

**Den Europæiske Kommission  
mod Racisme og Intolerance**

Tredje rapport om  
Danmark

Vedtaget den 16. december 2005

Strasbourg, 16. maj 2006



Yderligere oplysninger om arbejdet i Den Europæiske Kommission mod Racisme og Intolerance (ECRI) og om Europarådets øvrige aktiviteter på området kan fås ved henvendelse til:

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## **Forord**

Den Europæiske Kommission mod Racisme og Intolerance (ECRI) er stiftet af Europarådet som et uafhængigt organ til overvågning af krænkelse af menneskerettigheder, især i relation til racisme og intolerance. ECRIs medlemmer er uafhængige og objektive og udpeges på grundlag af deres moralske indsigt og anerkendte ekspertise inden for områderne racisme, fremmedhad, antisemitisme og intolerance.

Et af de bærende elementer i ECRIs arbejdsprogram er landerapporterne, hvor ECRI gennemgår forholdene i hver af Europarådets medlemsstater, hvad angår racisme og intolerance og fremsætter forslag om og henstillinger til håndtering af de problemer, der afdækkes.

I forbindelse med udarbejdelsen af landerapporter behandles alle Europarådets medlemsstater på lige fod. Arbejdet er tilrettelagt således, at der i løbet af en cyklus på 4-5 år udarbejdes 9 til 10 landerapporter om året. Første cyklus blev afsluttet med udgangen af 1998, og rapporterne fra anden runde var færdige i slutningen af 2002. Arbejdet med tredje runde blev påbegyndt i januar 2003.

I tredje runde fokuserer rapporterne på 'gennemførelse'. Det undersøges, om henstillingerne i tidligere ECRI-rapporter er blevet fulgt og gennemført, og i givet fald hvor vellykket og gennemslagskraftig gennemførelsen har været. Rapporterne i tredje runde handler også om 'særlige problemer' som udvælges på baggrund af situationen i det enkelte medlemsland og gøres til genstand for en grundig behandling i rapporten.

Ved udarbejdelsen af en landerapport foretages først en nærmere analyse af dokumentationsmaterialet. Dernæst gennemføres et kontaktbesøg i det pågældende land, og endelig finder en fortrolig dialog sted med de nationale myndigheder.

ECRIs rapporter er ikke et resultat af undersøgelser eller vidneberetninger. Rapporterne er analyser, der bygger på omfattende informationer fra en bred vifte af kilder. Den skriftlige dokumentation kommer fra et stort antal nationale og internationale kilder. Kontaktbesøget gør det muligt at mødes direkte med de involverede grupper (både statslige og ikke-statslige) med henblik på indhentning af detaljerede oplysninger. Igennem den fortrolige dialog får de nationale myndigheder mulighed for at fremsætte forslag til ændringer i rapportudkastet, således at eventuelle faktuelle fejl kan blive rettet. Ved dialogens afslutning kan de nationale myndigheder anmode om, at deres synspunkter vedlægges ECRIs endelige rapport i form af et bilag.

**Nærværende rapport er udarbejdet af ECRI på eget ansvar. Den omhandler forholdene pr. 16. december 2005, og eventuelle ændringer efter denne dato er ikke medtaget i nedenstående analyse, ligesom de heller ikke indgår i ECRIs konklusioner og forslag.**

### **Sammendrag**

Siden offentliggørelsen af ECRIs anden rapport om Danmark d. 3. april 2001 er der sket fremskridt på en række af de områder, som blev fremhævet i rapporten. I 2003 vedtog Danmark en lov om etnisk ligebehandling og oprettede Klagekomiteen for Etnisk Ligebehandling med beføjelse til at behandle klager om diskrimination inden for alle områder, herunder beskæftigelse. Herudover vil et racistisk motiv til en almindelig strafbar handling nu kunne tillægges betydning i skærpende retning i forbindelse med strafudmålingen.

Imidlertid er en række af henstillingerne fra ECRIs anden rapport endnu ikke blevet gennemført eller kun blevet delvist gennemført. Yderligere ændringer i lov om dansk indfødsret, integrationsloven og udlændingeloven lægger uforholdsmæssigt store hindringer i vejen for, at medlemmer af mindretalsgrupper kan opnå dansk statsborgerskab, blive forenet med deres ægtefælle, opnå familiesammenføring og få adgang til det sociale sikringsystem på lige fod med resten af befolkningen. Klimaet i Danmark er generelt blevet forværret, og visse politikere og dele af medierne fremmaner uophørligt et negativt billede af mindretalsgrupper i almindelighed og muslimer i særdeleshed. I den forbindelse er det sjældent, at den relevante lovgivning om ansporing til racediskrimination bringes i anvendelse over for personer, der fremsætter ytringer imod disse grupper, og herved skabes der en opfattelse af, at en sådan adfærd er straffri, hvorved det offentlige klima forværres yderligere. Der mangler stadig en klar og sammenhængende politik til at sikre mindretalsgrupper lige adgang til beskæftigelse, boliger og uddannelse. Samtidig har mange NGO'er fået beskåret eller helt fjernet deres offentlige bevillinger, og det har gjort det endnu vanskeligere for mindretalsgrupper at gøre opmærksom på forhold, som er af særlig betydning for dem, og som de ønsker debatteret i den brede offentlighed.

I nærværende rapport henstiller ECRI til de danske myndigheder, at der træffes yderligere foranstaltninger inden for en række områder. Således henstilles det, at Danmark ratificerer protokol nr. 12 til den europæiske menneskerettighedskonvention. Det henstilles at lovændringer, som f.eks. ændringerne i lov om dansk indfødsret, udlændingeloven og integrationsloven, ikke i praksis fører til diskrimination af mindretalsgrupper. Derudover henstiller ECRI, at Danmark foranstalter en mere effektiv gennemførelse af lov om etnisk ligebehandling. ECRI henstiller også, at klagekomiteen for etnisk ligebehandling får udvidet sine beføjelser, således at den kan foretage en mere effektiv behandling af klager over racediskrimination og tilbyde ofrene rimelige løsninger. ECRI opfordrer den danske regering til at bevillige tilstrækkelige midler såvel til dette organ som til andre organisationer, der beskæftiger sig med racisme og racediskrimination. Det er ECRIs faste overbevisning, at medierne og politikerne bør forholde sig mere ansvarligt til den måde, hvorpå de fremstiller mindretalsgrupper i almindelighed og muslimer i særdeleshed. ECRI opfordrer således den danske regering til at foretage en grundig revision af dansk lovgivning om ansporing til racediskrimination. Endelig henstiller ECRI, at Danmark vedtager og gennemfører en klar og langsigtet politik for integration af mindretalsgrupper på arbejdsmarkedet, i uddannelsessektoren og på boligmarkedet.

## I: OPFØLGNING PÅ ECRIs ANDEN RAPPORT OM DANMARK

### Internationale retsinstrumenter

1. ECRI henstillede i sin anden rapport, at Danmark ratificerede den europæiske konvention om statsborgerret, den (reviderede) europæiske socialpagt og den europæiske konvention om vandrede arbejdstageres retsstilling.
2. ECRI konstaterer med glæde, at Danmark ratificerede den europæiske konvention om statsborgerret d. 24. juli 2002. Det noteres tillige, at selvom Danmark har tilkendegivet, at arbejdet med at undersøge de tekniske og juridiske spørgsmål i forbindelse med ratificeringen af den (reviderede) europæiske socialpagt nærmer sig sin afslutning, har det dog ikke kunnet bekræftes, at dette instrument vil blive ratificeret. Danmark har tilkendegivet, at den europæiske konvention om vandrede arbejdstageres retsstilling ikke er blevet ratificeret.
3. ECRI konstaterede i sin anden rapport, at Danmark endnu ikke havde accepteret nogen af bestemmelserne i artikel 19 i den europæiske socialpagt, og opfordrede derfor kraftigt til, at denne artikel omgående blev accepteret.
4. ECRI konstaterer, at Danmark har anført væsentlige forbehold over for de fleste af bestemmelserne i artikel 19 i den europæiske socialpagt.
5. Siden offentliggørelsen af ECRIs anden rapport er protokol nr. 12 til den europæiske menneskerettighedskonvention trådt i kraft. Dette skete d. 1. april 2005. Konventionens tillægsprotokol om cyberkriminalitet, som omhandler kriminalisering af racistiske og fremmedfjendske handlinger begået via computersystemer, blev åbnet for ratifikation d. 28. juli 2003. Samtidig trådte den internationale konvention til beskyttelse af alle vandrede arbejdstagere og medlemmer af deres familie i kraft d. 1. juli 2003.
6. Danmark har oplyst over for ECRI, at undertegningen af protokol nr. 12 til den europæiske menneskerettighedskonvention afventer en juridisk bedømmelse af protokollen med henblik på at fastslå dens indhold af positive forpligtelser for staten. ECRI konstaterer med glæde, at Danmark i juni 2005 ratificerede konventionens tillægsprotokol om cyberkriminalitet, som gør det strafbart at begå racistiske og fremmedfjendske handlinger via computersystemer. ECRI noterer sig dog, at Danmark endnu ikke har ratificeret den internationale konvention til beskyttelse af alle vandrede arbejdstagere og medlemmer af deres familie.

#### **Henstillinger:**

7. ECRI gentager sin henstilling om, at Danmark ratificerer den (reviderede) europæiske socialpagt og den europæiske konvention om vandrede arbejdstageres retsstilling. ECRI henstiller tillige, at Danmark ratificerer protokol nr. 12 til den europæiske menneskerettighedskonvention og accepterer bestemmelserne i artikel 19 i den europæiske socialpagt. ECRI henstiller, at Danmark ratificerer den internationale konvention til beskyttelse af alle vandrede arbejdstagere og medlemmer af deres familie.
8. ECRI konstaterede i sin anden rapport, at Danmark havde indarbejdet den europæiske menneskerettighedskonvention i dansk lovgivning og henstillede, at det blev overvejet at indarbejde andre menneskerettighedskonventioner i den nationale lovgivning, især konventionen til eliminering af alle former for racediskrimination.

9. ECRI konstaterer, at Danmark ikke har taget skridt til at indarbejde andre internationale menneskerettighedskonventioner end den europæiske menneskerettighedskonvention i sin nationale lovgivning, og at konventionen til eliminering af alle former for racediskrimination derfor ikke er blevet indarbejdet i dansk lovgivning. Denne beslutning blev truffet på trods af, at en Kommission, som var nedsat med henblik på at undersøge dette spørgsmål, har anbefalet, at man i den nationale lovgivning inkorporerer såvel denne konvention som den internationale aftale om civile og politiske rettigheder og konventionen mod tortur og anden grusom, umenneskelig eller nedværdigende behandling eller straf. Danske domstole henviser sjældent til internationale konventioner, der ikke er blevet inkorporeret i dansk lov.

#### **Henstillinger**

10. ECRI henstiller, at Danmark genovervejer indarbejdelsen i national lovgivning af internationale menneskerettighedskonventioner, herunder konventionen til eliminering af alle former for racediskrimination, således at de kan påberåbes direkte over for domstolene.

#### **Forfatningsretlige og andre grundlæggende bestemmelser**

##### **- Lov om indfødsret**

11. I sin anden rapport henstillede ECRI, at Danmark nøje overvågede følgerne af ændringen i indfødsretsloven som medfører, at udenlandske statsborgere mellem 18 og 23 år, som har boet i Danmark i mindst 10 år, ikke længere kan erhverve dansk indfødsret ved en fremskyndet procedure.
12. ECRI bemærker, at der ikke er truffet foranstaltning til gennemførelse af ovenstående henstilling. Desuden er lov om indfødsret blevet ændret, således at det nu kun er statsborgere fra nordiske lande og tidligere danske statsborgere, som kan erhverve dansk indfødsret ved at afgive en erklæring. De danske myndigheder har oplyst over for ECRI, at ministeriet for flygtninge, indvandrere og integration har udstedt nogle interne retningslinier om, at personer født i Danmark skal kunne opnå dansk indfødsret efter 3 til 5 års ophold i landet i stedet for efter 8 år. Imidlertid har myndighederne tilkendegivet, at der kun er tale om retningslinier, der er opnået enighed om i Folketinget, og at de således ikke er bindende. Den danske lov om indfødsret er også blevet ændret, således at enhver person, som har erhvervet dansk indfødsret ved svigagtig adfærd, eller som har begået en strafbar handling mod den danske stat, nu kan fratages sin danske indfødsret. De danske myndigheder har oplyst, at en sådan foranstaltning ikke vil blive iværksat, hvis det medfører, at den pågældende person bliver statsløs. Imidlertid konstaterer ECRI med bekymring, at et afslag på en ansøgning om dansk statsborgerskab ikke indebærer, at ansøgeren får oplyst grundlaget for afslaget. Således har ECRI fået oplysninger om, at myndighederne kan beslutte, at en person udgør en fare for det danske samfund og derfor ikke skal gives dansk statsborgerskab, uden at den pågældende bliver informeret om denne konklusion. ECRI har også fået meldinger om, at den danske regering har planer om at indføre krav om, at enhver, der ansøger om dansk statsborgerskab, skal have været i beskæftigelse i fire ud af de forudgående fem år. Forslaget er fremsat af Ministeriet for Flygtninge, Indvandrere og Integration, som skønner, at det vil nedbringe antallet af personer, som ellers opfylder kriterierne for erhvervelse af statsborgerskab med 30 %. ECRI noterer, at en vedtagelse af forslaget i realiteten vil medføre udelukkelse af personer fra at erhverve dansk indfødsret på et rent økonomisk grundlag. ECRI er derfor bekymret for, at denne foranstaltning vil få en uforholdsmæssig stor diskriminerende virkning for

mindretalsgrupper, hvor arbejdsløsheden som omtalt nedenfor<sup>1</sup> er langt højere end blandt etniske danskere.

### **Henstillinger:**

13. ECRI henstiller, at den danske regering ved ændringer i lov om indfødsret holder Den europæiske Konvention om Indfødsret i erindring. Det henstilles tillige, at enhver ændring af denne lov foretages i overensstemmelse med artikel 5 i den europæiske konvention om indfødsret, som bl.a. foreskriver, at der i regler om indfødsret ikke må foretages nogen skelnen og heller ikke må anvises en praksis, som udgør diskrimination på grund af religion, race, hudfarve eller national eller etnisk oprindelse. Den danske regering bør derudover sikre, at lov om indfødsret i praksis gennemføres med behørig hensyntagen til disse principper.

### **Strafferetlige bestemmelser**

14. I sin anden rapport henstillede ECRI, at Danmark nøje overvågede gennemførelsen af § 1 og 2 i lov om forbud mod forskelsbehandling på grund af race m.v., som forbyder forskelsbehandling på grund af bl.a. race, hudfarve, national eller etnisk oprindelse eller religion i forbindelse med betjening inden for erhvervsmæssig eller almennyttig virksomhed og adgang til steder, der er åbne for almenheden. Det blev desuden henstillet, at politi og anklagemyndighed skulle modtage instruktion i efterforskningen af anmeldelser indgivet i medfør af denne lov.
15. ECRI konstaterer, at der på trods af en stigende bevidsthed blandt politifolk om den diskrimination, der udøves imod mindretalsgrupper i forbindelse med adgang til offentlige steder såsom barer, diskoteker og restauranter, indbringes meget få sager for domstolene omhandlende denne form for diskrimination. ECRI har således erfaret, at der i perioden imellem januar 2002 og udgangen af oktober 2004 kun blev indbragt 4 sager om dette forhold i København. Sagerne endte med, at indehaveren af det offentlige sted kun blev idømt en mindre bøde, og ofret blev ikke tildelt nogen erstatning. Se mere om dette emne nedenfor under 'Adgang til offentlige ydelser'.

### **Henstillinger**

16. ECRI henstiller, at den danske regering sikrer en mere aktiv gennemførelse af lov om forbud mod forskelsbehandling på grund af race m.v. Det henstilles tillige, at der iværksættes foranstaltninger til at udbrede kendskabet til denne lov, også udenfor Københavns Kommune.
17. ECRI henstillede i sin anden rapport, at Danmark fører en mere offensiv politik vedrørende gennemførelsen af § 266 b i den danske straffelov, som forbyder udbredelsen af racistiske udtalelser og racistisk propaganda.
18. ECRI beklager dybt, at politiet fortsat er meget tilbageholdende med at optage rapporter over tilfælde af racistiske udtalelser og med at efterforske sager og rejse tiltale i medfør af § 266 b i straffeloven, hvilket til dels skyldes at ytringsfriheden prioriteres højest i Danmark. Det er blevet påpeget over for ECRI, at de få sager, der ender ved domstolene, kun har medført bødestraf. De danske myndigheder har oplyst over for ECRI, at der i perioden mellem januar 2001 og udgangen af september 2003 blev indbragt 23 sager for domstolene med i alt 32 tiltalte, hvoraf 24 blev idømt straf. En af de tiltalte blev idømt

<sup>1</sup> Se afsnittet 'Beskæftigelse'.

fængsel i 20 dage.<sup>2</sup> I den forbindelse har visse NGO'er oplyst over for ECRI, at antallet af racistiske udtalelser fremsat bl.a. af medlemmer af Dansk Folkeparti (som har været støtteparti for regeringen siden 2002) er steget voldsomt i de seneste år. I 2003 blev der i 16 sager afsagt dom over politikere i medfør af straffelovens § 266 b, og NGO'ere har i 2005 konstateret en stigning i antallet af klager over politikere, især for udtalelser om muslimer og Islam.<sup>3</sup> NGO'erne gør opmærksom på, at denne stigning til dels skyldes valgkampen i forbindelse med kommunalvalget d. 15. november 2005, fordi politikere ofte anvender populistisk retorik i deres bestræbelser på at vinde stemmer.

19. ECRI konstaterer med bekymring, at en lokal nynazistisk radiostation fortsat modtager statsstøtte på trods af, at den udsender racistiske udtalelser. ECRI har ganske vist erfaret, at den pågældende stations sendelicens blev inddraget i en periode på tre måneder i 2004, fordi der i udsendelserne blev givet udtryk for holdninger, især i forhold til muslimer, som blev anset for at udgøre en overtrædelse af straffeloven, men ECRI ønsker at udtrykke sin bekymring over, at stationen har fået sin sendelicens tilbage. En anden radiostation, som drives af en nynazist, og som udsender racistiske udtalelser, modtager ligeledes offentlig støtte til driften. På et spørgsmål herom fra ECRI svarede myndighederne, at det i henhold til dansk lov er tilladt alle radiostationer at sende, når blot der er støtte hertil i lokalsamfundet. Det blev tillige oplyst, at den pågældende radiostation ikke havde fået frataget sin licens, fordi den ikke havde udsendt ulovlige udtalelser.

#### **Henstillinger:**

20. ECRI opfordrer indtrængende Danmark til at føre en mere offensiv politik i forbindelse med retsforfølgning af personer, som fremsætter racistiske udtalelser, eftersom § 266 b i den danske straffelov som fortolket af Højesteret tilsyneladende ikke er tilstrækkelig.
21. ECRI henstillede i sin anden rapport, at Danmark indførte foranstaltninger til bekæmpelse af racistiske organisationer.
22. ECRI konstaterer, at racistiske organisationer stadig ikke er forbudt i Danmark. Det konstateres i øvrigt, at skønt de danske myndigheder har tilkendegivet over for ECRI, at det er dansk politik at retsforfølge individuelle medlemmer af nynazistiske eller skinheadrelaterede organisationer, er det meget få sager der kommer for retten, om overhovedet nogen.
23. ECRI henstillede i sin anden rapport, at Danmark indføjede en bestemmelse i lovgivningen om, at racistiske motiver for almindelige strafbare handlinger skulle betragtes som en skærpende omstændighed.
24. ECRI konstaterer med glæde, at den danske straffelov er blevet ændret i overensstemmelse med denne henstilling. § 81 i straffeloven bestemmer således, at racistiske eller etniske motiver til en strafbar handling vil blive betragtet som en skærpende omstændighed. Imidlertid er denne bestemmelse så ny, at der endnu ikke foreligger retspraksis herom.

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<sup>2</sup> Fire af disse sager vedrørte tilråb, 7 vedrørte udtalelser på Internettet, 2 handlede om annoncer, 2 om udtalelser ved politiske møder, 3 om interviews bragt i medierne, og 3 omhandlede breve sendt til politikere.

<sup>3</sup> Se flere oplysninger om situationen for det muslimske samfund i afsnittet 'Sårbare grupper'.

**Henstillinger:**

25. ECRI henstiller indtrængende, at den danske regering gør det strafbart at oprette eller være leder af en gruppe, som fremmer racisme, eller at yde støtte til en sådan gruppe og deltage i dens aktiviteter, således som det er anført i ECRIs Generelle Henstilling nr. 7 om national lovgivning til bekæmpelse af racisme og racediskrimination.<sup>4</sup> Det henstilles tillige, at Danmark fører en mere offensiv politik, hvad angår strafforfølgelse af sådanne organisationers medlemmer.

**Civil- og forvaltningsretlige bestemmelser**

26. ECRI anførte i sin anden rapport, at Danmark manglede et civil- og forvaltningsretligt lovkompleks om antidiskrimination og anbefalede vedtagelse af et sådant. ECRI understregede tillige, at et specialorgan til bekæmpelse af racisme og intolerance kunne spille en vigtig rolle i tilsynet med gennemførelsen af et sådant lovkompleks.
27. ECRI hilser det velkommen, at Danmark har vedtaget lov om etnisk ligebehandling i maj 2003<sup>5</sup> inden for rammerne af implementeringen af EUs ligebehandlingsdirektiver.<sup>6</sup> Loven forbyder diskrimination for så vidt angår social beskyttelse, herunder social sikring og sundhedspleje, sociale goder og uddannelse. Den forbyder også diskrimination i forbindelse med adgang til varer og tjenesteydelser, herunder bolig, samt chikane udøvet på grund af race eller mod personer, som har anmeldt tilfælde af racediskrimination. Loven indfører tillige en delt bevisbyrde og giver ofre ret til ikke-økonomisk godtgørelse. ECRI konstaterer også med tilfredshed, at Danmark har oprettet en Klagekomite for Etnisk Ligebehandling<sup>7</sup> under Institut for Menneskerettigheder med beføjelse til at behandle klager over racediskrimination i medfør af denne lov, herunder i forbindelse med beskæftigelse<sup>8</sup>. ECRI finder det dog bekymrende, at meget få sager indbringes for domstolene i medfør af lov om etnisk ligebehandling, fordi Klagekomiteens beføjelser ikke er vidtgående nok til at muliggøre efterforskning af sagerne. Det er både for vanskeligt og for dyrt for et typisk offer selv at indbringe sagen for domstolene. De danske myndigheder har således oplyst over for ECRI, at der kun er blevet indbragt en sag for domstolene om diskrimination i forbindelse med beskæftigelse i medfør af denne lov.

**Henstillinger:**

28. ECRI henstiller indtrængende, at Danmark foranstalter en mere offensiv gennemførelse af lov om etnisk ligebehandling, blandt andet ved at sikre at potentielle ofre for diskrimination også er opmærksomme på lovens eksistens og på de mekanismer, der muliggør indbringelse af sådanne sager for domstolene.

<sup>4</sup> Se også CRI (2003) 8, afsnit 18 g.

<sup>5</sup> Lov nr. 374 af 28. maj 2003.

<sup>6</sup> Direktiv 2000/43/EF af 29. juni 2000 implementerer princippet om ligebehandling af personer uanset race eller etnisk oprindelse, og direktiv 2000/78/EF af 27. november 2000 indfører en generel ramme for ligebehandling i beskæftigelses- og ansættelsesforhold.

<sup>7</sup> En nærmere redegørelse for Klagekomiteens arbejde findes nedenfor i afsnittet 'Specialorganer og andre institutioner'.

<sup>8</sup> I henhold til lov om forbud mod diskrimination på arbejdsmarkedet.

