is based on the following definitions:*

**Immigrant:**

*An immigrant is defined as a person born abroad whose parents are both (or one of them if there is no available information on the other parent) foreign citizens or were both born abroad. If there is no available information on either of the parents and the person was born abroad, the person is also defined as an immigrant.*

**Descendant:**

*A descendant is defined as a person born in Denmark whose parents (or one of them if there is no available information on the other parent) are either immigrants or descendants with foreign citizenship. If there is no available*

*information on either of the parents and the person in question is a foreign citizen the person is also defined as a descendant.*

*Statistics Denmark has since 1994 published information about the labour market attachment of foreign citizens and in 1999 Statistics Denmark started published labour market data for immigrants and descendants, including foreign citizens.*

***Re para. 47-48***

*ECRI states that some local authorities are unlawfully refusing to let to immigrants and that Denmark should generally take steps to prevent discrimination in the housing market.*

*The Danish Ministry of Housing and Urban Affairs does not accept that immigrants (or others) are unlawfully rejected as tenants. The Ministry monitors the local authorities' administration of the letting rules and has in many cases asked local authorities for reports on their administration.*

*If there is unlawful rejection, the Ministry will intervene, as it did, for example, in a case in Høje-Taastrup Municipality. The Ministry reported the case to the Supervisory Council, which ordered the local authority to change its practice.*

*The Ministry regularly reminds local authorities and housing organisations that there must be no discrimination in the housing sector. It does this, for example, in connection with the tabling of bills, issuance of guidelines, etc."*