## Retssystemet

29. Som anført ovenfor er det meget få sager i Danmark, som indbringes for domstolene, ligesom sager om racisme eller diskrimination kun i få tilfælde fører til domfældelse. Dette skyldes især, at dommere, anklagere og advokater ikke i tilstrækkelig grad er opmærksomme på den relevante nationale og internationale lovgivning. Det danske justitsministerium har i den henseende oplyst over for ECRI, at det overvejer at lægge retspraksis i sådanne sager ud på sine interne hjemmesider til brug for lokale anklagere og lokalt politi. Imidlertid modtager dommere, advokater og anklagere meget lidt formaliseret undervisning i racisme og racediskrimination såvel i løbet af deres studier som efterfølgende. Samtidig har ECRI fået oplyst fra NGO'er, at domstolene ikke afspejler mangfoldigheden i det danske samfund. Til dette punkt har de danske myndigheder tilkendegivet, at man er i færd med at træffe foranstaltninger, der skal få flere medlemmer af etniske mindretalsgrupper til at søge stillinger inden for domstolsadministrationen og ved domstolene. Således vil man f.eks. ændre ordlyden i stillingsannoncer. ECRI er dybt bekymret over meldinger om, at visse dommere er forudindtaget over for vidner og anklagede fra etniske minoriteter.

### **Henstillinger:**

30. ECRI henstiller indtrængende, at den danske regering træffer skridt til at sikre at dommere, advokater og anklagere modtager undervisning i alle de nationale og internationale juridiske instrumenter, der omhandler racisme og racediskrimination, såvel i løbet af deres studier som efterfølgende. ECRI henstiller tillige, at Danmark fortsat træffer foranstaltninger til at få flere medlemmer af mindretalsgrupper til at søge beskæftigelse inden for alle områder i det retslige system.

## Specialorganer og andre institutioner

### - **Klagekomiteen for Etnisk Ligebehandling**

31. ECRI gav i sin anden rapport udtryk for, at Nævnet for Etnisk Ligestilling spillede en særdeles vigtig rolle i forbindelse med bekæmpelse af racediskrimination og udtrykte forhåbning om, at de danske myndigheder fortsat ville lytte til nævnets råd og henstillinger på dets ekspertiseområde.
32. ECRI beklager dybt, at Nævnet for Etnisk Ligestilling blev nedlagt d. 31. december 2002 efter vedtagelsen af en lov<sup>9</sup> om oprettelse af det Danske Center for Internationale Studier og Menneskerettigheder. Nedlæggelsen skete som følge af en beslutning truffet af den danske regering d. 11. januar 2002, om at der skulle ske nedlæggelse, sammenlægning, indskrænkning i beføjelserne for eller beskæring af støtten til mere end 100 organisationer, som blev anset for bl.a. at være 'smagsdommere'.<sup>10</sup> Som følge af denne beslutning blev Institut for Menneskerettigheder pr. 1. januar 2003 gjort til en del af Dansk Center for Internationale Studier og Menneskerettigheder med mandat til bl.a. at fremme etnisk ligebehandling. Som tidligere anført blev Klagekomiteen for Etnisk Ligebehandling (herefter benævnt 'Klagekomiteen') oprettet i 2003 inden for rammerne af dette organ. ECRI konstaterer med bekymring, at Komiteen i en række henseender ikke opfylder kriterierne for at blive betragtet som et specialorgan i henhold til definitionen i ECRIs Generelle Henstilling nr. 2 om specialorganer til bekæmpelse af racisme, fremmedhad, antisemitisme og

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<sup>9</sup> Se lov nr. 411 af 6. juni 2002.

<sup>10</sup> Se flere oplysninger om denne beslutning nedenfor i afsnittet 'Andre institutioner og NGO'er'.

intolerance på nationalt niveau.<sup>11</sup> Klagekomiteen har oplyst over for ECRI, at den kun undersøger klager om diskrimination på grund af race og etnisk tilhørsforhold og således ikke dækker diskrimination på grund af religion. Eftersom Komiteen ikke har beføjelse til at afhøre vidner, træffer den sine afgørelser udelukkende på skriftligt grundlag. Klagekomiteen har ikke beføjelse til at pålægge private enheder at afgive vidneforklaring og må derfor afvise klagen i sager, hvor det ikke er muligt at skaffe tilstrækkeligt bevis. ECRI har fået oplyst, at princippet om delt bevisbyrde ikke gælder for Klagekomiteens sagsbehandling. ECRI finder det specielt bekymrende, at Komiteen på trods af alle disse begrænsninger i bevisførelse kun har mulighed for at give fri proces til personer, der ønsker at indbringe deres sag for domstolene, såfremt den finder, at der faktisk er sket diskrimination. I den forbindelse har ECRI fået oplyst, at Komiteen kun har indbragt en enkelt sag for domstolene (i 2003), og at den pågældende sag først er blevet berammet til domsforhandling i november 2005.

33. Klagekomiteen har anført over for ECRI, at den hidtil har behandlet i alt 153 klager, og at et flertal af dem (30 %) omhandlede adgang til sociale ydelser og det sociale sikringssystem.<sup>12</sup> Mange sager vedrører også bolig- og uddannelsesområdet.<sup>13</sup> Klagekomiteen har tillige oplyst, at når beviserne i en sag rejser spørgsmål, udsteder den en generel henstilling om et særligt problem, f.eks. etnisk adskillelse i skoler. Formålet med disse henstillinger er at skabe øget opmærksomhed om lovgivningen og få fastlagt retningslinier for fortolkningen af den. ECRI finder det dybt bekymrende, at et andet stort problem for Komiteen er dens manglende funktionsdygtighed, som skyldes utilstrækkelige midler og for få medarbejdere. Komiteen har således kun tre deltidsansatte medlemmer og et sekretariat med to jurister. De danske myndigheder har til dette spørgsmål anført, at komiteens årlige bevilling er på seks millioner kr. Myndighederne har derudover oplyst til ECRI at Klagekomiteen, som har snævrere beføjelser end det organ der er oprettet for sager vedrørende kønsdiskrimination, selv har anmodet om flere beføjelser og en højere bevilling. Imidlertid har ECRI bemærket, at myndighederne tilsyneladende tøver med at ændre såvel beføjelserne som bevillingen. ECRI bemærker også med beklagelse, at Klagekomiteens afgørelser ganske vist offentliggøres i årsrapporten for Institut for Menneskerettigheder, men at der ikke sker nogen videre formidling af dens arbejde. Samtidig har Komiteen ikke midler til at etablere et kontor uden for København.

- **Andre institutioner og NGOer**

34. Som anført ovenfor traf den danske regering i 2002 beslutning om enten at fjerne eller beskære de hidtidige bevillinger til mange NGOer og andre specialorganer, fordi man anså dem for at være 'smagsdommere', som forsøgte at 'undertrykke den offentlige debat med deres tyranni'.<sup>14</sup> Som en konsekvens af denne beslutning måtte mange NGOer og organer, der arbejder med racediskrimination enten lukke eller skære voldsomt ned på omfanget af deres

<sup>11</sup> Se CRI (97) 36.

<sup>12</sup> Se mere om adgangen til offentlige ydelser nedenfor i afsnittene 'Udenlandske statsborgeres modtagelse og status' og 'Beskæftigelse'.

<sup>13</sup> Se mere om disse spørgsmål nedenfor i afsnittet 'Adgang til offentlige ydelser'.

<sup>14</sup> Se 'NGO-report supplementing the Danish Governments fifteenth periodic report concerning the UN Convention on the elimination of all forms of racial discrimination Given according to art. 9(1) of ICERD, Submitted by The Documentation and Advisory Centre on Racial Discrimination (DACoRD)', (NGO-rapport udgivet af DRC (Dokumentations- og Rådgivningscentret om Racediskrimination) som supplement til den danske regerings 15. periodiske rapport om FN-konventionen om afskaffelse af enhver form for racediskrimination udarbejdet i henhold til art. 9(1) i konventionen), marts 2002, p. 5.

aktiviteter. Sammen med de mange problemer, som Klagekomiteen står over for, har dette skabt et vakuum for mindretalsgrupper, som nu befinder sig i en endnu mere udsat stilling end beskrevet i Kommissionens anden rapport, fordi det nu er meget få organisationer, som har mulighed for at behandle spørgsmål af særlig vigtighed for dem. Manglen på stemmer til at rejse de problemer, som mindretalsgrupper, flygtninge og asylansøgere står over for, i den offentlige debat og således skabe en modvægt til den måde, hvorpå de opfattes af den brede offentlighed, har bidraget til skabelsen af et klima af intolerance imod dem.<sup>15</sup> I den sammenhæng har mange NGOer tilkendegivet, at der er behov for en diskriminationsombudsmand til behandling af sager om racediskrimination i den danske offentlige sektor. De giver udtryk for, at en sådan foranstaltning er så meget mere nødvendig fordi Folketingets ombudsmand ikke undersøger eventuel diskrimination i offentlige myndigheders gennemførelse af lovgivningen.

#### **Henstillinger:**

35. ECRI opfordrer indtrængende den danske regering til at give Klagekomiteen for Etnisk Ligebehandling beføjelser og midler, der gør det muligt for den reelt at fungere som et specialorgan, således som dette er defineret i ECRIs Generelle Henstilling nr. 2. ECRI opfordrer tillige regeringen til at sikre, at kendskab til Klagekomiteens afgørelser og generelle henstillinger udbredes til såvel den brede offentlighed som til alle offentlige myndigheder på såvel nationalt som lokalt plan.
36. ECRI henstiller indtrængende til den danske regering, at NGOer og andre specialorganer tildes bevillinger, der er tilstrækkelige til, at de kan yde effektiv bistand til mindretalsgrupper med løsningen af de problemer, som de står over for.

#### **Undervisning og bevidstgørelse**

37. ECRI henstillede i sin anden rapport, at der på historieundervisningsområdet i Danmark blev oprettet en afdeling med ansvar for indvandrerbefolkningens bidrag til det danske samfund.
38. ECRI konstaterer, at siden offentliggørelsen af den anden rapport er der ikke taget skridt til at ændre historieundervisningen i de danske skoler i overensstemmelse med ECRIs Generelle Henstilling nr. 1 om bekæmpelse af racisme, fremmedhad, antisemitisme og intolerance.<sup>16</sup> Myndighederne har desuden oplyst over for ECRI, at der ikke undervises i mangfoldighed og multikulturelle aspekter i danske skoler. ECRI har i den sammenhæng fået oplyst, at undersøgelser viser at stereotyper er meget udbredt blandt de unge.<sup>17</sup>

#### **Henstillinger:**

39. ECRI henstiller indtrængende, at den danske regering sikrer, at pensum på alle undervisningstrin omfatter tværfaglig undervisning i menneskerettigheder i almindelighed og racisme og racediskrimination i særdeleshed. ECRI gentager tillige sin henstilling om, at der på alle skoletrin undervises i mindretalsgruppers bidrag til det danske samfund.

<sup>15</sup> Se en mere dybtgående diskussion om det nuværende offentlige klima i Danmark neden for i afsnittet 'Særlige problemer'.

<sup>16</sup> Se CRI (96) 43.

<sup>17</sup> Se flere oplysninger om det nuværende klima i Danmark i afsnittet 'Særlige problemer'.

## Udenlandske statsborgeres modtagelse og status

### - *Den danske lov om integration af udlændinge*

40. ECRI gav i sin anden rapport udtryk for bekymring over den omstændighed, at selvom hensigten med lov om integration af udlændinge i Danmark ('integrationsloven') var at forbedre integrationen af flygtninge og nyankomne indvandrere i det danske samfund bl.a. ved oprettelsen af lokale integrationsråd, blev denne hensigt modvirket af den måde, hvorpå loven gennemføres i praksis.
41. ECRI har fået oplyst, at der efter offentliggørelsen af ECRIs anden rapport er foretaget ændringer i integrationsloven, som forstærker de problemer, der blev fremhævet i Kommissionens anden rapport. Myndighederne har til ECRI oplyst, at der i 2002 blev indført en 'starthjælp' for såvel danskere som udlændinge, der ikke har opholdt sig i Danmark i 7 ud af de seneste 8 år. Starthjælpen andrager 5.000 kr. om måneden, hvilket kun er ca. 65 % af det normale ydelsesniveau. ECRI er dybt bekymret over meldinger fra NGOer om, at denne ydelse er et eksempel på indirekte diskrimination af mindretalsgrupper, fordi flertallet af danskere som har været ude af landet i en periode af denne længde ikke har behov for ydelsen. Det betyder, at halvdelen af de ca. 2.000 personer, som modtager denne ydelse, enten er nyankomne indvandrere eller flygtninge. De danske myndigheder har anført, at starthjælpen har til formål at fremme integrationen i det danske samfund af nyankomne indvandrere og flygtninge, eftersom den er tænkt som et incitament for dem til at finde beskæftigelse. Imidlertid viser undersøgelser, at denne foranstaltning har øget fattigdomsniveauet blandt mindretalsgrupper, hvilket logisk indebærer en risiko for, at de tyr til kriminalitet for at overleve. Ekspert og medlemmer af etniske mindretalsgrupper frygter, at den deraf følgende stigning i statistikken over kriminelle forhold begået af ikke-etniske danskere vil blive brugt til at stigmatisere dem yderligere i et offentligt klima, som allerede er negativt.<sup>18</sup> NGOer har tillige oplyst over for ECRI, at starthjælpen reelt har forstærket isolationen af flygtninge og nyankomne indvandrere, fordi de ikke har økonomisk mulighed for at deltage i aktiviteter til fremme af deres integration i samfundet. For eksempel kan børn af forældre, som modtager starthjælp, ikke deltage i aktiviteter uden for skolen, fordi forældrene ikke har råd til at betale for det.
42. ECRI har også fået oplyst, at selvom integrationsloven på tidspunktet for offentliggørelsen af ECRIs anden rapport indeholdt en bestemmelse om, at der skulle oprettes integrationsråd i samtlige kommuner såfremt mindst 50 personer anmodede om det, har dette ikke været tilfældet siden 2004. Integrationsrådene blev oprettet for at yde rådgivning til kommunerne vedrørende integrationen af nyankomne indvandrere og flygtninge, men siden 2004 har kommunerne ikke haft pligt til at oprette disse råd, og de opretter dem nu kun, hvis de anser det for nødvendigt. Af de nuværende 274 kommuner i Danmark er der således kun integrationsråd i 71.<sup>19</sup> Denne beslutning er blevet beklaget af NGOer, fordi integrationsrådene spiller en positiv rolle i bestræbelserne på at hjælpe nye indvandrere og flygtninge med at blive integreret i det danske samfund. Imidlertid har de også tilkendegivet, at rådene er underfinansierede, og at regeringen ofte undlader at rådføre sig med dem i tilstrækkelig grad i anliggender, der henhører

<sup>18</sup> Se mere om misbrug af statistikker over kriminelle forhold begået af indvandrere i afsnittet 'Adfærd blandt lovhåndhævere'.

<sup>19</sup> ECRI fik oplyst fra de danske myndigheder, at der efter gennemførelsen af en reform kun vil være 100 kommuner i Danmark.

under deres beføjelser. ECRI har i den sammenhæng blandt andet fået oplyst, at regeringen har tendens til at fremsende vigtige dokumenter, som f.eks. lovforslag, til høring hos integrationsrådene uden at give dem tilstrækkelig tid til at svare. Samtidig er situationen den, at selvom integrationsrådene har beføjelse til at fremkomme med forslag til kommunalbestyrelsen vedrørende tildelingen af midler til projekter rettet imod nyankomne indvandrere og flygtninge, så har kommunalbestyrelserne ikke pligt til at tage hensyn til disse forslag. Hvad finansiering af integrationsrådene angår, har den danske regering oplyst, at kommunerne stiller sekretærbistand og gratis faciliteter, såsom møderum, til rådighed. Regeringen har derudover oplyst, at undersøgelser i 2003 viste, at 43 % af integrationsrådene har et budget på imellem 10.000 kr. og 50.000 kr., og at 14 % modtog mindre end 10.000 kr.

43. Det er ECRI's opfattelse, at beslutningen om at gøre oprettelsen af integrationsråd frivillig er så meget mere beklagelig, fordi det i medfør af integrationsloven ikke er muligt for nyankomne flygtninge og indvandrere selv at bestemme, hvilken kommune de boligplaceres i. Ifølge loven er det kommunerne selv, der internt fordeler de nyankomne flygtninge og indvandrere. De danske myndigheder har oplyst over for ECRI, at denne politik har til formål at fremme de pågældende gruppers integration i det danske samfund. Imidlertid konstaterer ECRI, at det i henhold til myndighedernes egne oplysninger i 2003 kun var i 40 % af sagerne, at nyankomne flygtninges og indvandrede egne ønsker om placering i en særlig kommune blev efterkommet. Samtidig skete der i 35 % af sagerne boligplacering i en anden kommune, end den ønskede, men i samme amt. Efter ECRI's opfattelse bør denne politik ikke føre til isolation af flygtninge og indvandrere. ECRI noterer desuden med bekymring, at nogle kommuner f. eks. har nægtet at modtage flere udlændinge, der modtager kontanthjælp.
44. Nyankomne indvandrere og flygtninge skal tillige følge et treårigt integrationsprogram i den kommune, som de bliver boligplaceret i. Programmet omfatter bl.a. danskundervisning og forberedelse til arbejdsmarkedet. Ifølge integrationsloven skal de forblive i den kommune, hvor de først placeres, indtil programmet er afsluttet, medmindre de tilbydes beskæftigelse andetsteds. NGO'er har oplyst over for ECRI, at programmet ikke er tilstrækkelig fleksibelt til at muliggøre indtræden på det danske arbejdsmarked for nyankomne flygtninge og indvandrere, hvilket igen betyder, at det bliver vanskeligere for dem til at flytte til en anden kommune i programperioden. Det er også blevet oplyst over for ECRI, at nyankomne indvandrere og flygtninge skal tilbage til integrationsprogrammet, hvis de mister deres job.

#### **Henstillinger:**

45. ECRI opfordrer indtrængende den danske regering til at give ligebehandling til alle modtagere af sociale ydelser, idet den nuværende starthjælp udgør indirekte diskrimination af nyankomne indvandrere og flygtninge, hvilket er en overtrædelse af internationale juridiske standarder.
46. ECRI henstiller, at den danske regering indfører pligt til at oprette integrationsråd for dermed at fremme integrationen i kommunerne af nyankomne indvandrere og flygtninge. ECRI henstiller tillige, at disse råd tildeles tilstrækkelige midler til at kunne fungere tilfredsstillende, og at de får reel mulighed for at bidrage til udarbejdelse af lovgivning og politikker vedrørende indvandrere og flygtninge.

47. ECRI henstiller, at den danske regering fortsat overvåger den førte politik for boligplacering af flygtninge og giver dem mulighed for at følge integrationsprogrammet i forskellige kommuner, således at de ikke isoleres.

- **Udlændingeloven**

48. ECRI anførte i sin anden rapport, at stramningen af den førte politik vedrørende indrejse i Danmark for indvandrere, flygtninge og asylansøgere generelt var fortsat, herunder bl.a. i forhold til retten til familiesammenføring, og ECRI var bekymret for, at dette ville føre til diskrimination af medlemmer af mindretalsgrupper.

49. ECRI finder det dybt beklageligt, at der efter offentliggørelsen af ECRIs anden rapport er foretaget ændringer i udlændingeloven, herunder en skærpelse af bestemmelserne vedrørende retten til familiesammenføring. Ud over kravet om at en person, der ønsker at få sin ægtefælle til Danmark, skal være over 24 år og disponere over en bolig af rimelig størrelse, fremgår det nu af § 9 i udlændingeloven<sup>20</sup>, at en person, der ønsker at få en ægtefælle til Danmark, som ikke er statsborger i en medlemsstat af EU eller EØS, derudover skal opfylde følgende krav: 1) hvis den person, der anmoder om ægtefællesammenføring, ikke har været dansk statsborger i 28 år, skal ægtefællens samlede tilknytning til Danmark være større end ansøgerens tilknytning til ægtefællens land; 2) ansøgeren må ikke have modtaget sociale ydelser i en periode på et år forud for indgivelse af ansøgningen, og 3) ansøgeren skal fremlægge dokumentation for et bankindestående på 54.000 kr., og dette beløb spærres, hvis den pågældende mister sit job i de første 7 år efter sammenføringen med ægtefællen. Samtidig kan ægtefællens opholdstilladelse inddrages som følge af tabet af beskæftigelse. Loven foreskriver tillige, at flygtninge kun kan medbringe en ægtefælle til Danmark, hvis ægteskabet er indgået, eller parret har været samboende, inden der blev givet asyl. Til dette spørgsmål har den danske regering oplyst, at det i forbindelse med afgørelsen af ansøgninger om ægtefællesammenføring fra flygtninge tillægges stor vægt, hvorvidt den pågældende flygtning har mulighed for at tage bopæl i sit eget oprindelsesland eller i et andet land. ECRI finder det dybt bekymrende, at reglen om 28 års samlet tilknytning til Danmark udgør indirekte diskrimination imellem personer, som er født danske, og personer, som har erhvervet dansk statsborgerskab på et senere tidspunkt. Formålet med 24-årsreglen hævdes at være ønsket om at forhindre tvangsægteskaber, men det drejer sig i virkeligheden kun om et meget ringe antal personer. Nylige undersøgelser blandt medlemmer af de tyrkiske, libanesiske, pakistanske og somaliske grupper og blandt personer fra det tidligere Jugoslavien viser, at 80 % af de adspurgte selv valgte deres ægtefælle, og at 16 % valgte ægtefælle i samråd med forældrene. Kun 4 % svarede, at ægtefællen var blevet valgt af forældrene. ECRI finder det også dybt bekymrende, at kravene om, at ansøgeren om ægtefællesammenføring ikke må have modtaget kontanthjælp i et år forud for indgivelsen af ansøgningen og skal stille bankgaranti for et beløb på 7.000 euro reelt udgør indirekte diskrimination af mindretalsgrupper, eftersom der som omtalt nedenfor<sup>21</sup> er tendens til, at de befinder sig nederst på den socioøkonomiske rangstige.

50. ECRI noterer også med bekymring, at disse regler om ægtefællesammenføring har tvunget mange blandede par til at bosætte sig i Sverige eller Tyskland, hvor de er berettiget til familiesammenføring i medfør af EU-reglerne. Desuden har

<sup>20</sup> Se udlændingeloven, jf. lovbekendtgørelse af 14. juli 2004.

<sup>21</sup> Se nedenfor i afsnittet 'Beskæftigelse'.

NGOer peget på, at personer, der ansøger om sammenføring med familie eller ægtefælle, har problemer med at få kontakt med indvandrermyndighederne og få oplysninger om, hvordan det går med behandlingen af deres sag. Til dette spørgsmål har den danske regering oplyst, at indvandrermyndighederne til stadighed bestræber sig på forbedre betjeningen af kunderne. Endelig har NGOer oplyst, at disse restriktioner bl.a. har ført til, at antallet af sammenføringer med ægtefælle og familie er faldet siden ECRIs anden rapport.

51. De danske myndigheder har oplyst over for ECRI, at politikkerne vedrørende sammenføring med ægtefælle og familie tillader fravigelse af reglerne om 24 år og samlet tilknytning for visse erhverv og studerende inden for visse områder. Formålet med denne politik er at tiltrække personer med erhvervskompetence inden for områder, hvor der er mangel på arbejdskraft i Danmark. I den forbindelse kan det nævnes, at der i de seneste år sket et brat fald i antallet af personer, der har fået asyl eller tilladelse til familiesammenføring, mens der er på den anden side er udstedt et stigende antal visa til studerende og personer med særlig erhvervskompetence. ECRI finder det dybt beklageligt, at der med denne politik indføres et yderligere element af diskrimination imellem på den ene side de personer, der ansøger om asyl eller familiesammenføring, og på den anden side de personer, der anses for at være økonomisk attraktive for Danmark, fordi det betyder, at mindretalsgrupper rammes uforholdsmæssigt hårdt. ECRI er tillige bekymret over, at denne politik er blevet indført i et klima, hvor mindretalsgrupper fremstilles som udgørende en belastning for økonomien og en trussel mod det sociale velfærdssystem.<sup>22</sup>
52. Endelig noterer ECRI med bekymring, at selvom der fra adskillige NGOer og medlemmer af civilsamfundet, såvel på nationalt som internationalt niveau, er rejst kritik af den diskriminerende karakter i førnævnte aspekter af udlændingeloven<sup>23</sup>, er deres opfordringer til at ændre denne lov i det store og hele blevet siddet overhørig.

#### **Henstillinger:**

53. ECRI opfordrer indtrængende den danske regering til at tage bestemmelserne i udlændingeloven om ægtefælle- og familiesammenføring op til fornyet overvejelse, særligt på baggrund af artikel 8 i den Europæiske Menneskerettighedskonvention. ECRI opfordrer tillige Danmark til ikke at vedtage lovgivning, som reelt fører til diskrimination af mindretalsgrupper. ECRI opfordrer indtrængende til, at den danske regering overvejer de henstillinger, der er fremkommet fra flere internationale og nationale organer vedrørende Udlændingeloven.

#### **- Flygtninge og asylansøgere**

54. NGOer har over for ECRI udtrykt bekymring over den måde, hvorpå asylansøgere behandles i Danmark. I øjeblikket gives der afslag på en meget stor del (90 %) af asylansøgningerne, hvorimod omkring 50 % af ansøgningerne blev imødekommet i 2002. Det er blevet nævnt, at en af hovedårsagerne til de mange afslag er den omstændighed, at asylansøgere ikke får bistand af en advokat til udfyldelsen af den 20 sider lange

<sup>22</sup> Se afsnittet 'Særlige problemer' for flere oplysninger om det nuværende offentlige klima i Danmark.

<sup>23</sup> Se også bl.a. Menneskerettighedskommissær Alvaro Gil-Robles' rapport fra et besøg i Danmark i perioden 13.-16. april 2004, CommDH(2004)12; de afsluttende kommentarer fra Udvalget for Økonomiske, Sociale og Kulturelle Rettigheder: Danmark, E/C.12/1/Add.102, af 14. december 2004; de afsluttende iagttagelser fra Udvalget for Afskaffelse af Diskrimination af Kvinder, CEDAW/C/SR.561 og 562, af 21. juni 2002, og Olsen, Birgitte Kofod et al: Ægtefællesammenføring i Danmark, Udredning nr. 1, Institut for Menneskerettigheder, 2004.

ansøgningsformular og ved det efterfølgende interview med de kompetente myndigheder. ECRI konstaterer med bekymring, at myndighederne har oplyst at afviste asylansøgere, som nægter at forlade Danmark ikke modtager anden hjælp end mad i et cafeteria og tøj. NGOer har kritiseret, at nogle af de afviste asylansøgere placeres i en fløj i Sandholmlejren nord for København, hvor de lever isoleret og uden tilsyn, og hvor der har været klager over utilstrækkelig mad. ECRI finder det også bekymrende, at afviste asylansøgere som anbringes i dette asylcenter ikke modtager nogen økonomisk hjælp, hvorfor nogle af dem angiveligt tvinges ud i kriminalitet i et desperat forsøg på at tjene penge.

55. Beslutninger om afslag på asylansøgninger behandles af Flygtningenævnet, som er et domstolslignende organ med tre medlemmer, hvoraf den ene, formanden, er dommer, og de to andre er henholdsvis en jurist fra Ministeriet for Flygtninge, Indvandrere og Integration og en advokat, som er medlem af Advokatrådet. ECRI konstaterer med bekymring, at en afgørelse fra dette nævn<sup>24</sup> kun kan ankes på grundlag af procedurefejl. I den sammenhæng har myndighederne oplyst over for ECRI, at en asylansøger, der har fået afslag på asyl af Flygtningenævnet, kan anmode ministeriet for flygtninge, indvandrere og integration om humanitær status. Imidlertid tildeles denne status kun asylansøgere som lider af alvorlig sygdom og ikke kan få behandling i deres eget land, eller som ikke har familie der. Desuden kan et afslag fra ministeriet for flygtninge, indvandrere og integration på en anmodning om humanitær status ikke ankes. ECRI har fået oplyst, at meget få ansøgninger om humanitær status imødekommes, og finder det i den anledning bekymrende, at asylansøgere, som har en god sag, kan blive sendt tilbage til et land, hvor de har en velbegrundet frygt for at blive forfulgt i henhold til definitionen i Konventionen af 1951 om Flygtninges Retsstilling.
56. NGOer og specialorganer har tilkendegivet over for ECRI, at asylansøgere er ekstremt isolerede, mens deres sag behandles, fordi de ikke må forlade det asylcenter, de er placeret i, for at arbejde eller studere. De danske myndigheder har hertil anført, at asylansøgere har ret til at udføre frivilligt arbejde uden for asylcentre. ECRI har også konstateret, at asylansøgere børn kun må modtage skoleundervisning på asylcentret. ECRI finder det også dybt bekymrende, således som det er blevet påpeget af NGOer og specialorganer, at nogle asylansøgere mentale tilstand forværres efter ankomsten til landet på grund af den samlede påvirkning af isolation, problemer med at få psykiatrisk behandling, de begrænsede midler de har til rådighed og usikkerheden om deres fremtid. Dette er så meget mere bekymrende, eftersom nogle af dem har opholdt sig i asylcentre i helt op til 8-10 år.

#### **Henstillinger:**

57. ECRI henstiller, at asylansøgere får advokatbistand ved indsendelse af deres asylansøgning til de kompetente myndigheder og under hele asylproceduren.
58. ECRI opfordrer indtrængende til, at Danmark giver asylansøgere mulighed for at fremlægge deres sag i dens helhed for myndighederne ved at give dem lige adgang til de retsmidler, som er til rådighed for alle, som bor i Danmark, herunder retten til at anke til en uafhængig domstol.
59. ECRI henstiller, at asylansøgere gives adgang til beskæftigelse og erhvervsuddannelse, og at deres børn gives adgang til almindelige folkeskoler, således at de ikke isoleres totalt. ECRI henstiller desuden indtrængende, at

<sup>24</sup> Anmodninger om asyl indsendes i første instans til ministeriet for flygtninge, indvandrere og integration.

asylansøgere gives tilstrækkelig omsorg og pleje i overensstemmelse med nationale og internationale menneskerettighedsnormer.

## Beskæftigelse

60. I sin anden rapport understregede ECRI, at en tilstrækkelig håndhævelse af lovbestemmelser på beskæftigelsesområdet er af afgørende betydning, og anbefalede, at anvendelsen af gældende lovgivning på dette område blev forbedret.
61. Som anført ovenfor<sup>25</sup> har der hidtil kun været indbragt en enkelt sag for domstolene vedrørende diskrimination i medfør af lov om etnisk ligebehandling fra 2003. Klagekomiteen fra Institut for Menneskerettigheder har oplyst over for ECRI, at den har fået forelagt 11 sager om afskedigelse, løn, arbejdsforhold og forfremmelse i medfør af førnævnte lov. Komiteen har oplyst, at den kun kan behandle sager, hvor klageren ikke er medlem af en faglig organisation, eller hvor den pågældende ikke har fået bistand fra sin faglige organisation til indbringelse af klagen. Hertil har den danske regering tilkendegivet, at Institut for Menneskerettigheder samarbejder med Dansk Arbejdsgiverforening og LO. ECRI noterer imidlertid med beklagelse, at der på trods af vedtagelsen af lov om etnisk ligebehandling og de deri indeholdte beføjelser til Klagekomiteen stadig er lang vej endnu, førend disse mekanismer i tilstrækkelig grad udnyttes til at bekæmpe diskrimination på beskæftigelsesområdet.
62. ECRI gav i sin anden rapport udtryk for, at problemet med diskrimination burde løses i et samarbejde imellem bl.a. de faglige organisationer, arbejdsmarkedets parter, arbejdsformidlingskontorer og lokale og nationale myndigheder.
63. Der synes ikke at være truffet nogen foranstaltninger med henblik på gennemførelsen af ovenstående henstilling siden offentliggørelsen af ECRIs anden rapport. I den forbindelse konstaterer ECRI med stor bekymring, at der blandt mindretalsgrupper ifølge statistikkerne er en arbejdsløshed på 50 %, dels på grund af deres uddannelsesniveau, som generelt er lavere end blandt etniske danskere<sup>26</sup>, og dels fordi personer fra mindretalsgrupper udsættes for diskrimination i forbindelse med praktikpladser og jobs, selvom de er i besiddelse af de krævede kvalifikationer. I den sammenhæng viser undersøgelser, at 89 % af medlemmerne af mindretalsgrupper i Danmark føler, at de har mindre sandsynlighed end resten af befolkningen for at få job, uddannelse eller forfremmelse.<sup>27</sup> ECRI har tillige fået oplyst, at mindretalsgrupper ofte er ude af stand til at finde beskæftigelse, som svarer til deres uddannelsesniveau, selv når de livet igennem har været under uddannelse i det danske system. Regeringen har tilkendegivet over for ECRI, at der er truffet foranstaltninger til at løse problemet med praktikpladser til unge fra de etniske mindretalsgrupper. En af foranstaltningerne går ud på at øge tilskuddet til erhvervsuddannelsesinstitutioner med mange elever fra etniske mindretalsgrupper og til virksomheder, som opretter flere praktikpladser. ECRI konstaterer imidlertid, at regeringen tilsyneladende ikke har indført en klar og sammenhængende politik til integration af mindretalsgrupperne på arbejdsmarkedet. ECRI noterer med bekymring, at ministeriet for flygtninge,

<sup>25</sup> Se ovenfor under 'Civil- og forvaltningsretlige bestemmelser'.

<sup>26</sup> Se flere oplysninger om uddannelsesniveaue blandt etniske grupper nedenfor i afsnittet 'Adgang til offentlige ydelser'.

<sup>27</sup> Se Eurobarometer 57.0 fra maj 2003, 'Discrimination in Europe', af Alan Marsh og Melahat Sahin-Dikmen (Policy Study Institute London) og the European Opinion Research Group (EEOG), udarbejdet for Europakommissionen, Generaldirektoratet for Beskæftigelse, Sociale Anliggender og Arbejdsmarkedsforhold, p. 10.

indvandrere og integration i maj 2005 offentliggjorde et dokument om den officielle politik med titlen 'En ny chance til alle – regeringens integrationsplan'<sup>28</sup> hvoraf en del vil være indarbejdet i dansk lovgivning med udgangen af 2005. I planen foreslår den danske regering bl.a. at unge imellem 18-26 år fratages muligheden for at modtage kontanthjælp, hvis de ikke påbegynder en relevant jobkvalificerende uddannelse. Det foreslås tillige, at børnefamilieydelsen tilpasses, således at det kun er unge imellem 15 og 17 år, som er påbegyndt en kvalificerende uddannelse, eller som har et job med uddannelsesperspektiv, der vil være berettiget til at modtage en sådan ydelse.<sup>29</sup> Herudover gælder, at i de tilfælde hvor begge ægtefæller modtager kontanthjælp, vil den ene af dem kun være berettiget til 'den lavere ægtefælleydelse, såfremt [den pågældende] ikke inden for en to-års periode har haft ordinært lønnet arbejde i 300 timer.'<sup>30</sup> ECRI er bekymret for at sådanne foranstaltninger, som reelt fortrinsvis vil ramme mindretalsgrupper, indeholder et undertrykkende element, der ikke opvejes af konkrete initiativer, der hjælper dem ind på arbejdsmarkedet.

64. ECRI har fået oplyst, at 90 % af danske virksomheder ikke gør noget aktivt for at fremme etnisk mangfoldighed blandt deres medarbejdere. Det er også blevet oplyst over for ECRI, at en undersøgelse for nylig har vist, at to tredjedele af lederne i erhvervslivet ikke mener, at det er vigtigt at have etniske mindretal repræsenteret blandt medarbejderne. Denne tøven skyldes først og fremmest, at der stadig hersker mange fordomme blandt såvel ledere som medarbejdere med hensyn til evnen blandt mindretalsgrupper i almindelighed og blandt muslimer i særdeleshed til at integrere sig på arbejdspladsen. ECRI konstaterer med bekymring, at regeringen ikke har truffet tilstrækkelige foranstaltninger til at bekæmpe sådanne fordomme. På den baggrund hilser ECRI det velkommen, at Institut for Menneskerettigheder har iværksat en kampagne, der skal vise medarbejderne i private virksomheder, hvilke fordele der er ved at have mangfoldighed blandt medarbejderne og øge virksomhedernes bevidsthed om deres sociale ansvar. ECRI noterer herudover en oplysning fra den danske regering om, at en rapport udarbejdet af det Danske Handelskammer i slutningen af 2005 hævder, at den positive holdning til medarbejdere fra etniske minoriteter er mest fremherskende i visse brancher, som f.eks. IT og handel. ECRI konstaterer tillige, at andre specialorganer og NGO'er har taget initiativer til bekæmpelse af diskrimination på arbejdsmarkedet. Imidlertid er antallet af sådanne initiativer begrænset, til dels på grund af førnævnte problem med ophør eller beskæring af NGO-bevillingerne<sup>31</sup>. Samtidig har de faglige organisationer tøvet med at yde hjælp til personer fra mindretalsgrupper, der efter at have været udsat for diskrimination på arbejdspladsen, ønskede at indbringe sagen for ledelsen eller en domstol.<sup>32</sup> ECRI noterer derfor med glæde, at LO nu har igangsat vedtagelsen af en række ligestillingsforanstaltninger og har oprettet et udvalg til dette formål. Imidlertid beklager ECRI, at hverken arbejdsformidlingskontorer eller nationale eller lokale myndigheder er involveret i bekæmpelsen af diskrimination på beskæftigelsesområdet.

<sup>28</sup> [http://www.inm.dk/imagesUpload%5Cdokument%5CA\\_new\\_chance\\_for\\_everyone.pdf](http://www.inm.dk/imagesUpload%5Cdokument%5CA_new_chance_for_everyone.pdf)

<sup>29</sup> Ibid, p. 2.

<sup>30</sup> Ibid, p. 3.

<sup>31</sup> Se ovenfor under 'Specialorganer og andre institutioner'.

<sup>32</sup> Se 'Breakthroughs and blind spots. Trade union responses to immigrants and minority groups in Denmark and UK' af John Wrench © Fafo 2004, pp. 69-74.

### **Henstillinger:**

65. ECRI opfordrer indtrængende den danske regering til at træffe flere proaktive foranstaltninger til gennemførelsen af antidiskriminationslovgivningen på arbejdsmarkedet, bl.a. i form af informationskampagner rettet imod såvel mindretalsgrupper som arbejdsgivere, arbejdsformidlingskontorer og lokale og nationale myndigheder.
66. ECRI opfordrer indtrængende den danske regering til at vedtage og gennemføre en klar, sammenhængende og langsigtet politik til integration af mindretalsgrupper på arbejdsmarkedet. ECRI opfordrer også Danmark til at sikre, at de foranstaltninger, der har til formål at opmuntre personer til at søge ind på arbejdsmarkedet, ikke gennemføres på en sådan måde, at det reelt straffer mindretalsgrupper og ikke forsyner dem med de nødvendige værktøjer og muligheder til at finde beskæftigelse. Det henstilles indtrængende, at mindretalsgrupper, alle relevante parter såsom erhvervslivet og NGO'erne, nationale og lokale myndigheder og arbejdsformidlingskontorer inddrages i udarbejdelsen og gennemførelsen af politikker, der har til formål at integrere mindretalsgrupper på arbejdsmarkedet. ECRI henstiller også indtrængende, at den danske regering stiller tilstrækkelige midler til rådighed for alle initiativer, der har til formål at tilbyde mindretalsgrupper bedre jobtræning og færdigheder med et beskæftigelsesperspektiv.

### **Adgang til offentlige ydelser**

#### **- Adgang til uddannelse**

67. På baggrund af den reelle etniske adskillelse på visse danske skoler, opfordrede ECRI i sin anden rapport lokale og nationale myndigheder til at foranstalte en nærmere undersøgelse af dette fænomen og intensivere foranstaltningerne til dets bekæmpelse.
68. ECRI har fået oplyst, at på visse skoler, f.eks. i København, kommer 90 % af børnene fra etniske minoritetsgrupper. I et målrettet forsøg på at bekæmpe denne situation, som reelt udgør etnisk adskillelse, har den danske regering med virkning fra 1. oktober 2005 indført en sprogprøve for børn fra etniske mindretalsgrupper i medfør af en ministeriel bekendtgørelse fra foråret 2005. Viser prøven, at børnene har utilstrækkelige danskkundskaber, vil de blive flyttet til en anden skole. Imidlertid har ECRI fået oplyst, at denne foranstaltning er i strid med en lov, som blev vedtaget d. 1. august 2005, og som tillader alle forældre frit at vælge folkeskole til deres børn. Eftersom spredningen af børn fra mindretalsgrupper på forskellige skoler kan være en tvangsforanstaltning, ville denne politik udgøre en overtrædelse af loven vedtaget i august 2005. Den danske regering har svaret hertil, at der er tale om en foranstaltning, som kun vil blive bragt i anvendelse, såfremt uddannelsesmæssige hensyn taler derfor. Imidlertid konstaterer ECRI med bekymring, at beslutningen om, hvorvidt et barn bør sendes til en anden skole, træffes af en sprog- og testkyndig person og ikke af skolens inspektør. Klagekomiteen har foretaget en bedømmelse af skoleintegrationsmodellen i et antal kommuner og konkluderede, at den udgør en form for indirekte diskrimination på grundlag af etnicitet. ECRI har fået oplyst, at foranstaltningen for det enkelte barn kan være gældende i en periode på to år efter skoleskiftet, hvorefter en fornyet bedømmelse vil vise, om barnet kan komme tilbage til sin oprindelige skole. I den forbindelse har ECRI fået oplyst, at anlæggelsen af en bred indfaldsvinkel, som også tager højde for problemets bolig-mæssige, beskæftigelsesmæssige og sociale faktorer, ville

være en mere rimelig fremgangsmåde i bestræbelserne på at sikre lige adgang til uddannelse for børn fra mindretalsgrupper.

69. ECRI henstillede i sin anden rapport, at der blev truffet yderligere foranstaltninger til at give børn med andre modersmål end dansk mulighed for at deltage fuldstændigt og med succes i den danske folkeskole.
70. ECRI har fået oplyst, at alle børn fra mindretalsgrupper helt ned til treårsalderen skal aflægge en obligatorisk sprogp prøve før skolestart, således at man kan bedømme deres beherskelse af dansk. Børn fra mindretalsgrupper, som ikke har de nødvendige sprogkunderskaber, gives tidlig sprogstimulering ved at blive placeret i modtageklasser i en periode på et eller endog to år. ECRI er bekymret over meldinger om, at disse børn undertiden får forbud mod at tale deres modersmål i modtageklassen. Samtidig har det siden 2002 kun været børn fra medlemsstater i EU og EØS, der har haft ret til modersmålsundervisning med den konsekvens, at kommuner, som fortsat tilbyder modersmålsundervisning til børn udenfor disse kategorier, selv skal finansiere den.
71. ECRI anførte i sin anden rapport, at visse børn fra mindretalsgrupper forlader skolen for tidligt, og ECRI opfordrede på den baggrund til at en nærmere undersøgelse af dette problem med henblik på at finde en løsning.
72. ECRI fik oplyst af de danske myndigheder, at der stadig er et stort antal unge med anden etnisk baggrund, som forlader erhvervsuddannelserne i utide. I 2003 gjaldt det således 40 % af de unge med anden etnisk baggrund, hvor det tilsvarende tal for unge etniske danskere var 32 %. De danske myndigheder har også oplyst over for ECRI, at de i 2005 iværksatte en handlingsplan til løsning af dette problem såvel blandt unge fra mindretalsgrupper som blandt etniske danskere. Myndighederne oplyste tillige, at regeringen i august 2005 indledte et treårigt pilotprogram på 15 handelsskoler (ud af det nuværende antal på 150) gående ud på at stille et antal mentorer med minoritetsbaggrund til rådighed for elever fra etniske minoriteter. Ordningen går ud på at give elever en person, der kan fungere som rollemodel for dem, og at lade de bedste elever fungere som mentorer og vejledere for andre elever. Ordningen tager særligt sigte på førsteårseleverne, fordi det er på dette trin at frafaldet er størst. ECRI beklager, at projektet har fået tildelt en meget begrænset økonomisk støtte (500.000 kr.).
73. I sin anden rapport henstillede ECRI, at den danske regering bestræbte sig på at give lærere mulighed for få uddannelse i, hvordan man underviser i et multikulturelt miljø, og at rekruttere lærere med baggrund i en etnisk mindretalsgruppe.
74. ECRI har fået oplyst, at i henhold til undersøgelser mener ca. 80 % af danske lærere, at de ikke har tilstrækkelige kvalifikationer til at undervise i et multikulturelt miljø. Det er også blevet oplyst over for ECRI, at der findes lærere, som ikke har store forventninger til børn fra etniske minoriteter, og som derfor har tendens til at undervise dem på et niveau, som er for lavt for dem. ECRI er opmærksom på, at der findes kurser for danske lærere om undervisning i et multikulturelt miljø, og at der er truffet foranstaltninger til at rekruttere lærere fra mindretalsgrupper. Ikke desto mindre er det ECRIs opfattelse, at der kan gøres mere i disse henseender.

### **Henstillinger:**

75. ECRI opfordrer indtrængende til, at ethvert initiativ til at forbedre integrationen af børn fra etniske mindretalsgrupper baseres på frivillighed med fuld inddragelse af de pågældende forældre og børn. ECRI henstiller tillige, at den danske regering vedtager en vidtfavnende politik til bekæmpelse af etnisk adskillelse i skolerne som også tager hensyn til problemets beskæftigelsesmæssige, bolig-mæssige og sociale faktorer.
76. ECRI henstiller, at Danmark foranstalter modersmålsundervisning for børn på et ikke-diskriminerende grundlag. Det henstilles tillige indtrængende, at foranstaltninger, der har til formål at sikre integration af børn fra etniske minoriteter i folkeskolen, ikke reelt udgør tvungen assimilation.
77. ECRI henstiller, at den danske regering fortsætter og udvider de ordninger, der har til formål at fastholde elever fra etniske minoriteter i uddannelsessystemet. ECRI har i øvrigt den opfattelse, at der bør tildeles tilstrækkelige midler til sådanne ordninger, og at de bør indarbejdes i den langsigtede politik.
78. ECRI henstiller, at lærere får flere muligheder for at uddanne sig i undervisning i multikulturelle miljøer, og at der gøres yderligere bestræbelser på at rekruttere lærere med minoritetsbaggrund.

#### **- Adgang til boliger**

79. ECRI henstillede i sin anden rapport, at Danmark foretog yderligere undersøgelser af mindretalsgruppers adgang til boligmarkedet og udviklede foranstaltninger til sikring imod direkte eller indirekte diskrimination på dette område.
80. ECRI fik oplyst fra de danske myndigheder, at der ikke var truffet særlige foranstaltninger til overvågning af udlejning eller tildeling af boliger i socialt boligbyggeri med henblik på at fastslå, om der på dette område finder diskrimination sted. Efter offentliggørelsen af ECRIs anden rapport har de danske myndigheder indført en politik der skal forhindre dannelsen af 'ghettoer'. Nogle NGO'er har kritiseret denne betegnelse for at være nedladende, fordi den anvendes om socialt belastede områder som reelt bebos af såvel etniske danskere som af mindretalsgrupper. De danske myndigheder har iværksat to ordninger til fremme af integrationen af disse sociale belastede områder: Den første indebærer 'fleksibel' udlejning, som betyder at visse befolkningsgrupper (ældre, unge, osv.) har fortrinshet til lejligheder i disse områder. Den anden ordning indebærer 'kombineret' udlejning, som betyder at visse personer på kontanthjælp udelukkes fra at få en bolig i økonomisk belastede kvarterer og i stedet henvises til boliger i andre områder. ECRI konstaterer med bekymring, at personer der omfattes af ordningen med kombineret udlejning kun har begrænset indflydelse på beliggenheden af den bolig de tilbydes. I henhold til myndighederne har Institut for Menneskerettigheder erklæret, at man ikke har nogen principielle indvendinger imod den kombinerede ordning, men at den ikke bør anvendes til at diskriminere mindretalsgrupper. ECRI er særligt bekymret over meldinger om en stor stigning i antallet af hjemløse fra mindretalsgrupper. ECRI har således fået oplyst, at mens det for 5 år siden var 10 % af de hjemløse der kom fra mindretalsgrupper, er det tal nu oppe på 50 % på trods af at mindretalsgrupperne kun tegner sig for 8 % af den samlede befolkning.

- **Adgang til offentlige steder**

81. Som tidligere anført har den danske regering truffet foranstaltninger til at bekæmpe diskrimination i forbindelse med adgang til barer, restauranter, diskoteker, osv. I marts 2005 gennemførte Københavns Politi i samarbejde med NGOer og Klagekomiteen under Institut for Menneskerettigheder en to-ugers kampagne imod diskrimination i adgangen til offentlige steder som f.eks. diskoteker, restauranter, barer, osv. ECRI kan dog konstatere, at kampagnen var en engangsforeteelse, og der ikke synes at være planer om at gennemføre tilsvarende kampagner med jævne mellemrum og i andre dele af landet.

**Henstillinger:**

82. ECRI henstiller indtrængende, at foranstaltninger til sikring af flere multikulturelle kvarterer ikke må få en negativ indvirkning på situationen for mindretalsgrupper ved at de tildeles boliger i områder hvor de reelt bliver isoleret. Det henstilles tillige, at medlemmer af mindretalsgrupper ved tildelingen af boliger i nye områder ydes tilstrækkelig økonomisk og social bistand, og at der iværksættes foranstaltninger til at fremme kontakten imellem naboer.
83. ECRI støtter den danske regering i dens bestræbelser på at bekæmpe racediskrimination i forbindelse med adgang til offentlige steder og henstiller, at der gennemføres en langsigtet og sammenhængende politik til løsning af dette problem. ECRI henstiller i den forbindelse, at der gennemføres flere bevidstgørende kampagner og foranstalles programmer over hele landet.
84. ECRI opfordrer indtrængende den danske regering til at undersøge årsagen til, at et uforholdsmæssigt stort antal hjemløse kommer fra mindretalsgrupper, og at den finder passende løsninger på dette problem.

**Antisemitisme**

85. ECRI beklager dybt, at Holocaust-benægtelse af jødeudryddelserne under 2. Verdenskrig ikke er strafbart i Danmark. ECRI har fået oplyst, at 90 % af nazistisk materiale og materiale om benægtelse af Holocaust udgives og fremstilles i Danmark og sælges i resten af Europa, hovedsageligt i Rusland. ECRI konstaterer tillige med bekymring, at eftersom ytringsfrihed sættes højt i Danmark, sker der ingen opfølgning på antisemitiske udtalelser. Det er yderligere blevet oplyst til ECRI, at selvom der er ca. 5-6000 jøder i Danmark, bedrives der megen lidt forskning i deres situation. ECRI konstaterer som noget positivt, at Danmark hvert år siden 2003 har højtideligholdt d. 27. januar, som er Holocaust-mindedagen.

**Henstillinger:**

86. ECRI opfordrer indtrængende den danske regering til at forbyde offentlige udtalelser der benægter, forladiger, retfærdiggør eller støtter Holocaust, samt fremstilling, offentliggørelse og udbredelse af nazistisk materiale til Holocaust-benægtelse og –revisionisme, således som anført i Generel Henstilling nr. 9 om bekæmpelse af antisemitisme.<sup>33</sup>
87. ECRI opfordrer indtrængende den danske regering til at sikre, at antisemitiske udtalelser behørigt registreres og straffes i medfør af § 266 b i straffeloven. ECRI henstiller tillige, at der iværksættes forskning i forholdene for det jødiske samfund i Danmark med henblik på at bekæmpe antisemitisme under enhver

<sup>33</sup> Se CRI (2004) 37, især afsnit e).

form. ECRI henstiller også, at Holocaust bliver en del af pensum på alle skoletrin.

## Sårbare grupper

### - **Muslimere**

88. I sin anden rapport udtrykte ECRI bekymring over det klima, der omgærdede muslimer og islam i Danmark og anbefalede de danske myndigheder at iværksætte fokuserede foranstaltninger i det offentlige liv samt i uddannelsessystemet med henblik på at fremme en mere objektiv og saglig opfattelse af muslimer. ECRI opfordrede desuden offentlige meningsdannere til at fremme et mere sagligt og nuanceret billede af muslimer og islam.
89. ECRI konstaterer med stor bekymring, at situationen vedrørende muslimer i Danmark er blevet forværret siden Kommissionens anden rapport. ECRI har fået oplyst, at udover førnævnte diskrimination af muslimer og andre mindretalsgrupper på beskæftigelses-, uddannelses- og boligområdet, fremsætter politikere fra visse politiske partier, herunder Dansk Folkeparti, og visse medier fortsat diskriminerende udtalelser om muslimer.<sup>34</sup> På trods af at der i 2003 blev rejst tiltale og opnået domfældelse i et antal sager om diskrimination i almindelighed og imod muslimer i særdeleshed<sup>35</sup>, har ECRI konstateret, at politiet sædvanligvis tøver med at efterforske klager fra muslimer over hadefulde ytringer rettet imod dem. ECRI beklager i den sammenhæng fraværet af det stærke signal, som det ville være, konsekvent at retsforfølge personer der overtræder § 266 b i straffeloven, fordi det har betydet, at visse politikere uhindret har kunnet skabe en atmosfære af mistro og had over for muslimer. Problemet forstærkes yderligere af den omstændighed, at medierne fortrinsvis interviewer de imamer, som giver udtryk for de mest ekstreme holdninger, og således bekræfter fremstillingen af muslimer som en trussel imod det danske samfund.<sup>36</sup> I september 2005 opfordrede en af de store danske aviser<sup>37</sup> tegnere til at indsende karikaturtegninger af profeten Muhammed, angiveligt for at få bekræftet om ytringsfriheden respekteres i Danmark; tegninger, som af mange muslimer anses for at være krænkende. Avisen bragte 12 af disse tegninger, hvoraf en afbildede profeten som terrorist. Sagen udløste omfattende fordømmelse og førte til afholdelsen af en protestmarch i København. En undersøgelse om offentliggørelsen af tegningerne viste, at 56 % af de adspurgte mente, at det var acceptabelt, hvilket afspejler det nuværende klima i Danmark<sup>38</sup>. Det er ECRIs opfattelse, at målet om at skabe en demokratisk debat om ytringsfriheden må kunne opfyldes uden at ty til provokerende handlinger, som uundgåeligt vil afføde en følelsesmæssig reaktion. ECRI ønsker i den forbindelse at henlede den danske regerings opmærksomhed på, at der i Generel Henstilling nr. 5 om bekæmpelse af intolerance og diskrimination over for muslimer er en opfordring til medlemsstaterne om at fremme en debat blandt medierne om det billede, som

<sup>34</sup> Se flere oplysninger om klimaet for mindretalsgrupper i almindelighed nedenfor i afsnittet 'Særlige problemer'.

<sup>35</sup> Se rapporten 'Intolerance and Discrimination against Muslims in the EU, Developments since September 11', udarbejdet af the International Helsinki Federation for Human Rights, marts 2005, pp. 52-53.

<sup>36</sup> Se flere oplysninger om mediernes rolle i skabelsen af den nuværende holdning i befolkningen i afsnittet 'Særlige problemer' nedenfor.

<sup>37</sup> Jyllands-Posten

<sup>38</sup> Se flere oplysninger nedenfor i afsnittet 'Særlige problemer'.

de videreformidler af islam og muslimske samfund, og om det ansvar de har for i den sammenhæng at undgå at befæste fordomme og ensidig information.<sup>39</sup>

90. ECRI henstillede i sin anden rapport, at de danske myndigheder indleder drøftelser med repræsentanter for de muslimske samfund og konsekvent inddrager dem i foranstaltninger, der har til formål at forbedre muslimers vilkår.
91. ECRI hilser det velkommen, at den danske integrationsminister har indledt en dialog med medlemmer af de muslimske samfund, og at ministeren i april og september 2005 mødtes med en gruppe imamer for at inddrage dem i bestræbelserne på at sikre, at unge muslimer får en uddannelse og kommer ud på arbejdsmarkedet. ECRI har også fået oplyst, at den danske statsminister har haft møde med repræsentanter for de muslimske samfund.

#### **Henstillinger:**

92. ECRI opfordrer indtrængende den danske regering til at udsende et tydeligt signal om at opfordring til racehad mod muslimer ikke tolereres ved at stramme § 266 b i straffeloven med dette for øje. ECRI opfordrer ligeledes indtrængende til, at regeringen gennemfører bevidstgørende kampagner over hele landet under inddragelse af medlemmer af de muslimske samfund, NGO'er, medierne og medlemmer af lokale og nationale myndigheder, med det formål at fremstille et mere objektive og afbalanceret billede af muslimer og islam og at fremme en konstruktiv debat om livet i et flerkulturelt samfund.
93. ECRI henstiller, at den danske regering fortsætter sine møder med medlemmer af de muslimske samfund med henblik på at samarbejde med dem om forhold af særlig relevans for muslimer, som f.eks. adgang til uddannelse og beskæftigelse.

#### **- Romaer**

94. Der findes ganske vist ingen officielle tal, men ECRI har fået oplyst, at der som minimum er imellem 1000 og 2000 romaer i Danmark. ECRI konstaterer, at der ifølge romaernes repræsentanter ikke er plads til deres kultur, sprog eller historie i det danske samfund. Således finder ECRI det dybt beklageligt, at romaerne stadig ikke er anerkendt som et nationalt mindretal i henhold til Rammekonventionen om Beskyttelse af Nationale Mindretal, på trods af at de har afholdt adskillige møder med den danske regering derom. ECRI finder det også vigtigt, at romaer ikke fremstilles negativt. ECRI konstaterer desuden med bekymring, at diskrimination af romaer er udbredt, bl.a. på arbejdsmarkedet, og at mange af dem er henvist til ydmyge jobs. I den forbindelse ønsker ECRI at gøre den danske regering opmærksom på Generel Henstilling nr. 3 om bekæmpelse af diskrimination og intolerance mod romaer/sigøjnere.<sup>40</sup>
95. Den største gruppe romaer i Danmark findes i Helsingør, hvor der bor omkring 200 roma-familier. Helsingør Kommune oprettede 3 klasser, hvor børn fra roma-samfundet blev holdt adskilt fra de andre børn, indtil der blev indgivet klaget over denne praksis og der fandt afgørelse om, at det udgjorde en overtrædelse af den danske folkeskolelov. Selvom ECRI hilser det velkommen, at disse klasser nu er nedlagt, er ECRI ikke desto mindre bekymret over meldinger om, at visse roma-børn i øjeblikket er placeret i ungdomsskoler (for 14 til 15-årige børn, der er gået ud af skolen) på trods af deres forældres modstand over for denne foranstaltning, som de mener er ødelæggende for deres børns uddannelse, eftersom der er megen kriminalitet blandt de unge i

<sup>39</sup> Se CRI (2000) 21.

<sup>40</sup> Se CRI (98) 29.

disse klasser. Der er dog også en mere positiv udvikling i Helsingør, idet de sociale myndigheder i kommunen for et år siden ansatte to socialrådgivere på fuld tid med den særlige opgave at sørge for, at de yngre børn går i skole. Ordningen dækker alle børn, der pjækker – hvadenten de er etniske danskere eller roma-børn – og den har været en succes.

#### **Henstillinger:**

96. ECRI henstiller til den danske regering, at den styrker romaernes kulturelle, historiske og sproglige arv ved bl.a. at arbejde for at de opnår anerkendelse som national minoritet i medfør af Rammekonventionen for Beskyttelse af Nationale Mindretal. ECRI henstiller desuden indtrængende, at Danmark bekæmper alle former for uddannelsesmæssig adskillelse af roma-børn såvel som alle andre former for diskrimination imod romaer, således som det er anført i Generel Henstilling nr. 3.

#### **Adfærden blandt lovhåndhævere**

97. Selvom de danske myndigheder oplyser, at politiet modtager en eller anden form for grundlæggende og løbende undervisning i forhold af relevans for deres omgang med mindretalsgrupper, er det tilsyneladende ikke nok. I den forbindelse finder ECRI det dybt beklageligt, at politiet ofte udtaler sig i medierne om den uforholdsmæssigt høje andel af lovovertrædelser der begås af unge fra mindretalsgrupper. Udtrykket 'indvandrerkriminalitet' er således et tilbagevendende emne, især når medierne bringer citerer fra politiet.
98. De danske myndigheder har tilkendegivet, at der findes en procedure for klager over politiets adfærd, men at der ikke findes nogen statistik over antallet af klager indgivet af mindretalsgrupper, fordi den form for oplysninger ikke registreres. Som tidligere omtalt blev det flere gange anført over for ECRI af repræsentanter for mindretalsgrupper, at politiet tøver med at rejse tiltale i medfør af § 266 b i straffeloven imod personer der fremsætter ytringer der sandsynligvis opildner til racehad, på trods af at dette er et tilbagevendende problem.

#### **Henstillinger:**

99. ECRI henstiller indtrængende til den danske regering, at den sørger for grundlæggende og løbende undervisning af politiet i problemer vedrørende racisme og racediskrimination. ECRI henstiller tillige, at der føres særskilt statistik om antallet af klager over politiets adfærd indgivet af medlemmer af mindretalsgrupper, og at der følges behørigt op på sådanne klager.

#### **Observation af forholdene i landet**

100. ECRI gentog i sin anden rapport vigtigheden af at indsamle data om bl.a. klager over racisme og diskrimination inden for forskellige samfundsområder. Det blev understreget, at sådanne oplysninger bør indsamles med behørig respekt for privatlivets fred og gældende regler om datasikkerhed, og med de pågældende personers frie og oplyste samtykke.
101. Danmark har ikke et formaliseret system til indsamling af oplysninger om klager over racisme og racediskrimination. ECRI har fået oplyst fra Datatilsynet, at § 10 i lov om behandling af personoplysninger<sup>41</sup> kun tillader behandling af etniske data til brug for statistiske eller videnskabelige undersøgelser af betydelig social

<sup>41</sup> Lov nr. 429 af 31. maj 2000. Denne lov er en implementering af direktiv 95/46/EF af 24. oktober 1996 om beskyttelse af fysiske personer i forbindelse med behandling af personoplysninger og den fri udveksling af sådanne oplysninger.

værdi, og hvor en sådan behandling er nødvendig for undersøgelsesernes gennemførelse. Der findes intet etableret system til indsamling af etniske data med henblik på at vurdere situationen for mindretalsgrupper inden for områder såsom uddannelse, beskæftigelse, boligforhold og sundhed og at belyse tidligere og nuværende ulighed. Imidlertid foregår der regelmæssig indsamling af data om medlemmer af indvandrergupper vedrørende uddannelse, beskæftigelse og boligforhold. Datatilsynet har oplyst over for ECRI, at der ikke er indgivet klager over indsamlingen af etniske data. ECRI konstaterer med bekymring, at Datatilsynet har anmodet den danske politidirektør om at genoverveje de 443 varslinger, der er udsendt i Schengen Information System vedrørende udlændinge som nægtes indrejse i Schengen-området. Datatilsynet havde nemlig opdaget, at indrapporteringen var fejlbehæftet i 5,6 % af sagerne, og at der i 15 % af sagerne var andre fejl (som f.eks. unklarelser af ajourføring), og havde konkluderet, at disse fejlmarginer, som omfattede sager vedrørende manglende overholdelse af bl.a. udlændingeloven og lov om behandling af personoplysninger, var uacceptabelt høje.

#### **Henstillinger:**

102. ECRI henstiller, at den danske regering opretter og gennemfører et system til indsamling af etniske data med henblik på at bedømme og afhjælpe racediskrimination i fuld overensstemmelse med al relevant national lovgivning, herunder lov om behandling af personoplysninger, og såvel europæiske som internationale regler og henstillinger om databeskyttelse og beskyttelse af privatlivets fred, således som det fremgår af ECRIs Generelle Henstilling nr. 1 om bekæmpelse af racisme, fremmedhad, antisemitisme og intolerance. Den danske regering bør sikre, at dataindsamling sker med fuld respekt for de involverede personers anonymitet og værdighed og under overholdelse af princippet om fuldt samtykke. Derudover bør systemet for indsamling af data om racisme og racediskrimination tage højde for forskellene imellem de to køn, især ud fra synsvinklen om mulig dobbelt eller flerdobbelt diskrimination.

## **II: SÆRLIGE PROBLEMER**

### **Det offentlige klima**

103. ECRI udtrykte i sin anden rapport dyb bekymring over voksende fremmedhad og intolerance i Danmark og understregede, at en erkendelse af, at Danmark er et flerkulturelt samfund, ville bidrage til at sikre alle medlemmer af det danske samfund reel lighed på alle livets områder.
104. ECRI konstaterer med dyb bekymring, at klimaet i Danmark som ovenfor anført er blevet forværret siden Kommissionens anden rapport, og at der er en gennemgribende atmosfære af intolerance og fremmedhad over for flygtninge og asylansøgere, såvel som over for mindretalsgrupper i almindelighed og muslimer i særdeleshed. Denne atmosfære er først og fremmest skabt af medierne og politikerne. Som ligeledes anført oven for har medlemmer af Dansk Folkeparti ved adskillige lejligheder fremsat chokerende racistiske ytringer i medierne, uden at det har ført til suspendering fra partiet. Politiets tøven med at rejse tiltale i medfør af straffelovens § 266 b imod personer, der opfordrer til racehad, og den omstændighed, at ytringsfriheden sættes højere end alt andet, har medvirket til at give visse politikere frit spil til at fremsætte nedladende udtalelser i medierne om mindretalsgrupper. Desuden har regeringens afhængighed af Dansk Folkeparti som støtteparti givet sidstnævnte betydelig indflydelse, så det har kunnet gennemtvinge en anti-indvandringsdagsorden og vedtagelse af lovgivning, som reelt påvirker

mindretalsgrupper uforholdsmæssigt hårdt. Føromtalt stramninger af f.eks. udlændingeloven, indvandrerloven og lov om indfødsret bærer vidnesbyrd om denne indflydelse. Som nævnt ovenfor er der tale om foranstaltninger, der fremstilles som havende til formål at forbedre mindretalsgruppers integration i det danske samfund, men som i virkeligheden blot marginaliserer dem yderligere. Således har ECRI fået oplyst, at mange medlemmer af mindretalsgrupper som har tilstrækkelig økonomisk formåen, har forladt Danmark på grund af det nuværende klima.

105. ECRI konstaterer tillige med stor bekymring, at den nuværende atmosfære i Danmark har en sådan karakter, at selv initiativer der som udgangspunkt har et positivt formål, som f.eks. kulturministerens beslutning om at nedsætte et udvalg om det bedste inden for dansk kunst og kultur, bliver brugt til at fremsætte nedladende bemærkninger om mindretalsgrupper. Således præsenterede kulturministeren projektet som et værktøj til bekæmpelse af mindretalsgruppers negative indflydelse på det danske samfund, og ministeren trak først denne udtalelse tilbage efter at nogle af udvalgets medlemmer truede med at trække sig. Han er tilsyneladende ikke blevet sigtet i medfør af § 266 b i straffeloven. Den omstændighed, at politikere i almindelighed og medlemmer af Dansk Folkeparti i særdeleshed med jævne mellemrum relativt ustraffet kan fremsætte diskriminerende udtalelser mod mindretalsgrupper i medierne, har bidraget til at forværre den opfattelse, som flertallet af etniske danskere har af disse grupper. Således får offentligheden konstant bibragt det indtryk, at integrationen er slået fejl, og at det er mindretalsgruppernes egen skyld, fordi de slet ikke ønsker at blive integreret. I den forbindelse skal nævnes, at der er dele af medierne som ikke giver mindretalsgrupper, som ikke passer til disse stereotype opfattelser, mulighed for at komme til orde. Den uforholdsmæssigt megen plads som medierne vier til negative historier om mindretalsgrupper i almindelighed og muslimer i særdeleshed, har overbevist mange etniske danskere om, at disse grupper udgør en trussel imod det danske samfund.
106. ECRI har også fået oplyst, at eftersom etniske danskere konstant konfronteres med negative fremstillinger af mindretalsgrupper, har deres intolerance nu vokset sig så stor, at der er skabt en polarisering imellem de, der forsøger at give udtryk for en anden holdning eller bekæmpe diskrimination, og dele af det danske samfund. Selvom etniske danskere ikke anser racisme og diskrimination for at udgøre et problem i Danmark, har en nylig undersøgelse vist, at kun er 30 % af etniske danskere er interesseret i at møde medlemmer af andre grupper. Det er også blevet oplyst over for ECRI, at Danmark stadig opfattes som et homogent samfund, og at mange etniske danskere kan gå igennem hele uddannelsessystemet uden på noget tidspunkt at møde medlemmer af andre etniske grupper. Det er på den baggrund, at medier og politikere spiller så vigtig en rolle i disse personers opfattelse af mindretalsgrupper, og ECRI finder det dybt beklageligt, at de desværre har udnyttet denne rolle til at splitte befolkningen snarere end at samle den. ECRI har også fået oplyst, at ansvaret for integrationen hele tiden lægges over på mindretalsgrupperne, og det i så høj grad at det reelt udgør et forsøg på at assimilere dem. Derfor opfattes ethvert tegn på, at en person er anderledes i stigende grad som udtryk for, at den pågældende er imod integration. Som eksempel kan i den forbindelse nævnes Danmarks Radios beslutning om at nedlægge sine udsendelser på fremmedsprog. Det gælder for denne beslutning, som det gælder for så mange andre af de føromtalt foranstaltninger, nemlig at den reelt vil få den modsatte virkning af det tilsigtede, som angives at være en forbedring af mindretalsgruppernes integration, fordi disse grupper fremover med stor sandsynlighed vil slå over på udenlandske radio- og fjernsynskanaler. ECRI må derfor konkludere ved at gentage, at det er

de politiske ledere og dem, der videreformidler deres budskab, nemlig medierne, der har ansvaret for at sikre, at der skabes lighed for alle medlemmer af samfundet ved hjælp af inklusion og gensidig respekt.

**Henstillinger:**

107. ECRI opfordrer indtrængende den danske regering til at give en mere afbalanceret fremstilling af problemer vedrørende mindretalsgrupper og deres rolle i det danske samfund. ECRI opfordrer tillige regeringen til at udsende et klart signal om, at opfordring til racisme ikke vil blive tolereret, ved at sikre at personer, der begår sådanne handlinger, konsekvent retsforfølges i overensstemmelse med straffeloven. ECRI henstiller indtrængende, at der gennemføres bevidstgørende kampagner om fordelene ved et flerkulturelt samfund, og at medlemmer af mindretalsgrupper, relevante NGOer og såvel nationale som internationale myndigheder samarbejder i alle faser af sådanne kampagner. ECRI ønsker også at henlede regeringens opmærksomhed på de principper, der er indeholdt i de europæiske politiske partiers charter for et ikke-racistisk samfund og i dets deklARATION om brugen af racistiske, antisemitiske og fremmedhadske elementer i politisk diskurs.
108. ECRI henstiller indtrængende til den danske regering, at den opmuntrer og yder finansiel støtte til initiativer, der har til formål at uddanne journalister i problemer vedrørende menneskerettigheder i almindelighed og racisme og racediskrimination i særdeleshed.

## LITTERATURFORTEGNELSE

Denne litteraturfortegnelse indeholder de vigtigste offentliggjorte kilder, som er blevet anvendt ved undersøgelsen af forholdene i Danmark og er således ikke en fuld fortegnelse over alle de informationskilder, som blev benyttet af ECRI ved udarbejdelsen af rapporten.

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## TILLÆG

### **Følgende bilag udgør ikke en del af ECRIs analyse og forslag vedrørende forholdene i Danmark.**

ECRI ønsker at gøre opmærksom på, at den analyse, der er indeholdt i Kommissionens tredje rapport om Danmark, er dateret den 16. december 2005 og således ikke tager højde for en senere udvikling.

I overensstemmelse med ECRIs landebaserede fremgangsmåde blev udkastet til ECRIs rapport om Danmark gjort til genstand for en fortrolig dialog med de danske myndigheder, og flere af deres kommentarer er blevet taget i betragtning af ECRI og indarbejdet i rapporten.

Imidlertid anmodede de danske myndigheder efter denne dialog om, at følgende synspunkter fra deres side blev gengivet som bilag til ECRIs rapport.



**“Observations by the Government of Denmark  
concerning ECRI’s third Report on Denmark**

Throughout the process of elaborating the third country-report on Denmark, the Danish Government has consistently demonstrated its willingness to cooperate with ECRI and provided it with comprehensive and substantive information, clarifications and comments through dialogue and in writing.

*The Danish Government regrets that its input to this process has only been reflected in the third country-report to a very limited extent. The Government of Denmark has therefore requested that the following comments to the report be added to the report as a separate appendix.*

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

ECRI's 3. report	Comments
<p>obligations under this instrument. ECRI welcomes Denmark's ratification, in June 2005, of the Additional Protocol to the Convention on cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems. It notes, however, that Denmark has not ratified the International Convention for the Protection of the Rights of All Migrant Workers and Members of Their Families.</p>	
<p><b>Recommendations:</b></p> <p>7. ECRI reiterates its recommendation that Denmark ratify the (Revised) European Social Charter and the European Convention on the Legal Status of Migrant Workers. ECRI also recommends that Denmark ratify Protocol No. 12 to the European Convention on Human Rights and that it accepts the provisions of Article 19 of the European Social Charter. ECRI recommends that Denmark ratify the International Convention for the Protection of the Rights of All Migrant Workers and Members of Their Families.</p>	<p>It should be noted that the majority of the European Countries like Denmark have not ratified the Convention on the Legal Status of Migrant Workers and International Convention for the Protection of the Rights of All Migrant Workers and Members of Their Families.</p>
<p>8. In its second report, ECRI noted that Denmark had incorporated the European Convention on Human Rights into Danish law and recommended that it consider the possibility of incorporating other human rights conventions into national law and, in particular the Convention on the Elimination of All Forms of Racial Discrimination.</p>	
<p>9. ECRI notes that apart from the European Convention on Human Rights, Denmark has not taken any steps to incorporate international human rights conventions into its national legislation. It has therefore not incorporated the Convention on the Elimination of All Forms of Racial Discrimination into its law. This decision was taken despite the recommendation made by a Commission established to examine this question, that Denmark incorporate this Convention as well as the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment into its domestic law. The courts rarely refer to conventions that have not been incorporated into Danish law.</p>	<p>The human rights conventions that Denmark has ratified can and are indeed invoked before and applied by the Danish courts and other national authorities. This was also emphasised by the Incorporation Committee, which was setup in 1999 to examine the advantages and the disadvantages of incorporating the general human rights conventions in domestic law. This means that also the unincorporated conventions are relevant sources of law in Denmark.</p> <p>One example of a case where in its ruling the Danish High Court made reference to the Convention on the Elimination of All Forms of Racial Discrimination is printed in the Weekly Law Review (<i>Ugeskrift for Retsvæsen</i>) 2000 p. 2350. The case concerned a woman doing work experience in a department store and who was sent away for wearing a headscarf. The High Court made a lengthy reference to the Convention and held that the dismissal was an indirect discrimination of the plaintiff. As there were no objective reasons that could justify the discrimination, the dismissal was held to be unlawful and the woman was awarded compensation of DKK 10.000.</p> <p>Another example is printed in the Weekly Law Review 1999 p. 920. In this case a bouncer was imposed a fine of DKK 1.000 for refusing to let a guest enter a restaurant on account of the colour of the guest's skin and his ethnic</p>

ECRI's 3. report	Comments
	<p>origin. The High Court made reference to article 6 of the Convention and held in the case in question that the violation did not have such gravity or involve such humiliation that there were grounds for awarding compensation for injury to the guest's feelings and for pain and suffering sustained.</p> <p>Another example printed in the Weekly Law Review 2002 p. 1789 concerned a Danish law requiring taxi drivers to have Danish citizenship in order to obtain a taxi licence. The Danish Supreme Court held that this requirement was not contrary to article 5 of the Convention, as it follows from article 1, paragraph 2 of the Convention that the Convention shall not apply to distinctions, exclusions, restrictions or preferences made by a State Party to the Convention between citizens and non-citizens.</p> <p>The Convention was furthermore invoked in a case regarding the dismissal of a Muslim who had participated in a prayer session in the middle of the hallway at his work. The management had referred Muslims at the work place to pray in a specific area but the person in question continued to pray in the middle of the hallway. The High Court held that there had been no discrimination on the basis of the plaintiff's beliefs, as the measures regarding the dismissal were taken in the interest of maintaining the peace and order at the work place in question. The case is printed in the Weekly Law Review 2001 p. 83.</p> <p>Thus, the human rights conventions that Denmark has ratified are relevant sources of law regardless of the method of implementation, as emphasised by the Incorporation Committee. Conventions that have not been specifically implemented because harmony of norms has been ascertained, can be and are in fact invoked before and applied by the Danish courts and other law-applying authorities.</p>
<p><b>Recommendations :</b></p> <p>10. ECRI recommends that Denmark reconsider the incorporation of international human rights conventions, and in particular the Convention on the Elimination of All Forms of Racial Discrimination into its national legislation so that they may be directly applicable before the courts.</p>	
<p><b>Constitutional provisions and other basic provisions</b></p> <p><i>i. Citizenship law</i></p>	
<p>11. In its second report, ECRI recommended that Denmark closely monitor the effects of the change in the Nationality Act by which non-citizens between the age of 18 and 23 who had lived in the country for 10 years or more would no longer be able to acquire Danish citizenship through an accelerated procedure.</p>	
<p>12. ECRI notes that no measures have been taken to implement the above-mentioned</p>	<p>This is not correct. The Ministry of Refugee, Immigration and Integration Affairs (Ministry of Integration) does monitor</p>

ECRI's 3. report	Comments
<p>recommendation. Moreover, the Nationality Act has also been amended so that only citizens from Nordic countries and former Danish nationals may acquire Danish citizenship by making a declaration. The Danish authorities have informed ECRI that some guidelines have been distributed within the Ministry of Refugee, Immigration and Integration Affairs which state that those who were born in Denmark should be able to obtain Danish citizenship after 3 to 5 years' residence in the country rather than 8 years. The authorities have, however, indicated that these are mere guidelines which were agreed upon by the Parliament, and that they are thus not binding. The Nationality Act has also been amended so that anyone who has acquired Danish citizenship by fraudulent conduct or has committed a crime against the State may now be deprived of his/her Danish nationality. The Danish authorities have stated that such a measure will not be taken if the person involved would become stateless. However ECRI notes with concern that if an application for Danish citizenship is refused, the applicant is not informed of the reasons for the refusal. ECRI has thus been informed that the authorities may decide that a person is a danger to Danish society and that he/she will therefore not be given Danish citizenship, without informing the applicant that such a conclusion was reached. ECRI has also received reports according to which the Danish Government plans on requiring that anyone applying for Danish citizenship have worked for four out of the last five years. The Ministry of Refugee, Immigration and Integration Affairs, which has made this proposal, predicts that this will reduce the number of people who would normally qualify for citizenship by 30 percent. ECRI notes that if this proposal is accepted, it will in effect preclude people from acquiring Danish citizenship for purely economic reasons. It is therefore worried that this measure will have a disproportionately discriminatory effect on minority groups, who as discussed below<sup>42</sup>, suffer from a much higher rate of unemployment than ethnic Danes.</p>	<p>the effects of the changes in the Nationality Act. The said amendments have not resulted in discriminatory practices or complications in the granting of Danish nationality. The Danish Constitution (article 44) stipulates that no alien shall be naturalised except by statute. Hence, the power to grant Danish nationality to aliens rests with the Parliament. It is not correct when ECRI notes that if an application for citizenship is refused the applicant is not informed of the reasons. The Parliament is not bound by the Administrative Law according to which all negative decisions made by Danish authorities must be reasoned in a written form. However, the Ministry of Integration ensures the principles of good administrative practise' are applied and in case of refusal the Ministry will inform the applicant of which requirements under the Act on Danish Nationality and in the guidelines for naturalisation the applicant did not fulfil. In December 2005 the Government and the Danish People's Party agreed on New Guidelines for Naturalisation that has resulted in a new circular letter on Naturalisation of 12 January 2006 forming the legal basis for naturalisations in Denmark. Naturalisation is obtained by a separate law listing the persons who are obtaining Danish citizenship. Persons recognised as refugees, persons comparable with these, and stateless persons may be listed in a naturalisation bill after 8 consecutive years of residence. Other aliens may be listed after 9 consecutive years of residence. However, there are several exceptions to this main rule. A person who lives in marriage with a Danish national may in certain cases be listed in a naturalisation bill after 6 consecutive years of residence in Denmark. Applicants who have entered Denmark prior to the age of 15 may obtain citizenship at the age of 18. Applicants who have undergone a substantial part of their general education or vocational training in Denmark may be listed in a naturalisation bill after 4 years of residence in Denmark. It is a condition that the education or training is of a Danish nature and of no less than 3 years' duration unless completed earlier by an examination or similar test. It is a requirement that a foreigner who applies for naturalisation must not within the last 5 years have resorted to public subsidise for more than 1 year in order to ensure self maintenance. The requirement of economical self support was introduced to signal to foreigners who wish to become Danish nationals that they must take active part in all aspects of the Danish society, especially in the labour market. In special cases exceptions can be made. It is not correct that the Ministry of Integration predicts that the New Guidelines for Naturalisation will reduce the number of people who would normally qualify for citizenship by 30 percent. The Ministry is not able to foresee a specific number of people who will not satisfy the conditions for naturalisation.</p>

ECRI's 3. report	Comments
<p style="text-align: center;"><b>Recommendations :</b></p> <p>13. ECRI recommends that the Danish Government bear in mind the European Convention on Nationality when it amends its Nationality Act. It also recommends that any amendments to this Act be made in conformity with Article 5 of the European Convention on Nationality, which states, <i>inter alia</i>, that rules on nationality shall not contain distinctions or include any practice which amount to discrimination on the grounds of religion, race, colour or national or ethnic origin. The Danish Government should also ensure that the Nationality Act is effectively implemented with due regard for these principles.</p>	<p>The Danish Government already follows this recommendation and does on a continuous basis ensure that the rules on naturalisation do not in any way contain distinctions or include any practice which amount to discrimination on the grounds of religion, race, colour or national or ethnic origin.</p>
<b>Criminal law provisions</b>	
<p>14. In its second report, ECRI recommended that Denmark closely monitor the implementation of Sections 1 and 2 of the Act Prohibiting Discrimination on the Basis of Race which forbids discrimination on the basis of, <i>inter alia</i>, race, colour, national or ethnic origin, or religion when a commercial or non-profit service is offered or when granting access to a public place. It also recommended that police and prosecuting authorities be given training with respect to the investigation of complaints under this Act.</p>	
<p>15. ECRI notes that although there has been increased awareness among the police of the discrimination faced by minority groups in entering places such as bars, discos and restaurants, very few cases concerning this type of discrimination are brought to court. In this regard, ECRI has been informed that between January 2002 and the end of October 2004, only 4 cases were examined by the courts on this issue in Copenhagen. In those cases, the owner of the public place only received a minor fine and the victim was awarded no compensation. For more information on this subject, see "Access to public services" below.</p>	
<p style="text-align: center;"><b>Recommendations :</b></p> <p>16. ECRI recommends that the Danish Government ensure that the Act Prohibiting Discrimination on the Basis of Race is implemented more actively. It also recommends that more awareness-raising measures on this law be taken, including outside the Copenhagen Municipality.</p>	
<p>17. In its second report, ECRI recommended that Denmark initiate a more proactive policy for implementing Article 266 b) of the Criminal Code, which prohibits the dissemination of</p>	

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racist statements and racist propaganda.	
<p>18. ECRI deeply regrets the fact that the police are still very reluctant to register complaints of racist statements and to investigate and press charges under Article 266 b) of the Criminal Code, partly due to the fact that freedom of speech is given priority consideration in Denmark. It has been indicated to ECRI that the few cases that are brought to court only result in a fine. The Danish authorities have informed ECRI that between January 2001 and the end of September 2003, 23 cases were brought to court against 32 people and that 24 convictions were passed, including a 20 days' imprisonment sentence. On this question, some NGOs have informed ECRI that the number of racist statements made by, <i>inter alia</i>, members of the Danish People's Party (which has been supporting the Government since 2002) has increased dramatically in the last few years. In 2003, 16 court decisions were rendered against politicians under Article 266 b) of the Criminal Code and NGOs have noted an increase in 2005 in the number of complaints against politicians, especially for statements made regarding Muslims and Islam. NGOs point out that this is partly linked to the local elections held on 15 November 2005 as politicians often resort to populist rhetoric to win votes.</p>	<p>ECRI states that it is a fact that the police are reluctant to register complaints of racist statements and to investigate and press charges under section 266 b of the Danish Criminal Code.</p> <p>The basis for this assumption does not appear in the report. Furthermore, ECRI states that the reluctance by the police partly is due to the fact that freedom of speech is given priority consideration in Denmark.</p> <p>The Government takes the liberty of calling attention to Article 10 in the European Convention on Human Rights and the case-law of the European Court of Human Rights in accordance with which section 266 b in the Danish Criminal Code is interpreted.</p> <p>According to this case-law freedom of expression constitutes one of the essential foundations of a democratic society and one of the basic conditions for its progress and for individual self-fulfilment. Article 10 is applicable not only to information or ideas that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb. Exceptions to this freedom must be construed strictly, and the need for any restrictions must be established convincingly, see <i>Jerusalem v. Austria</i>, judgement of 27 February 2001.</p> <p>The Danish case-law concerning section 266 b in the Danish Criminal Code reflects this and freedom of speech is not given priority beyond the case-law from the European Court of Human Rights. This is clearly illustrated in the ruling of the Supreme Court printed in the <i>Weekly Law Review</i> 2000 p. 2247 where the founder of a political party in a television broadcast characterized Muslims as world criminals and for having stated that Muslims would expose the Danish population to invasion, castration and homicide. The Supreme Court stated that the extensive freedom of speech which politicians enjoy did not justify impunity for the offender and found the offender guilty of violating section 266 b and sentenced him to 7 days of suspended imprisonment due to his high age (74 years).</p> <p>As mentioned in the follow-up report sent to ECRI on 23 June 2005 prior to ECRI's visit the Director of Public Prosecutions is notified of all complaints regarding section 266 b of the Danish Penal Code, cf. Instruction no. 4/1995. The question of prosecution is furthermore decided by the Director of Public Prosecutions in order to ensure uniform prosecution in cases regarding section 266 b of the Danish Criminal Code.</p> <p>The Director of Public Prosecutions brings charges for violation of section 266 b of the Danish Criminal Code when there is sufficient basis for a charge. According to the principle of objectivity of the Prosecution Service, the prosecutor has to make sure, however, that the person liable to punishment is held responsible, but also that no innocent persons are prosecuted.</p> <p>Moreover, in recent years the Director of Public Prosecutions has brought charges for violation of section 266 b (2) of the Danish Criminal Code when statements compromised by section 266 b (1) may be characterised as</p>

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	<p>propaganda activities. Most of these cases mainly concerned dissemination of discriminating statements on the internet.</p> <p>It is not correct that the cases brought to court only result in a fine.</p> <p>In the period January 2001 till December 2003 charges for violation of section 266 b were brought up in 23 cases against 32 people. In the same period 24 convictions were passed. Criminal charges were to some extent brought up before the year 2001.</p> <p>In two of these 24 cases the conviction concerned a violation of section 266 b (2). In two cases the indicted was acquitted. In four cases the indicted were sentenced to imprisonment.</p> <p>One of these cases is the ruling of the Supreme Court on the 3. December 2003 printed in the Weekly Law Review (Ugeskrift for Retsvæsen) 2004 p. 734 where a politician was convicted of violation of section 266 b (2), cf. subsection (1), of the Criminal Code. For a period of about a two month, this politician had made statements falling under section 266 b of the Criminal Code on the Internet. The Supreme Court imposed a suspended sentence of 20 days' imprisonment, which was an increase of the High Court sentence of 20 day fines of DKK 500.</p> <p>Furthermore in 2005 charges were brought up in 3 cases against three persons for violation of section 266 b.</p>
<p>19. ECRI notes with concern that a local neo-Nazi radio station continues to receive State funds, even though it sends out racist statements. Although ECRI has been informed that in 2004, this radio's licence was withdrawn for 3 months as some of the views expressed on it, namely against Muslims, were considered to be a violation of the Criminal Code, it wishes to express its worry at the fact that this radio's licence has been reinstated. Another radio station, which is run by a neo-Nazi and broadcasts racist statements, is also allowed to operate with State funds. On this question, the authorities have explained to ECRI that the law allows any radio to operate as long as it has the support of the local community. Moreover, according to the authorities, this radio station has not lost its licence as it has not broadcast illegal statements.</p>	<p>No local neo-Nazi radio station has received State funds since 2003.</p>
<p><b>Recommendations :</b></p> <p>20. ECRI urges Denmark to take a more proactive approach in prosecuting anyone who makes racist statements, since Article 266 b) of the Criminal Code as interpreted by the Supreme Court does not appear to be adequate.</p>	<p>The Prosecution Service is bound by the principle of objectivity. Hence it follows that the Prosecution Service cannot bring charges inconsistent with the practice of the Supreme Court.</p> <p>Furthermore, as explained in the comment made to paragraph 18, section 266 b in the Danish Criminal Code is interpreted in accordance with Article 10 in the European Convention on Human Rights and the case-law of the European Court of Human Rights. According to this case-law freedom of expression constitutes one of the essential foundations of a democratic society and one of the basic</p>

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	conditions for its progress and for individual self-fulfilment. The Danish Government therefore is unappreciative of this recommendation.
21. In its second report, ECRI recommended that Denmark introduce measures to combat racist organisations.	
22. ECRI notes that racist organisations are still not prohibited in Denmark. Furthermore, although the Danish authorities have indicated to ECRI that the policy in Denmark is to prosecute individual members of neo-Nazi or skinhead organisations, very few cases, if any, have actually been brought against them.	<p>It follows from section 78(2) of the Danish Constitution that associations employing violence, or aiming at the attainment of their object by violence, by instigation to violence, or by similar punishable influence on persons holding other views, may be dissolved by court judgment. Apart from associations falling within section 78(2) of the Constitution, also associations with unlawful purposes, cf. section 78(1), may be dissolved.</p> <p>Thus, under Danish law it is possible to dissolve associations with unlawful purposes, which includes associations whose purpose is unlawful racist activities. However, there has to be strong evidence against the association in order to dissolve it.</p> <p>Individuals with connection to racist groups can be prosecuted like any other person if they make statements that fall under section 266 b of the Danish Criminal Code. However, the conviction will not always show if the convicted has connection to such racist groups.</p> <p>It should be mentioned that according to section 266 b (2) it is considered an aggravating circumstance when statements compromised by section 266 b (1) may be characterised as propaganda activities. Propaganda means a systematic, intensive or persistent activity with intent to influence the public opinion. If statements are part of the work of an organisation or if magazines are published, or databases created this also indicates propaganda. Therefore statements made by individuals connected to racist groups often can be characterized as propaganda.</p>
23. In its second report, ECRI recommended that Denmark introduce into its legislation a provision by which the racist motivation of an ordinary crime would be taken into consideration as an aggravating circumstance.	
24. ECRI is pleased to note that the Criminal Code has been amended in accordance with the above recommendation. Article 81 of this Code thus provides that the racial and ethnic motivation of a crime will be deemed to be an aggravating circumstance. However, as this provision is relatively new, there is as yet no case law on it.	
<p style="text-align: center;"><b>Recommendations :</b></p> <p>25. ECRI strongly recommends that the Danish Government penalise the creation or leadership of a group which promotes racism, as well as support for such a group and participation in its activities, as indicated in its General Policy Recommendation No. 7 on national</p>	<p>As mentioned in paragraph 22 individuals with connection to racist groups can be prosecuted like any other person if they make statements that fall under section 266 b of the Danish Criminal Code. According to section 23 concerning complicity any person who contributes to the commission of an offence by instigation, advice or action is liable to punishment.</p> <p>Thus participation in activities of a group can be punished.</p>

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<p>legislation to combat racism and racial discrimination. It also recommends that Denmark take a more proactive approach in punishing members of such organisations.</p>	
<p><b>Civil and administrative law provisions</b></p>	
<p>26. In its second report, ECRI noted that Denmark did not have a body of anti-discrimination civil and administrative legislation and recommended that it adopt such laws. ECRI further stressed the fundamental role that an organisation which would be specialised in combating racism and intolerance would play in supervising the implementation of such a body of legislation.</p>	
<p>27. ECRI welcomes Denmark's adoption of the Act on Ethnic Equal Treatment in May 2003 in the framework of its implementation of the EU equality Directives. This Act prohibits discrimination in access to social protection, including social security, health care, social advantages and education. It also forbids discrimination in access to goods and services, including housing, as well as harassment on racial grounds or against anyone who has filed a complaint for racial discrimination. The Act further provides for a shared burden of proof and entitles victims to non-pecuniary compensation. ECRI is also pleased to note that Denmark has established a Complaints Committee for Ethnic Equal Treatment within the Danish Institute for Human Rights, which is empowered to receive complaints of racial discrimination under this Act, including in the employment sector. However, ECRI is concerned by the fact that very few cases have been brought to court under the Act on Ethnic Equal Treatment, as the powers of the Complaints Committee are insufficient to investigate cases. Taking a case to court by him/herself is too difficult and expensive for the average victim. The Danish authorities have thus informed ECRI that only one case concerning employment discrimination has been brought to court under this Act.</p>	<p>The Government would like to emphasise that cases can be brought before the Complaints Committee for Ethnic Equal Treatment free of charge. If the Complaints Committee finds that there has been a breach of the prohibition of unequal treatment on the grounds of race or ethnic origin, the Committee can recommend that the complainant be granted free legal aid in accordance with the Danish Administration of Justice Act.</p> <p>The fact that only one case concerning employment discrimination has been brought to court cannot be seen as documenting that people are not aware of the protection offered by the above mentioned Acts or that the protection provided is too limited.</p> <p>On the contrary a victim of discrimination may freely decide whether he or she wants to bring the case directly before the courts or to complain to the Complaints Committee. Moreover, the main rationale behind the establishment of the complaints body is to provide victims of discrimination with a flexible, inexpensive and swift alternative to the ordinary courts. The persons who chose not to bring the case before a court might as well have been satisfied with the decision of the Complaints Committee.</p>
<p><b>Recommendations:</b></p> <p>28. ECRI strongly recommends that Denmark take a more proactive role in ensuring the implementation of the Act on Ethnic Equal Treatment by, <i>inter alia</i>, ensuring that potential victims of discrimination are also aware of its existence and of the mechanisms for invoking it before the courts.</p>	<p>Having brought the above remarks to ECRI's attention the Government has invited ECRI to review its unfounded and strong recommendation.</p> <p>The Government would like to draw attention to the fact that the Danish Institute for Human Rights has issued information on the possibilities to complain in 10 languages. The Minister for Integration has also publicly encouraged the Complaints Committee to assume a more proactive and visible role, so as to strengthen awareness of its existence. The Government continually assesses whether enough is done to raise awareness of public complaints mechanisms,</p>

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	including Complaints Committee for Ethnic Equal Treatment.
<b>Administration of justice</b>	
<p>29. As indicated above, very few cases are brought to court and there are few convictions in Denmark for racist or discriminatory acts, mainly due to the fact that the judges, prosecutors and lawyers do not take adequate notice of the relevant national and international legislation. The Danish Ministry of Justice has informed ECRI in this regard, that it is considering publicizing the jurisprudence on these questions on its internal WebPages for the benefit of local prosecutors as well as local police forces. However, for the moment, judges, lawyers and prosecutors receive very little formal training on racism and racial discrimination either during their training period or when they have started their career. NGOs have also informed ECRI that the judiciary does not reflect the diversity in Danish society. On this point, the Danish authorities have indicated that measures are being taken to encourage members of ethnic minorities to apply for positions with the Court Administration and the courts. These include, <i>inter alia</i>, the amendment of the wording of advertisements for jobs. ECRI is further deeply concerned by reports according to which some judges show prejudice towards ethnic minority witnesses and defendants.</p>	<p>ECRI states as a fact that the judges, prosecutors and lawyers do not take adequate notice of the relevant national and international legislation. The basis for that assumption does not appear in the report. As mentioned in paragraph 9 of this report the unincorporated conventions are relevant sources of law in Denmark and they are invoked before and applied by Danish courts and other law-applying authorities. The Director of Public Prosecutions has drawn up a survey of convictions from the year 2000 and forward for violations of section 266 b of the Criminal Code. The survey in addition contains selected cases in which the indicted was acquitted. The cases are described in a brief summary and the decisive circumstances in the courts ruling are outlined. The survey will soon be available on the Director of Public Prosecutions homepage, thus enabling the prosecution and courts to form a general view of the case law. The survey will be updated regularly. According to ECRI reports have been made that some judges show prejudice towards ethnic minority witnesses and defendants. The sources to these reports do not appear in the third report. The Danish Court Administration is not aware of any reports according to which some judges should have shown prejudice towards ethnic minority witnesses and defendants. As far as the Danish Court Administration is informed no complaints against judges showing prejudice towards ethnic minorities have been brought before The Special Court of Indictment and Revision that hears cases concerning disciplinary sanctions against judges.</p>
<p style="text-align: center;"><b>Recommendations:</b></p> <p>30. ECRI strongly recommends that the Danish Government ensure that judges, lawyers and prosecutors receive training on all national and international legal instruments pertaining to racism and racial discrimination during their formal training as well as throughout their career. ECRI also recommends that Denmark continue taking measures to encourage members of minority groups to apply for positions in all areas of the judicial system.</p>	<p>As to the encouraging of members of minority groups to apply for positions in all areas of the judicial system attention should be drawn to the fact that the Danish Court Administration in accordance with circular No. 142 of 31 July 2000 on the drafting of advertisements of vacant positions issued by the Danish Ministry of Finance, has amended the wording of all advertisements so that persons of other ethnic origins are now encouraged to apply for jobs with the Court Administration and the courts.</p>
<b>Specialised bodies and other institutions</b>	
<p style="text-align: center;"><i>-Complaints Committee for Ethnic Equal Treatment</i></p> <p>31. In its second report, ECRI felt that the Board for Ethnic Equality performed a very important function in combating racial discrimination and hoped that the Danish authorities would continue to take into consideration its advice and recommendations in its area of expertise.</p>	

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<p>32. ECRI deeply regrets the fact that the Board for Ethnic Equality was closed down on 31 December 2002, following the adoption of a law establishing the Danish Centre for International Studies and Human Rights. This measure was taken following a decision by the Government, on 11 January 2002, to close down, merge or reduce the mandate or funding of more than 100 organisations, which it considered to be, amongst others, "judges of taste". Therefore, on 1 January 2003, the Danish Institute for Human Rights became part of the Danish Centre for International Studies and Human Rights, and it was given, amongst other tasks, the mandate of promoting ethnic equality. As previously indicated, in 2003, the Complaints Committee for Ethnic Equal Treatment (hereinafter the "Complaints Committee") was created within this Institute. ECRI notes with concern that this Committee has many shortcomings which preclude it from meeting all the criteria of a specialised body as mentioned in its General Policy Recommendation No. 2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level. The Complaints Committee has informed ECRI that it only examines complaints for discrimination on racial and ethnic grounds, and does not cover religious discrimination. As it does not have the power to hear witnesses, it bases its decisions solely on documentary evidence. The Complaints Committee has no power to compel private entities to give evidence and as a result, where it has been unable to obtain enough evidence, it dismisses the complaint. ECRI has been informed that in the proceedings before the Complaints Committee, the principle of the shared burden of proof is not applicable. ECRI finds it particularly worrying that despite all these evidentiary restrictions, the Committee is only allowed to provide legal aid to those who wish to take their case to court when it finds that there has indeed been discrimination. ECRI has been informed in this regard, that this Committee has only taken one case to court (in 2003) and that this case was only scheduled to be examined in November 2005.</p>	<p>The criticism put forward by ECRI is incorrect as most of the tasks of the Board for Ethnic Equality were generally taken over by the Institute for Human Rights. Therefore, the Government does not adhere to the criticism put forward by ECRI regarding the closing down of the Board.</p> <p>The rationale behind the Government's decision to close down a number of superfluous councils, boards and committees was first of all to make available resources to improved welfare and secondly, to simplify the state administration and improve accessibility for citizens. Furthermore, the decision was of a general nature and mainly concerned other areas, including environmental and nutrition issues.</p> <p>The Complaints Committee for Ethnic Equal Treatment does meet the General Policy Recommendation No. 2. The General Policy Recommendation No. 2, chapter C, principle 3, states that specialised bodies should possess as many as possible of the enumerated functions and responsibilities subject to national circumstances. Chapter B, principle 2, states that specialised bodies may take different forms according to the legal and administrative traditions of the countries in which they are set up, and can take the form of Centres/Offices for combating racism and promoting equal opportunities, or other forms, including bodies with wider objectives in the field of Human Rights generally.</p> <p>ECRI should note that the principle of shared burden of proof is compulsory according to article 7 in the Act on Ethnic Equal Treatment and article 7a in the Act on the Prohibition of Discrimination in the Labour Market in cases brought before a Danish Court.</p> <p>ECRI has been invited to take into account that the Institute for Human Rights also carries out other tasks regarding equal treatment regardless race and ethnic origin etc. The mandate of the Institute for Human Rights covers a wide range of activities well known to ECRI. The Institute for example monitors whether the Government observes its human rights obligations pursuant to the Constitution and international treaties, including the freedom of religion and belief. In spring 2003, the Institute for Human Rights also set up the Committee on Equal Treatment (Ligebehandlingsudvalget), which is composed of persons having knowledge and experience within the fields of ethnicity, disability, gender, religion and faith and sexual inclination.</p> <p>Concerning free legal aid see the remarks under paragraph 27.</p>
<p>33. The Complaints Committee has informed ECRI that it has dealt with 153 complaints so far and that the majority of them (30%) concern access to social benefits and to social services. Many cases also deal with</p>	<p>As of 2 January a total of 209 cases had been brought before the Complaints Committee since its establishment in 2003, including 30 cases, which were taken up on the Committee's own initiative. The Committee has decided 33 cases on their merits. In 26 cases no breach was found to</p>

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<p>housing and educational issues. The Complaints Committee has further stated that when there are evidential issues in a case, it makes general recommendations about a particular problem, such as for example, segregation in schools. The purpose of these recommendations is to raise awareness of the law and to establish guidelines on its interpretation. ECRI is deeply concerned that one of the other major problems faced by the Complaints Committee is the lack of adequate funds and staff to enable it to function to the best of its ability. The Committee is thus only composed of three part-time members and a secretariat of two lawyers. The Danish authorities have indicated on this matter, that it allocates six million Danish Crowns (i.e., 800,000 euros) on a yearly basis to this body. The authorities have also informed ECRI that the Complaints Committee itself, which has fewer powers than the body set up to deal with gender discrimination issues, has requested more powers and funding. ECRI notes however that the authorities appear to be reluctant to change its mandate or increase its funding. It also notes with regret that although the Complaints Committee's decisions are published in the Danish Institute for Human Rights' Annual Report, its work is not widely disseminated. Moreover, the Committee is unable to open offices outside Copenhagen due to lack of funds.</p>	<p>have taken place while a breach of the prohibition of unequal treatment on the grounds of race or ethnic origin was found in 7 cases or in 21.2 % of the cases. 4 of the cases in which a breach of the prohibition of unequal treatment on the grounds of race or ethnic origin was found were based on individual complaints and in 2 of these the Committee recommended that the complainant should be granted free legal aid. One case decided by the Complaints Committee has been brought to court.</p> <p>It is not correct that decisions of the Committee are only accessible in the Annual Report of the Institute as they are also publicly accessible on the Internet.</p>
<p><b>Other institutions and non-governmental organisations</b></p>	
<p>34. As indicated above, the Danish Government made a decision, in 2002, to either withdraw or limit the funds previously allocated to many NGOs and other specialised bodies, as they were considered by the Government to be "judges of taste" who were attempting to "repress public debate with their tyranny". As a result, many NGOs and bodies dealing with racial discrimination have either closed down or have severely limited the scope of their activities. This, compounded with the many problems faced by the Complaints Committee, has created a vacuum that has placed minority groups in an even more vulnerable situation than noted in the second report, as there are now very few organisations which are able to address issues of particular concern to them. The lack of voices that can bring the problems faced by minority groups, refugees and asylum seekers to the forefront of the public</p>	<p>ECRI seems to judge the Danish Government and its objectives purely on none verified statements and rumours and the statements seem to be of a political nature. ECRI has been encouraged to substantiate its statements as regards paragraph 34 as such. Reference is made to paragraph 32 regarding the rationale behind the Government's decision to close down a number of superfluous councils, boards and committees.</p> <p>The Government maintains that minority groups indeed have a possibility to be heard in Denmark and that their voices are taken seriously. It is as described above under paragraph 27 possible to complain to either the Institute for Human Rights or the Complaints Committee. Furthermore, do not only a large number of NGOs play an important role in taking up concerns of minorities in Denmark, they are also involved in the law shaping process. The Danish Refugee Council, Danish Red Cross, Amnesty International, the Center for Documentation and Advice on Race Discrimination and POEM (a umbrella organization for ethnic minorities) could be mentioned in this respect. Special attention should be given to the Council for Ethnic</p>

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<p>debate and thus provide a counterbalance to the manner in which they are perceived by the public at large has contributed to a climate of intolerance against them. In this regard, many NGOs have indicated that a Discrimination Ombudsman who would take up cases of racial discrimination in the Danish administration is needed in Denmark. They consider such a measure all the more necessary as the current Parliamentary Ombudsman does not examine whether there is a discriminatory element in the manner in which public authorities implement the law.</p>	<p>Minorities, which advises the Minister for Integration on issues of importance to immigrants and refugees. The council meets with the Minister every three months to discuss current problems, new initiatives and legislation. In addition to these meetings, the council can be asked to comment on specific issues and prepare plans of action whenever necessary.</p> <p>The Government would like to underline that special funding earmarked for integration, and which is complementary to the fight against discrimination, has increased over the last years. Large financial support has been granted to strengthen a number of NGOs and their work on integration, including the Danish Refugee Council (15 mill DKK per year/approx. 2 mill Euro) and the Danish Red Cross (2.5 mill DKK per year/approx. 0.330 mill Euro). A number of other NGOs are supported on a yearly basis summing up to several million DKK. Furthermore, a number of general funds aim at strengthening e.g. education, employment, voluntary work exists. The general funds are granted on the basis of an evaluation of proposed projects by private or public entities and NGOs can and do indeed successfully apply for financial support to various activities and projects. The total amount of these general funds within the Ministry of Integration was 230 mill DKK (approx. 30 mill Euro) in 2005.</p> <p>In the view of the Government the possible establishment of a Discrimination Ombudsman would amount to creating an institution with competences similar to those of the Institute for Human Rights. Furthermore, the present Parliamentary Commissioner for Civil and Military Administration (Folketingets Ombudsmand) will when assessing complaints regarding decisions made by Danish authorities also take into consideration claims of direct or indirect discrimination exercised by the authorities.</p>
<p><b>Recommendations:</b></p> <p>35. ECRI strongly urges the Danish Government to provide the Complaints Committee on Ethnic Equal Treatment with sufficient powers and financial means to enable it to effectively function as a specialised body within the meaning of its General Policy Recommendation No. 2. It further calls on the Government to ensure that the Complaints Committee's jurisprudence and general recommendations are widely disseminated to the public at large as well as to all Government bodies both at the national and local levels.</p>	<p>The Government complies with the principles contained in the ECRI General Policy Recommendation No. 2 and ECRI was urged to take the above-mentioned remarks in paragraph 32 into consideration when drafting the final wording of this recommendation.</p>
<p>36. ECRI strongly recommends that the Danish Government provide NGOs and other specialised bodies with sufficient funds to enable them to adequately assist minority groups in solving the problems that they face.</p>	<p>A strong recommendation on this point does not seem substantiated and the Government invited ECRI to review the recommendation and the wording of paragraph 34 with due regard to the above mentioned remarks. The recommendation seems rather politically motivated than substantiated by facts.</p>
<p><b>Education and awareness-raising</b></p>	
<p>37. In its second report, ECRI recommended that</p>	

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Denmark develop within the teaching of History in Denmark, a section devoted to the immigrant population's input into Danish society.	
38. ECRI notes that since its second report, no measures have been taken to change the manner in which History is taught in schools, along the lines recommended in its General Policy Recommendation No. 1 on combating racism, xenophobia, antisemitism and intolerance. Moreover, the authorities have informed ECRI that diversity and multiculturalism are not taught in Danish schools. ECRI has been informed in this regard, that research has demonstrated that stereotypes are also widespread among young people.	According to the aim of the subject history it should be mentioned that other cultures are integrated in the teaching. Any teaching in the primary and secondary school takes it starting point in the individual student including students with another background than Danish.
<p style="text-align: center;"><b>Recommendations:</b></p> 39. ECRI strongly recommends that the Danish Government ensures that school curricula at all levels include teaching on human rights in general and racism and racial discrimination in particular as well as on cultural diversity, in a cross-cutting manner. It also reiterates its recommendation that minority groups' contribution to Denmark be taught in all schools at all levels.	Concerning teaching in human rights, racism, racial discrimination and cultural diversity, these fields are included in a range of the compulsory subjects e.g. history and social studies. This is organized in different ways e.g. within the subject itself and in a cross-cutting manner. In addition to this, it should be mentioned that the schools are obliged to integrate the fields mentioned above in the activities of the school as a whole.
<p style="text-align: center;"><b>Reception and status of non-citizens</b> -Act on Integration of Aliens in Denmark</p>	
40. In its second report, ECRI expressed concern at the fact that although the Act on Integration of Aliens in Denmark (the "Integration Act") was meant to improve the integration of refugees and newly arrived immigrants into Danish society, by, <i>inter alia</i> , creating local integration councils, the manner in which it was being implemented ran counter to that aim.	
41. ECRI has been informed that since the publication of its second report, new amendments which compound the problems highlighted in that report have been inserted into the Integration Act. The authorities have informed ECRI that in 2002, a "start allowance", which applies to both Danes and foreigners who have not been living in Denmark for 7 out of the last 8 years, was introduced. The amount of this monthly allowance of 5,000 Danish Crowns (i.e., 670 euros), is only approximately 65% of the normal social welfare benefit. ECRI notes with deep concern that, as NGOs have indicated, this provision amounts to indirect discrimination against minority groups because most Danes who have been out of the country for the above-mentioned period	<p>The Ministry of Integration reiterates that the rules in the relevant Acts (Act on Integration and the Act on Social Policy) regarding starting allowance or introduction allowance respectively apply to any foreigner or any Danish citizen regardless of race, colour, national or ethnical background.</p> <p>The Government regrets that ECRI seems to rely only on information provided from other parties than the Danish Government itself.</p> <p>In proposing new legislation it is crucial to the Government that Denmark's commitments under international conventions are fully honoured. The legislation on starting and introduction allowance fully honours the commitments in the 1951 UN Convention relating to the Status of Refugees, the UN Conventions on Economic, Social and Cultural Rights and on the Abolishment of all Forms of Racial Discrimination and the European Convention on Human Rights.</p>

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<p>do not need it. Therefore, half of the approximately 2,000 people who receive this allowance are either newly arrived immigrants or refugees. The Danish authorities have stated that the aim of this provision is to improve newly arrived immigrants' and refugees' integration into Danish society as it is meant to be an incentive for them to seek employment. However, research has demonstrated that this measure has increased poverty levels among minority groups, with the logical risk of some of them resorting to crime to survive. Experts as well as members of ethnic minority groups fear that the resulting increase in crime statistics among non-ethnic Danes will then be used to further stigmatise them, in an already negative public climate. NGOs have also informed ECRI that this measure has in fact served to isolate refugees and newly arrived immigrants, as they do not have the means to participate in activities that would help them integrate into society. For example, children whose parents are on this "start allowance" do not participate in extra-curricular activities, as their parents cannot afford to pay for them.</p>	<p>The Government notes that it is a normal principle in most countries, that allowances differ, and that many countries have qualifying principles for full benefits, often depending on how many years the applicant has been active on the labour market.</p> <p>It is important to understand that the rules were introduced because of the extensive Danish welfare system. ECRI should also take such parameters into account. The starting allowance and the introduction allowance are employment promoting arrangements, to ensure it is profitable to take up employment compared to receiving social assistance. This has been a significant problem until the new legislation was enacted.</p> <p>It is not correct when ECRI indicates that the increase in crime statistic among non-ethnic Danes is a result of the introduction of starting or introduction allowance. This indication is unfounded and tendentious.</p> <p>The Government maintains that the provisions in the Acts regarding starting and introduction allowances have a valid objective. The Government finds that it is crucial for the integration process that the persons involved get a job and thereby interact with other citizens. One of the main factors in becoming a member of society on an equal footing with other citizens is the ability to be self-supporting. Statistical evidence indicates that the introduction allowance in fact reduces unemployment among newly arrived foreigners which over time is expected to lead to an overall increased standard of living and better integration among this group. Moreover, it should be noted that in addition newly arrived foreigners are if necessary offered assistance of a practical and economical nature. They are offered free introductory programmes, including Danish language courses combined with for example work training. Refugees are ensured permanent housing and may also be granted economical assistance for specific expenses. The Danish State allocates funds to the municipalities for the maintenance of these tasks.</p>
<p>42. ECRI has also been informed that although, at the time of its second report, the Integration Act provided for the mandatory setting up of integration councils in all municipalities if 50 people so requested, this is no longer the case since 2004. These integration councils were established in order to advise Municipalities on issues pertaining to the integration of newly arrived immigrants and refugees. Since 2004, Municipalities are no longer obliged to establish these councils and will now do so only when they deem it necessary. There are thus 71 integration councils in the currently existing 274 Municipalities in Denmark. NGOs have expressed their regret at this decision, as integration councils play a positive role in helping new immigrants and refugees integrate into Danish society. However, they have also indicated that these councils are</p>	<p>The amendments regarding integration councils were made as local authorities in many municipalities have requested flexibility as an integration council is more relevant in some municipalities than others. The aim is to ensure real influence and participation by the councils and not in itself to ensure a high number of councils. Currently 71 local integration councils are operative in the municipalities, including in all major cities in Denmark where the largest part of ethnic minorities lives.</p> <p>It should also be noted that integration councils are only one of the channels available for ethnic minorities to further their political influence. All Danish citizens, including citizens with an ethnic minority background, can seek political influence through elections to parliament and municipal authorities. Furthermore all foreigners (of age 18+) are allowed to vote and stand for election to municipal assemblies three years after having been granted permanent residence permit. In fact the number of members of municipal assemblies who were either third-country nationals or descendants of third-country nationals (that is non-EU citizens and citizens not</p>

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<p>under funded and that they are often not adequately consulted by the Government on matters falling within their mandate. In this regard, ECRI has, for example been informed that the Government tends to forward to the integration councils important documents such as draft laws without providing them with sufficient time to give their input. Moreover, although integration councils have the power to make proposals to the City Councils on the allocation of funds to projects relating to newly arrived immigrants and refugees, they have full discretion as to whether or not they will take these proposals into consideration. Concerning the funding of integration councils, the Danish Government has stated that they are provided with secretarial assistance and free facilities, such as meeting rooms, by local authorities. The Government has further indicated that research carried out in 2003 indicated that 43% of integration councils had an annual budget of between 10,000 DKK (approximately 1,340 euros) and 50,000 DKK (approximately 6,700 euros), and that 14% received less than 10,000 DKK.</p>	<p>coming from Norway, Iceland, USA or Canada) was up to 67 elects in 2005 compared to only 3 in 1981. The same number for members of parliament was 3 in 2005 (out of a total of 179 seats).</p> <p>Furthermore the Government stresses the importance of dialogue with ethnic minority communities and for example representatives from the Muslim communities. Both the Danish Prime Minister and the Minister for Integration have held such dialogue meetings.</p> <p>As regards funding, the information provided by the Government that 39 % of the local integration councils have an annual budget larger than 50.000 DKK (approx. 6.700 Euro) has not been reflected in the report. The Government finds that funding provided indicates that the local integration councils are generally provided with sufficient means.</p> <p>It should be corrected that the local integration councils are neither obliged nor expected to comment on draft laws. This assignment belongs to the Council for Ethnic Minorities. Local integration councils primarily advise local authorities on local integration efforts.</p>
<p>43. ECRI considers that the decision to abolish the mandatory nature of integration councils is all the more regrettable as under the Integration Act, newly arrived refugees and immigrants have no choice as to which Municipality they will be housed in. The Act thus leaves it to the Municipalities to agree among themselves on the number of newly arrived refugees and immigrants they will receive. The Danish authorities have informed ECRI that the aim of this policy is to promote their integration into Danish society. However, ECRI notes that according to the authorities themselves, in 2003, in only 40% of cases were the newly arrived refugees' and immigrants' stated preference for living in a particular Municipality taken into account. In addition, in 35% of the cases they were housed in a different Municipality, but in the same County. ECRI considers that this policy should not result in the refugees' and immigrants' isolation. Moreover, ECRI also notes with concern that the authorities in some Municipalities have refused, for example to receive anymore foreigners on social welfare.</p>	<p>It is not correct that newly arrived refugees and immigrants have no choice as to which municipality they want to settle in. The provisions on housing of refugees only concern recognised refugees and not immigrants and the mandatory system only applies during the period of the introduction programme. The provisions ensure that refugees are provided with permanent housing soon after their arrival in the municipalities, whereas previously refugees were often settled in temporary housing for up to two years. The system helps the municipalities to manage the overall integration task and provides the municipalities with certainty for the planning of the introduction programme for the individual refugee which is to the benefit of both the municipality and the refugee. Finally, the system seeks to avoid segregation and promotes the integration of refugees and Danes in daily life in smaller municipalities.</p> <p>It should be underlined that in cases where a refugee has a particular connection to a community - for instance because of close relatives living in the municipality - the refugee can be allocated to that municipality even if the municipality has exceeded its quota.</p> <p>Municipalities cannot refuse to receive any newly arrived solely based on the fact that they are on social welfare.</p>
<p>44. Newly arrived immigrants and refugees must also follow a three-year integration course in the Municipality in which they have been housed. This course includes, <i>inter alia</i>,</p>	<p>It is not correct that the introduction course is not sufficiently flexible. The Government reiterates that a refugee may settle in another municipality if the refugee wishes to do so and if the new municipality accepts to assume the</p>

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<p>Danish lessons and preparation for the labour market. The Integration Act provides that they must remain in their assigned Municipality for the duration of this course, unless they have been offered employment elsewhere. NGOs have indicated to ECRI that this course is not sufficiently flexible to enable newly arrived refugees and immigrants to enter the Danish labour market. This in turn makes it more difficult for them to move to another Municipality before the end of the course. It has also been brought to ECRI's attention that if newly arrived immigrants and refugees lose their job, they must return to the integration course.</p>	<p>responsibility for the introduction programme. If the new municipality do not accept to assume responsibility and the refugee nevertheless settles in the municipality, this may, however, have consequences for the refugee's access to introduction allowance and access to permanent residence permit.</p> <p>The new municipality is obliged to assume the responsibility for the continuation of the introduction programme for example if the refugee has been offered employment in the new municipality or due to special personal circumstances. It is wrongly perceived and should rather be seen as a positive measure that newly arrived refugees and immigrants are given the possibility to return to the introduction course if they lose their job within the three year duration of the course, as the course is tailor-made to encompass the specific needs of the person in question with a view to ensure the best possible integration into society.</p>
<p><b>Recommendations:</b></p> <p>45. ECRI urges the Danish Government to place everyone receiving social welfare on an equal footing as the current "start allowance" amounts to indirect discrimination against newly arrived immigrants and refugees, in violation of international legal norms.</p>	<p>The Government has encouraged ECRI to carefully review its recommendation in the light of the above remarks under paragraph 41. The Government fully respects the right of ECRI to disagree on the desirability of the introduction and starting allowances but finds it legally incorrect that the rules concerning starting and introduction allowance amounts to indirect discrimination against newly arrived immigrants and refugees in violation of international legal norms.</p> <p>It is a fact, that the starting allowance has a positive impact, so that more people are able to support themselves and less isolated from the labour market than if they had received social assistance – after three years 41 per cent versus 28 percent.</p> <p>The waiting period for social assistance is a way of enacting a qualifying principle for full benefit like in pension systems, which is normally not regarded as a violation of international legal norms.</p> <p>The Danish Government finds it very important that Denmark's commitments under international conventions are fully honoured and regards the legislation on starting allowance as being objective, impartial and unbiased.</p>
<p>46. ECRI recommends that the Danish Government make integration councils mandatory in order to facilitate newly arrived immigrants' and refugees' integration into their Municipalities. ECRI also recommends that these councils be provided with sufficient means to function adequately and that they be given a genuine opportunity to contribute to laws and policies relating to immigrants and refugees.</p>	<p>The Government has invited ECRI to review its recommendations with due regard to the above remarks under paragraph 42. ECRI has also been encouraged to substantiate why it expresses concerns as regards this very positive system of local integration councils instead of welcoming it and leave some room for manoeuvre for the Member States.</p>
<p>47. ECRI recommends that Danish Government continue to monitor the policy of housing refugees and providing them with an Integration course in different Municipalities in order to ensure that refugees are not isolated.</p>	<p>The Ministry of Integration set up a control group in 2002 to monitor the municipal integration effort. Measurements of the integration effort of the municipalities are carried out annually.</p> <p>The Government has invited ECRI to review the recommendations with due regard to the above remarks under paragraph 44.</p> <p>ECRI has also been invited to consider the positive aspects</p>

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	of the promotion of and need for integrating refugees and Danes in daily life in smaller municipalities.
<i>-Aliens' Act</i>	
<p>48. In its second report, noting that the tightening of policies regarding the entry into Denmark of immigrants, refugees and asylum seekers in general and concerning, <i>inter alia</i>, the right to family reunification, had continued, ECRI was concerned that this would have a discriminatory impact on members of minority groups.</p>	
<p>49. ECRI deeply regrets that since its second report, new amendments, which have, <i>inter alia</i>, further restricted the right to family reunification, have been inserted into the Aliens' Act. Other than the requirements that only those over 24 years may apply for spousal reunification, on condition that they possess a reasonably-sized dwelling, Article 9 of the Aliens' Act now provides that anyone wishing to bring a spouse who is not a citizen of an EU Member State or of the European Economic Area to Denmark must also meet the following conditions: 1) if the person applying for spousal reunification has not been a Danish national for 28 years, his/her spouse's aggregate ties must be stronger with Denmark than the applicant's ties with his/her spouse's country; 2) the applicant must not have been on social welfare for one year prior to the date of the application, and 3) he/she must provide a bank deposit of 54,000 Danish Crowns (approximately 7,000 euros), which will be frozen if the applicant loses his/her job in the first 7 years of the spousal reunification. Moreover, his/her spouse's residence permit may be as a result of the job loss. The Act also provides that refugees may only bring a spouse to Denmark if they had been married or cohabited before the person was granted asylum. On this matter, the Danish Government has stated that a very important factor when deciding on applications for spousal reunification for refugees is whether or not the refugee is able to take up residence in his/her country of origin or in another country. ECRI is deeply concerned by the fact that the 28 years' aggregate ties with Denmark rule amounts to indirect discrimination between those who were born Danish and people who acquired Danish citizenship at a later stage. The stated purpose of the 24 year old rule, which is to avoid forced marriages, in fact concerns only a very small number of people. According to research recently carried out among members of the Turkish, Lebanese, Pakistani, Somali and former Yugoslavian communities, 80% of the respondents indicated that they chose their spouse themselves, 16 % stated that they did it together with their parents</p>	<p>The Government is of the opinion that ECRI's description of the mentioned provisions of the Danish Aliens Act and factual analyses are not correct, incomplete and do not provide a full picture. ECRI has been recommended to thoroughly study both the explanatory notes to the relevant bills and previous information forwarded by Denmark in order to ensure an objective description of the mentioned provisions of the Danish Aliens Act and their motivation. With regard to the amendments made in 2002 the overall purpose has been to combat forced marriages and promote integration. The Government wishes to protect young people against pressure from their family or others to enter into arranged marriages or forced marriages with spouses with a cultural background distinctly different from the young people's own daily lives and cultural reality in Denmark. It should be noted that the 28 years rule is an exception to the rule on aggregated ties and ECRI has been encouraged to correct the description of the rule accordingly. As regards the 28 years rule ECRI's deep concern that the rule amounts to indirect discrimination between those who were born Danish and those who acquired Danish citizenship at a later stage is unfounded. No married couple has to comply with the condition of ties if the spouse living in Denmark has been a Danish national for 28 years or more. Persons who have not been Danish nationals for 28 years, but who were born and raised in Denmark or came to Denmark as small children and were raised here, will, however, usually be exempted from the condition of ties if they have resided in Denmark for 28 years. These people are in practice subject to the same treatment as persons who have been Danish nationals for 28 years. As regards the provision on aggregate ties ECRI has been invited to take note of 3 judgments delivered 13 April 2005 by the Supreme Court concerning family reunification in connection with the condition of ties that was in force before July 2002 (U2005.2086H, U.2005.2099/1H and U.2005.2099/2H). In contrary to the condition of ties in force today, the condition of ties only comprised persons, who did not hold Danish citizenship. The Supreme Court did not find that such differential treatment on the basis of citizenship was contrary to the prohibition against discrimination in article 14 in comparison with article 8 of the European Convention of Human Rights, cf. the decision taken by the European Court of Human Rights on the 28 May 1985 (Abdulaziz, Cabales and Balakandali v. UK, 84-86). It is based on incomplete information when ECRI states that</p>

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<p>and only 4% indicated that their parents chose their spouse for them. Furthermore, ECRI is seriously worried by the fact that the criteria that the person applying for spousal reunification must not have been on social welfare for one year prior to his/her application and that he/she must provide a bank deposit of 7,000 euros in effect amounts to indirect discrimination against minority groups who, as discussed below, tend to be at the bottom of the socio-economic ladder.</p>	<p>the purpose of the 24-year rule only concerns a smaller number of people. An analysis of the marriage pattern prior to the introduction of the 24-year rule demonstrates a significant increase in the number of foreigners marrying a person residing outside of Denmark in the years 1999 to 2001. In 1999 55 % of the married immigrants and descendants under the age of 24 from non-western countries married a person residing abroad, while the number increased to 67 % in 2001 – an increase of 12 % in two years. The figures also demonstrate that the older a person is the less likely it is that he/she would marry a person from abroad.</p> <p>Since the introduction of the 24-year rule in 2002 there has been a decrease in the number of foreigners from non-western countries under the age of 24, who married a person resident abroad. From 67 % in 2001 to 41 % in 2004. At the same time the average age of persons who marry has increased. Whereas in 2001 the most common age for foreigners from non-western countries to get married, when marrying a person residing abroad, was 20 years, it was 24 years in 2004. This striking increase in the age of persons who get married and the decrease in the number of foreigners under the age of 24 who marry a person resident abroad, indicates that the 24-year rule has affected the marriage pattern for foreigners in the way the Government intended in order to enhance integration and prevent forced and arranged marriages. It is reiterated that the logic behind the rule is that the older a person is the better he/she can resist possible pressure from the family. ECRI is mistaken when claiming that the bank deposit will be frozen if the applicant loses his/her job within the first 7 years of the spousal reunification. The bank deposit is - as stated in the explanatory notes of the Bill - a financial security to cover for any future public expenses for assistance to the foreign spouse.</p> <p>It should be noted that if the spouse originally living in Denmark finds other means of maintaining his/her foreign spouse, the residence permit of the foreign spouse will not be revoked. ECRI should note that it is not exceptional for Denmark to require stable and regular resources sufficient to maintain the family as a condition for family reunification. The EU Directive on family reunification (Directive 2003/86/EC) makes this possible for all EU Member States bound by the Directive. Denmark is not bound by this Directive.</p> <p>As regards spousal reunification for refugees the Danish rules are in accordance with the criteria for spousal reunification laid down by the European Court of Human Rights.</p>
<p>50. ECRI also notes with concern that these spousal reunification rules have compelled many mixed couples to live in Sweden or Germany where they are entitled to family reunification in accordance with EU rules. NGOs have also highlighted the difficulties faced by people applying for family or spousal reunification in reaching the</p>	<p>The Danish Government has encouraged ECRI to take into account that Article 8 of the European Convention on Human Rights or other international obligations does not include a general and unconditional right to family reunification. Denmark, however, fully respects the case law of the European Court of Human Rights, which dictates that family reunification cannot be refused in special cases. The Government is aware of the information concerning</p>

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<p>Immigration Services and in receiving information on the status of their case. On this question, the Danish Government has stated that the immigration Service is continuously doing its utmost to improve the service of its customers. Finally, NGO's have also indicated that one of the consequences of these various restrictions is that spousal and family reunifications have dropped since ECRI's second report.</p>	<p>mixed couples living in Sweden and Germany. It remains a political and not a legal question whether to accept this consequence or not. It should be noted that the consequence follows from the fact that the rules do not discriminate between nationals and foreigners. ECRI has been encouraged to make its judgements in the light of the European Convention on Human Rights and related case-law.</p>
<p>51. The Danish authorities have informed ECRI that the spousal and family reunification policies permit exemptions for some professionals and students in certain fields from the above-mentioned 24 year and aggregate ties rules. The aim of the policy is to attract workers in fields where there is a manpower shortage in Denmark. In this regard, in the last few years, there has been a sharp decrease in the number of people who have been granted asylum or family reunification permits, whilst inversely, more student and employment visas have been handed out. ECRI deeply regrets the fact that this policy adds another level of discrimination between on the one hand, those seeking asylum or family reunification and on the other hand, people who are perceived as being economically viable for Denmark, in a manner which disproportionately affects minority groups. ECRI is also worried by the fact that this policy has been introduced in a climate where minority groups are being portrayed as a drain on the economy and a threat to the social welfare system.</p>	<p>The Government strongly opposes the view put forward by ECRI that granting favourable conditions for some professionals and students can be seen as an expression of discrimination of other groups.</p> <p>The total number of residence permits to foreigners (refugees, family reunification, studies, employment, including EU-citizens) has risen from 36.354 in 2001 to 39.729 in 2005. (The figure from 2005 is not final). ECRI has been invited to also take into consideration that according to UNHCR statistics a decline in the number of asylum seekers is a general tendency in the EU, primarily in the "old" Member States. In fact when taking into account the number of asylum seekers per 1000 inhabitants UNHCR data show that Denmark is exactly on line with EU 25 average (0.6). Furthermore, the decline in the recognition rates for refugees is seen in many other countries in the EU.</p> <p>ECRI has been encouraged to explain why it is not seen as a positive development that residence permits to third-country nationals in general have increased as this clearly indicates that Denmark welcomes persons from third-countries also when belonging to minority groups. It is fair, legitimate and quite common for most European states to demand different requirements depending on the foreigner's purpose for applying for residence permit.</p> <p>A factual analysis by ECRI should take into consideration whether it according to international standards is not possible to claim that immigration cannot take place if the immigrant will be dependant on well-fare benefits as long as international obligations are respected (for example the 1951 UN Convention Relating to the Status of Refugees and the European Convention on Human Rights (article 8)). ECRI has been encouraged to pay attention to the fact that it has an overall positive impact on integration that immigrants are active in the labour market – not only for the benefit of the society in general but indeed also for the benefit of the immigrants in question.</p> <p>The Government does not agree when ECRI states that minority groups are being portrayed as a drain on the economy and a threat to the social welfare system. It should be taken into account that it is a legitimate aim to require stable and regular resources sufficient to maintain the family as a condition for family reunification and immigration for studies and employment as long as international obligations are met. See also paragraph 49 above.</p>

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<p>52. ECRI finally notes with concern that although several NGOs and members of civil society, both at the national and international levels, have criticised the discriminatory nature of the above-mentioned aspects of the Aliens' Act, their calls for changes in these laws have mostly gone unheeded.</p>	<p>All comments and proposals are taken into consideration in the law making process. In the view of the Danish Government it is however politically unrealistic to require that the Government – as counts for all Governments – take into account all political statements from NGOs and others when elaborating legislation.</p>
<p><b>Recommendations:</b></p> <p>53. ECRI urges the Danish Government to reconsider the provisions contained in the Aliens' Act on spousal and family reunification, bearing in mind Article 8 of the European Convention on Human Rights. It also urges Denmark not to adopt laws which in effect indirectly discriminate against minority groups. ECRI strongly recommends that the Danish Government take into consideration the recommendations made by various international and national bodies regarding the Aliens' Act.</p>	<p>The Danish Government finds that the provisions in the Danish Aliens Act, including the amendments made since ECRI's second report, fully respects Denmark's international obligations as they can be derived from the European Convention on Human Rights and other instruments. The Government notes that ECRI has not pointed to any violations of international obligations or given any legal facts to substantiate its position. The conditions for family reunification do not interfere with the right to respect for family life guaranteed in Article 8 of the European Convention on Human Rights as Article 8 does not dictate a general and unconditional right to family reunification. Denmark fully respects the case law of the European Court of Human Rights, which implies that family reunification cannot be refused in special cases. Reference is made to the 'Memorandum on the report of 8 July 2004 by Mr. Alvaro Gil-Robles, Council of Europe Commissioner for Human Rights', and the Government's memorandum of 22 September 2004 on the recommendations made by the Commissioner. The memorandum was enclosed in the information send to ECRI as a follow-up to ECRI's letter of 22 March 2005.</p> <p>It should be noted that the Danish Government did introduce amendments to the Danish Aliens Act following the recommendations made by the Commissioner. Furthermore, a general precondition for taking into account recommendations is that such recommendations build on a solid and correct basis, including references to international obligations and not only to different political viewpoints.</p>
<i>-Refugees and Asylum Seekers</i>	
<p>54. NGOS have expressed a number of concerns to ECRI about the manner in which asylum seekers are treated in Denmark. A very high proportion (90%) of asylum seekers' claims are currently being rejected, whilst in 2002, approximately 50% of those claims were successful. The fact that asylum seekers are not assisted by a lawyer when they fill in their 20 page claim form and are subsequently interviewed by the competent authorities has been stated as one of the main reasons for such a high percentage of rejected claims. ECRI notes with concern that the authorities have indicated that rejected asylum seekers who are unwilling to leave Denmark receive no other assistance than food in a cafeteria and clothes. NGOs have criticised the fact that some rejected asylum seekers are placed in a wing of the Sandholm Centre (in the North of</p>	<p>ECRI has been encouraged to ensure a greater diversity in its factual descriptions and not only build on information from NGOs.</p> <p>It is not correct when it is stated that the high percentage of rejected claims for asylum is due to the fact that asylum seekers are not assisted by a lawyer when filling in the claim form.</p> <p>First, all asylum-seekers may contact legal counsel and be assisted by a lawyer at any time. Assistance from an attorney is free of charge from the point of the appeal before the Refugee Board. Special rules apply with regard to unaccompanied minor asylum seekers. Second, nothing has been changed in this respect and, consequently, cannot explain the change in the recognition rates. Third, the change in the recognition rates can rather be explained mainly by changed conditions in the countries of origin of the asylum seekers, like for instance Afghanistan and Iraq. Fourth, according to UNHCR statistics many European countries experience a decline in positive asylum decisions</p>

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<p>Copenhagen), where they remain isolated, with no supervision and there have been complaints of inadequate food. Moreover, ECRI is worried that as rejected asylum seekers who are placed in this centre receive no money, some of them are reportedly being forced into a life of crime out of desperation to earn some money.</p>	<p>(see above in paragraph 51). Fifth, the EU Council Directive on asylum procedures (2005/85/EC) is only as a main rule obliging Member States bound by the Directive to ensure an attorney free of charge in second instance.</p> <p>It should be noted that new regulations as from 1 July 2005 regarding the payment of cash allowances to asylum seekers who do not live up to the obligations required by immigration laws have as an objective to motivate asylum seekers to cooperate with the authorities primarily in cases where asylum seekers have received final rejections of their applications for Danish residence permits, have not left the country by the date ordered, and who are not willing to leave the country. Exceptions can be made as regard unaccompanied minors and individuals with special forms of life-threatening diseases. The asylum seekers can be removed from the food allowance programme if they choose to co-operate with the police on their departure.</p> <p>It is inaccurate when ECRI states that the persons in question receive no other assistance than food in a cafeteria and clothes. For example special boxes for children are handed out. ECRI has been encouraged to inform the Ministry of Integration about the concrete complaints regarding inadequate food in the centres as such complaints will be taken seriously. The programme should and does ensure adequate food in accordance with health standards.</p> <p>ECRI has been encouraged to reflect in its report that residents at departure centres (Centre Sandholm and Centre Avnstrup) are typically asylum seekers who will not co-operate with the police on their departure after they have received final rejections of their application for asylum and have not left the country by the set deadline.</p> <p>The Danish Government does not subscribe to the view that conditions in the centres would force people into a life of crime.</p>
<p>55. A decision rejecting an asylum seeker's claim is examined by the Refugee Board. This three-member quasi-judicial body is chaired by a Judge and is composed of a lawyer from the Ministry of Refugee, Immigration and Integration Affairs and another who's a member of the Lawyers' Association. ECRI notes with concern, that a decision by this Board may only be appealed on a procedural matter. In this regard, the authorities have informed ECRI that an asylum seeker whose claim has been rejected by this Board can apply for humanitarian status with the Ministry of Refugee, Immigration and Integration Affairs. However, this status is only afforded to asylum seekers who suffer from a serious illness and cannot receive treatment in their country or who lack any family ties in their country. The Ministry of Refugee, Immigration and Integration Affairs' decision to reject a claim for humanitarian status</p>	<p>The worry expressed by ECRI in respect of refoulement of refugees is absolutely unfounded and tendentious. The rules in the Danish Aliens Act and the Danish asylum practice are fully in accordance with international obligations concerning non-refoulement, including article 33 of the 1951 Convention Relating to the Status of Refugees and article 3 of the European Convention of Human Rights. ECRI is recommended to have this verified with other sources, for example UNHCR.</p> <p>ECRI's concern regarding the decisions taken by the Danish Refugee Board is also unfounded. The right for asylum seekers to have their case examined by the Refugee Board make an effective remedy of the decision taken on their application for asylum. ECRI seems not to take into account that the Refugee Board – due to its composition with a Judge in the chair, its independency and its procedural rules - is a quasi-judicial body or court-like body. It should be mentioned that the Refugee Board is considered to be a court within the meaning of article 38 in the EU Council Directive on asylum procedures (2005/85/EC) concerning the right for asylum seekers to have their case examined by a court or tribunal. Please note that Denmark is not bound</p>

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<p>cannot be appealed either. In this regard, ECRI was informed that very few people are granted humanitarian status. It is therefore worried that some asylum seekers who have a meritorious case may be sent back to a country where they have a well-founded fear of persecution within the meaning of the 1951 Convention Relating to the Status of Refugees.</p>	<p>by the Directive but its legislation is fully in line with the Directive. A reference is made also to the comments to the recommendation under paragraph 58.</p> <p>It is not correct that a claim for humanitarian status cannot be appealed. The Danish Constitution stipulate in article 63 that the courts of justice are empowered to decide any question relating to the scope of the executive authority. This includes a general right to appeal decisions from the authorities to the courts. Furthermore, it is possible to make a complaint to the Parliamentary Commissioner for Civil and Military Administration in Denmark (Folketingets Ombudsman), who can examine formal matters regarding negative administrative decisions.</p>
<p>56. NGOs and specialised bodies have indicated to ECRI that asylum seekers whose claim is still being processed are extremely isolated as they do not have the right to work or study outside the asylum centres in which they are housed; the Danish authorities have indicated on this point that asylum seekers have the right to carry out voluntary work outside the centre. ECRI also notes that their children can only be schooled in these asylum centres. ECRI is further seriously concerned by the fact that, as NGOs and specialised bodies have indicated, the compounded effect of their isolation, the problems they encounter in receiving psychiatric treatment as well as the limited financial means available to them and the lack of certainty about their future have resulted in some asylum seekers being in a worse psychological condition than when they arrived in Denmark. This is all the more worrying as some of them have been living in asylum centres for as long as 8-10 years.</p>	<p>ECRI seems to be misinformed about conditions for asylum seekers in Denmark.</p> <p>Whereas asylum seekers may not take up ordinary work in Denmark unless they have a residence and work permit, asylum seekers with a work contract or a work permit valid for a specific trade or profession may apply for a residence permit on those grounds. Furthermore, asylum seekers can participate in both internal activation (various tasks at the centres) as well as unpaid job training programs at a company not affiliated with the asylum centre (external activation). Applicants can also participate in unpaid humanitarian work or any other form of volunteer work. The asylum seekers can also participate in language courses and other courses on a number of subjects. The Government has thus sought to secure an active stay for foreigners who await the decision from the authorities on their case.</p> <p>It is not correct that the children of asylum seekers are only schooled in the asylum centres in which they are housed. The children have compulsory education like any other child in Denmark. They are offered education corresponding to the education bilingual children receive in the Danish "folkeskole" (primary and lower secondary school for 7- to 10-year-olds). As a main rule the education is managed by schools connected to the asylum centres. If the child can benefit from education with Danish children the accommodation operator can enter into an informal agreement with the local municipality that the child can participate in the education in the local school on equal terms with the other children.</p> <p>The Government agrees that asylum seekers should not spend as long as 8-10 years in asylum centres in Denmark. In 2005 the average processing time for asylum cases in the first instance was 100 days. The average processing time for cases before the Refugee Board was 150 days in 2005. If asylum seekers spend longer time at the asylum centres, the main reason will in most cases be due to the asylum seekers themselves. In many cases the asylum seekers do not cooperate with the police on their departure and very often asylum seekers postpone their departure by applying for new kinds of residence permits or for a reopening of their asylum case.</p>

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<p style="text-align: center;"><b>Recommendations :</b></p> <p>57. ECRI recommends that asylum seekers be assisted by a lawyer when they submit their claim to the competent authorities and during the entirety of the asylum procedure</p>	<p>ECRI was encouraged to take into account the information given under paragraph 54 and revise this recommendation. Any recommendation in this regard should build on international obligations or recommendations.</p>
<p>58. ECRI strongly recommends that Denmark ensures that asylum seekers are able to fully put their case before the authorities by providing them with equal access to all the legal remedies afforded to everyone living in Denmark, including the right to appeal before an independent court.</p>	<p>ECRI was encouraged to revise this strong and unfounded recommendation and take into account that the Refugee Board is an independent court-like body and provides asylum seekers with an effective remedy against decisions taken on their asylum applications and that the legal standards enshrined in this process gives the same level of rights and protection as any court procedure. This view can be further underpinned by the following:</p> <ul style="list-style-type: none"> <li>- As already stated in paragraph 55 the Refugee Board is a court within the meaning of article 38 in the EU Council Directive on asylum procedures (2005/85/EC). During the consideration of the Directive the Council Legal Service concluded that Community law demands that in order to fulfil the requirement of effective remedies, the applicants must have the right to appeal before a court or tribunal as these concepts are understood in the sense of the European Court of Justice. The Court takes account of a number of factors, such as whether the body is established by law, whether it is permanent, whether its jurisdiction is compulsory, whether its procedure is inter partes, whether it applies rules of law and whether it is independent. The Refugee Board fulfils all these criteria.</li> <li>- According to section 56 (8) of the Aliens Act decisions made by the Refugee Board are final, which means that the decisions cannot be re-examined by the courts. This was determined by the Supreme Court by a decision of 16 June 1997. The Supreme Court attached importance to the fact that the Refugee Board is an expert board of a court-like character. The Supreme Court has since repeated this in several other judgments.</li> <li>- The Refugee Board guarantees that aliens submitting an application for asylum in Denmark have a thorough and fully adequate examination of their asylum applications in terms of due process. Moreover, the Refugee Board is professional with a high degree of legal expertise, including expertise in the fields of immigration and asylum law.</li> </ul>
<p>59. ECRI recommends that asylum seekers have access to employment and professional training as well as to Danish schools for their children in mainstream Danish society in order to avoid their total isolation. ECRI also strongly recommends that asylum seekers be provided with adequate care in accordance with national and international human rights standards.</p>	<p>ECRI was encouraged to review its recommendation taking into account the information given under paragraph 56 as ECRI seemed to be misinformed about conditions for asylum seekers in Denmark.</p> <p>In this respect ECRI was encouraged to take into account international recommendations on employment possibilities for asylum seekers, that integration measures are provided for once the asylum seeker is granted asylum and that employment opportunities during the asylum phase can have adverse effects e.g. persons exploiting the asylum system and not in need for protection. When the asylum system is exploited the main victim will be the genuine refugee.</p> <p>As to the recommendation concerning the schooling of the asylum seeker's children ECRI was encouraged to take into account the information given under paragraph 56.</p>

ECRI's 3. report	Comments
<b>Employment</b>	
60. In its second report, ECRI emphasised the paramount importance of adequately implementing legal provisions in the employment sector and recommended that the application of existing legislation in this area be improved.	The National Labour Market Authority has concluded an arrangement with a private consultant firm to carry out random checks twice a year among the employed in the Public Employment Service to ensure that they know and act in accordance with the legislation against discrimination. Furthermore the Public Employment Service must register if they are contacted by firms who want to hire ethnic Danes only.
61. As indicated above, only one case has been brought to court so far regarding discrimination under the 2003 Act on Ethnic Equal Treatment. The Danish Institute for Human Rights' Complaints Committee has informed ECRI that 11 cases concerning dismissal, payment, work conditions and promotion issues have been brought before it under this Act. The Committee has informed ECRI that it can only examine such cases where the complainant is not a member of a Trade Union or when he/she has received no assistance from their Union in dealing with their complaint. On this point, the Danish Government has indicated that the Institute for Human Rights is working in cooperation with the Confederation of Danish Employers and the Danish Confederation of Trade Unions. However ECRI regrets that despite the adoption of the Act on Ethnic Equal Treatment and the powers given to the Complaints Committee therein, there is still a very long way to go before these mechanisms are adequately used to fight discrimination in the employment sector.	The cases regarding discrimination concerning unionized workers are dealt with in the system for settlement of industrial disputes, which is a quick and effective system to settle disputes on the labour market. Furthermore a cooperation concerning discrimination issues has been established between the Institute for Human Rights and the Confederation of Danish Employers/the Danish Confederation of Trade Unions.
62. In its second report, ECRI believed that the issue of discrimination should be addressed by, <i>inter alia</i> , trade unions, social partners, employment agencies, as well as local and national authorities.	The Danish social partners continuously are working with integration matters. The agreement on cooperation between the Confederation of Danish Employers and the Danish Confederation of Trade Unions contains a special agreement on equal treatment and non-discrimination. One purpose of the agreement is to promote equal treatment between workers with Danish ethnic background and workers with a different ethnic background. The social partners participate in a Forum for Dialogue established by the Danish Institute for Human Rights concerning issues of discrimination. As a part of the forum the parties mutually inform each other on anti-discrimination initiatives and cases on discrimination. The Confederation of Employers and their member organisations are continuously informing and up-dating the enterprises and employers on the ban on discrimination through information leaflets and books targeted at the employers. The Confederation of Employers also arranges seminars etc. on discrimination issues for their members. Furthermore the Confederation of Employers counsels and

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	<p>gives guidance to employers with a view to avoid discrimination or in order to solve cases of alleged discrimination.</p> <p>As for the workers organisations discrimination legislation is a part of the education of shop stewards. The Confederation of Danish Trade Unions has issued a publication on Human rights for enterprises in collaboration with the Institute for Human Rights.</p> <p>Furthermore the Confederation of Trade Unions has initiated a project on tolerance between colleagues.</p>
<p>63. There does not appear to have been any measures taken, since ECRI's second report, to implement the above recommendation. On this matter, ECRI notes with great concern that according to statistics, 50% of people belonging to minority groups are unemployed, due in part to the fact they have on average a lower education level than ethnic Danes, but also because they face discrimination in obtaining traineeships and jobs when they have the requisite qualifications. In this regard, research has demonstrated that 89% of people belonging to minority groups in Denmark feel that they would have less chance of obtaining a job, training or promotion than the rest of the population. ECRI has further been informed that minority groups are often unable to find a job that meets their level of education even when they have, throughout their lives, received their education in the Danish system. The Government has indicated to ECRI that it has taken some measures to address the problem faced by ethnic minority youth in finding traineeship. One of these measures includes providing more funds to vocational training institutions where there are many ethnic minority students and to businesses that provides additional traineeships. ECRI notes however that the Government does not appear to have established a clear and consistent policy aimed at integrating minority groups into the labour market. ECRI notes with concern that in May 2005, the Ministry of Refugee, Immigration and Integration Affairs launched an official policy paper entitled "A new chance for everyone – the Danish Government's integration plan", part of which will be included into the Danish legislation at the end of 2005. In this policy paper, the Danish Government proposes, <i>inter alia</i>, to withdraw the social welfare benefits of young people aged 18 - 25 who do not "commence a relevant job-qualifying course". It is also stated that family allowance schemes "will be adjusted so that only young people of 15-17</p>	<p>The Government notes that ECRI on the one hand notes with great concern the statistics on unemployment of people belonging to ethnic groups and on the other hand expresses concern regarding the initiatives taken by the Government to change this pattern.</p> <p>The statement concerning the lack of a clear and consistent policy aimed at integration into the labour market is absolutely unfounded and ECRI seems not to have taken into account the many initiatives and plans implemented by the Government in this regard.</p> <p>The Government has kept it a main priority and a clear goal to improve integration of immigrants and descendants of immigrants in the labour market. It is in the economic interest of the Government to increase the employment rate for all immigrants and to ensure that it pays to work. The Government has followed a consistent and long-term policy towards this objective since its action plan 'Towards a new integration policy' from March 2002.</p> <p>The main focus in the action plan is that all citizens in Denmark should have access to both working and social life. Newcomers as well as refugees and immigrants, who have lived in Denmark for some time, should be able to take part in working and social life on an equal footing with the general population. The proposals in the action plan are divided into four main themes: Shortcuts to the labour market, effective Danish courses, better utilisation of qualifications and integration - a common concern.</p> <p>This action plan was followed by an agreement - called the 'Four Part Agreement' - on integration between the Government, the local authorities and labour market representatives which was signed in May 2002.</p> <p>With the 'Four Part Agreement' as a basis the Government has created a better framework for integration initiatives. Reforms within the integration and labour market fields were introduced in 2002 and 2003 that make it possible for local authorities and businesses to combine a range of tools to promote the integration of immigrants on the labour market. The strategy is to ensure that new immigrants get a quick start and obtain employment as quickly as possible. The reform of the general employment policy 'More people into employment' from 2002 has led to parallel rules for employment schemes to unemployed persons under the Integration Act and the Act on an Active Employment Policy. One of the elements of the reform is a flexible system for Danish tuition, simplification of activation schemes in the form of guidance and upgrading of skills, practical work experience and wage subsidies and requirements for active</p>

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<p>years who have started a qualifying course or have a job with an educational perspective will be eligible for [such an] allowance". Moreover, when both spouses receive social security benefits, one of them will only be entitled to a "lower spousal allowance if [he/she] has not had ordinary paid work for 300 hours in the preceding two-year period". ECRI is concerned that such measures, which will in fact mostly affect minority groups, have a repressive element without being counter-balanced by concrete measures aimed at helping them enter the job market.</p>	<p>job search activities and registration with the Public Employment Service for foreigners who are ready to take up a job. Furthermore a possibility to obtain permanent residence permit more quickly was introduced for the benefit of well-integrated foreigners. Finally, the reform has increased the economic incentives for the municipalities to give labour market oriented offers.</p> <p>The social partners take active part in strengthening the integration measures. An important initiative is "Project Enterprise-targeted Integration" where the Danish Confederation of Trade Unions (LO), the Danish Employers' Confederation, (DA) and National Associations of Local Authorities in Denmark (KL) co-operates in 3 regions on a joint development project from May 2003 to May 2006. The project follows the 'Four Part Agreement' and is supported by the Ministry of Integration by 4.5 mill. DKK (approx. 0.6 mill. Euro)</p> <p>The project aims at giving a new stimulus to integration measures, including the use of the new model for labour market integration and the collection of experiences with the model. The central part of the project is to ensure a quick and better integration of refugees and immigrants into the labour market. The means are professional and linguistic upgrading, quicker identification of competences and flexible teaching.</p> <p>The Government's strategy against ghettoisation (see below under paragraph 80 and 82 on housing) which was presented in May 2004 contributes to ensuring that residential areas with a high proportion of ethnic minorities becomes positive platforms for labour market integration of immigrants and refugees. Job Shops are set up in disadvantaged neighbourhood areas. There will furthermore be a stronger focus on measures in disadvantaged neighbourhoods in the annual measurements of the effects of the municipalities' integration measures.</p> <p>In May 2005 the Government presented yet a combined integration plan entitled 'A New Chance for Everyone'. After consultation with the parties represented in the Danish Parliament, a political agreement was reached in June 2005 for the implementation of the plan. Proposals for the necessary amendments of the Integration Act, the Aliens Act, the Act on Social Policy and the Act on an Active Employment Policy are currently being debated in Parliament. The amendments are expected to enter into force in mid-2006.</p> <p>The implementation of the plan will allow the Government to enhance its current integration efforts through several new initiatives intended to e.g. boost education and employment among immigrants and their descendants, the aim being that up to 25.000 more immigrants and descendants should have a job in 2010.</p> <p>The Government is making an effort to make job opportunities more visible. In particular, the Government intends to focus on the approximately 25.000 job vacancies for which no specific skills are required and each year are posted on Jobnet, the job portal of the Public Employment Service (PES). Thus future search results on Jobnet will be</p>

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	<p>grouped into jobs for which no special skills are required (HotJobs) and other jobs.</p> <p>All unemployed persons must be offered enrolment in employment generating schemes. In the future, the local authorities must be obliged to provide offers for all recipients of cash assistance – also people who have passively received social allowances for several years. To assist the local authorities to find jobs for more recipients of cash assistance, the Government will launch a programme entitled 'A new chance for everybody'. This programme is intended to make sure that everybody is given the offer of active involvement that he or she needs. Consequently, the local authorities will review all cases of persons who have received cash allowance but have not received any offers of active involvement for a long time.</p> <p>The programme "A new chance for everybody" is aimed at citizens with a Danish background as well as ethnic minorities. It is estimated that one third of the persons targeted by the programme will be immigrants.</p> <p>Local authorities, who make a special integration effort, will be rewarded. As an example, the Government intends to adjust the remuneration rates for cash allowance and starting allowance so that local authorities contributing actively to integration will have an increased proportion of their expenses refunded. Conversely, local authorities who do not provide regular offers of activation and training to recipients of cash allowance will have a smaller proportion of their expenses refunded.</p> <p>In order to further the dissemination of good examples on integration, a team of consultants – 'The Integration Service' – was set up by and in the Ministry of Integration in 2005. The consultants have a specific knowledge of integration – especially in regards to education and employment. The primary goal is to undertake efforts to integrate immigrants and descendents into the educational system and the labour market even more efficient. The consultants are supposed to disseminate good – and practical – experiences from municipalities, educational institutions and enterprises. The Integration Service has been co-operating with 45 municipalities since May 2005.</p> <p>It is not correct when ECRI notes that 50 % of people belonging to minority groups are unemployed. In Denmark minority groups are usually defined as immigrants and descendants from non-Western countries. As of 1 January 2004 46 % (95.994 persons) of immigrants and descendants from non-Western countries (in the age 16 to 64 years) were employed, whereas 54 % (111.170 persons) were not in employment.</p> <p>As regards the remark by ECRI regarding traineeships, studies from January 2005 from the Government's Think Tank on Integration show that there are a number of objective reasons to why ethnic minority youth find it difficult to obtain traineeships, e.g. that the youngsters write poor applications for traineeship and that they apply for traineeship in areas where very few traineeships are available.</p> <p>A campaign funded and organised by the Ministry of</p>

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	<p>Integration entitled 'We Need All Youngsters' was initiated in 2002 and aim at increasing the share of immigrants and descendants that start and complete an education. The campaign was extended in 2004 with special measures to provide training places for young trainees with ethnic minority background. For more information on this campaign see paragraph 72.</p> <p>Regarding traineeships for youngsters with an ethnic minority background, the agreement 'A New Chance for Everyone' comprises several focused initiatives aimed at securing more funds for institutions for vocational training with many students from the ethnic minorities. The extra funds should enable the institutions to make an extra effort in finding traineeships for young immigrants. The Government expects that this initiative combined with a grant to businesses that find extra traineeships which was introduced in 2005 will enable more youngsters with ethnic minority background to find traineeships.</p>
<p>64. ECRI has been informed that 90% of Danish companies make no effort to promote ethnic diversity in their workforce. It has also been indicated to ECRI that according to a recent survey, two-thirds of business leaders do not see the importance of having ethnic minority personnel. This reluctance is mainly due to the fact that there are still many prejudices both at the managerial and employee levels about the ability of minority groups in general, and Muslims in particular, to integrate into the workplace. ECRI notes with concern that the Government has not taken adequate measures to fight these prejudices. ECRI therefore welcomes the Danish Institute for Human Rights' campaign aimed at showing staff in private companies the benefits of a diversified workforce and at increasing awareness of corporate social responsibility. It also notes that the Danish Government has indicated that the Danish Chamber of Commerce published a report at the end of 2005 according to which there are more positive attitudes towards ethnic minority employees in some business sectors, such as IT and trade. ECRI moreover notes that some other initiatives have been taken by other specialised bodies and NGOs to fight discrimination on the job market. However, partly due to the above-mentioned problem of NGOs' funds being withdrawn or reduced, there has been a limited number of such initiatives. Moreover, trade unions have been reluctant to assist people belonging to minority groups who have suffered discrimination at work in bringing their case either before their management or to court. ECRI is thus pleased to note that the Danish</p>	<p>The information given by ECRI is inaccurate and builds on incomplete facts, which gives a biased picture of the situation in Denmark.</p> <p>In November 2003 the Danish Government presented its Action Plan to Promote Equal Treatment and Diversity and Combat Racism. The action plan includes a number of initiatives targeted at the labour market; including an initiative concerning workplaces based on diversity as well an information campaign concerning the causes of labour market exclusion and intolerance on the labour market.</p> <p>A recent survey made by The Danish Confederation of Trade Unions (LO) from December 2005 shows that 92.7 % of persons asked have no problem in working together with persons with ethnic minority background.</p> <p>In 2006 the Ministry of Integration will initiate a diversity programme in cooperation with 10 to 15 companies. The establishment of the programme is part of the political agreement from June 2005 'A new chance for everyone'. In recent years a number of companies and employers have chosen to work systematically with diversity management – and thus seeing diversity in the workplace as a benefit for the company. It is expected that the experiences from the coming diversity programme and the expansion of diversity management will contribute to bring more immigrants into employment.</p> <p>Furthermore special funding has been allocated to strengthen diversity in the workplace and thus improve the situation for immigrants and descendants on the labour market (2006 11 mill. DKK/approx. 1.5 mill. Euro, 2007 9 mill. DKK/approx. 1.2 mill. Euro, 2008 7 mill. DKK/approx. 0.9 mill Euro, and 2009 5 mill. DKK/approx. 0.7 mill. Euros).</p>

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<p>Confederation of Trade Unions is currently in the process of adopting equal opportunity measures and that it has established a committee to that end. ECRI regrets, however, that neither employment agencies nor national or local authorities are involved in the fight against discrimination in the employment sector.</p>	
<p><b>Recommendations:</b></p> <p>65. ECRI urges the Danish Government to take more proactive measures to implement the anti-discrimination legislation in the employment sector by, <i>inter alia</i>, carrying out information campaigns aimed at minority groups, as well as employers, employment agencies and local and national governmental authorities.</p>	<p>It should be noted that the Ministry of Employment in January 2006 has issued an information guide on the antidiscrimination legislation in the employment field. This guide has been widely distributed to all actors on the labour market.</p> <p>With respect to the social partners, the Confederation of Employers and their member organisations are continuously informing and up-dating the enterprises and employers on the ban on discrimination through information leaflets and books targeted at the employers. The Confederation of Employers also arranges seminars etc. on discrimination issues for their members. As for the workers organisations discrimination legislation is a part of the education of shop stewards.</p> <p>The Confederation of Danish Trade Unions has issued a publication on Human rights for enterprises in collaboration with the Institute for Human Rights. Furthermore the Confederation of Trade Unions has informed the Ministry of Employment that it has initiated a project on tolerance between colleagues.</p> <p>The Danish Government has invited ECRI to review its recommendation with due regard to the remarks above under paragraph 63. Regarding anti-discrimination legislation reference is also made to the remarks under paragraph 27 above and to the Act on the Prohibition of Discrimination in the Labour Market.</p>
<p>66. ECRI urges the Danish Government to adopt and implement a clear, consistent and long-term policy for integrating minority groups into the labour market. It also urges Denmark to ensure that measures taken to encourage people to enter the job market not be implemented in a manner that will in effect punish minority groups without providing them with the necessary tools and opportunities to find work. It strongly recommends that minority groups, all relevant partners such as the business and NGO sectors, national and local authorities as well as employment agencies be involved in devising and implementing policies aimed at integrating minority groups into the job market. ECRI also strongly recommends that the Danish Government provide adequate funding for any initiatives aimed at offering better job training and employment skills to minority groups.</p>	<p>Reference is made to paragraph 63 and 64 regarding the long-term policy initiatives actually taken by the Government and these activities must be taken into account if ECRI wishes to draw a complete picture of the situation in Denmark as regards integration on the labour market. The present recommendation is based on incorrect and insufficient information and ECRI has been encouraged to revise it in the light of the above information.</p>
<p><b>Access to public services</b></p>	

ECRI's 3. report	Comments
<i>-Access to education</i>	
67. In its second report, considering the prevailing de facto segregation in some Danish schools, ECRI encouraged local and national authorities to further examine this phenomenon and enhance measures to combat it.	
68. ECRI has been informed that in some schools in Copenhagen for example, 90 % of the children are of an ethnic minority background. In spring 2005, in a drive to fight this de facto segregation, the Danish Government made an executive order by which as of 1 October 2005, children with an ethnic minority background would have to pass a language test and those who were found to be insufficiently fluent in Danish would be moved to another school. However, ECRI has been informed that this measure contravenes a law that was adopted on 1 August 2005, by which all parents are free to choose which primary school they will send their children to. As the spreading of children from minority groups to different schools may be compulsory, this policy would be a violation of the law adopted in August 2005. On this question, the Danish Government has indicated that this measure will only be taken if there are educational reasons for doing so. However, ECRI notes with concern that the decision as to whether a child should be sent to a different school or not will be made by a language and testing expert rather than the school Headmaster. The Complaints Committee has assessed the school integration model in some municipalities and concluded that it constitutes a form of indirect discrimination based on ethnicity. ECRI has been informed that this measure may be compulsory for two years after the children have changed school, after which an assesment will be made as to whether they can go back to their original school. In this regard, ECRI has been informed that a comprehensive approach, which would take into account the housing, employment and social components of this problem, would be a fairer way of ensuring that children from minority groups have equal access to education.	<p>The law that provides the municipalities with the option to refer bilingual children that have a special need of education in Danish as a second language to other schools than the district school, and the law that allows parent to freely choose which primary school they wish to send their children to, were both passed by the Parliament in 2005, the former in June and the later in May.</p> <p>Both form part of the general Danish school policy, whereby parents are free to choose a school for their child. However, if the child has a special need of education in Danish as a second language and the municipality assesses that the child can be given a better educational offer on another school than the child's district school or the school chosen by the parents, the municipality has the possibility to refer the child to the school which it deems to have the best educational offer for that particular child. This corresponds to the possibilities municipalities have with regards to referring children with special educational needs.</p> <p>According to the law such a decision must be taken on the background of an individual assessment of the educational need of each bilingual child compared with the different educational offers existing within the municipality. The Ministry of Education plans to develop a test that could be a part of this assessment. The municipalities are free to decide whether or not to use the test.</p> <p>The reason for placing the decision about whether to refer a bilingual pupil to another school than the district school with the municipal council rather than with the school headmaster, is that the municipal council, in practice the local school authorities, is judged to be best qualified for the task. An evaluation from 2004 shows that the school leaders often delegate the decision on the educational offer to a class teacher.</p> <p>The assessment of whether a child should still be referred to another school than its district school is not limited to being carried out two years after the initial decision. Rather, an ongoing assessment has to take place of whether the grounds that necessitated the initial decision, still exist. If that is not the case, the child and it's parent have at any time the right to choose that the child shall be referred to its district school or another school of their choosing.</p> <p>It should be mentioned that these initiatives do not stand alone, but are a part of the general efforts of the government to strengthen the integration of bilingual children into the Danish society.</p>
69. In its second report, ECRI recommended that additional measures be taken to assist children whose mother-tongue was not Danish in fully and successfully participating	

ECRI's 3. report	Comments
in mainstream schools.	
<p>70. ECRI has been informed that all children from minority groups, starting from three year olds, are given a compulsory language test before they start school, to assess their Danish language level. In order to provide them with early-language stimulation, minority children who do not have the requisite language skills are placed in "reception classes" for one or even two years. ECRI notes with concern reports according to which these children are sometimes forbidden from speaking their mother-tongue in these "reception classes". Moreover, since 2002, only children from the European Union and the European Economic Area Member are entitled to mother-tongue education. Therefore, Municipalities which continue to provide mother-tongue education to children who do not fall in these categories must pay for it themselves.</p>	<p>At the age of three any bilingual child goes through an expert assessment. Depending of the result the child is referred to language stimulation. Participation is compulsory. The language stimulation can take place in a kindergarten or in a special offer 15 hours a week. These offers are not the so called "reception classes". Reception classes are classes for bilingual students in primary and lower secondary school, who need basic teaching in Danish as a second language. Attendance in a reception class is limited to two years. The ministry of education considers the use of the mother tongue a useful tool in order to reach the targeted goals of the various subjects.</p>
<p>71. In its second report, ECRI noted that some minority children were dropping out of school and recommended that this problem be investigated and solved.</p>	
<p>72. ECRI was informed by the Danish authorities that there is still a high drop-out rate among ethnic minority youth in vocational schools. Thus, in 2003, 40% of youth from an ethnic minority background dropped out compared to 32% among their ethnic Danes peers. The Danish authorities have also indicated to ECRI that in 2005, they launched a line of action to deal with this problem both among youth from minority groups as well as ethnic Danes. According to the authorities, in August 2005, the Government also started a three-year pilot programme in 15 commercial colleges (out of the 150 existing ones) whereby ethnic minority mentors are placed on call to assist ethnic minority pupils. Some of the pupils have someone acting as a role model for them whilst the best ones act as mentors and teachers for their fellow students. This project targets pupils in the first year, as the highest drop-out rates occur at that stage. ECRI regrets that this project has received very limited funding (500,000 Danish Crowns).</p>	<p>The Government has taken a number of initiatives during the past four years to reduce the drop-out rate for children with an ethnic minority background both legislatively and otherwise, e.g. by reforming the system of educational guidance to ensure more resources to the guidance of ethnic minority children and their parents and reforming the vocational training system to provide more flexible courses of vocational training.</p> <p>In the political agreement 'A New Chance for Everyone' several new initiatives aim at further reducing the drop-out rate for ethnic minority children. The initiatives comprise of individual educational guidance to children and their parents from the ethnic minorities, initiatives to secure more traineeships for youngsters from ethnic minorities and a vocational training course with emphasis on the practical training which is believed to be of particular relevance to youngsters with an ethnic minority background.</p> <p>Moreover, the goal of the 2002 campaign 'We Need All Youngsters' to increase the awareness amongst ethnic minority youth and their parents of the educational system and to increase the awareness among employers of the qualifications of young immigrants.</p> <p>The campaign encompasses a full range of activities, including:</p> <ul style="list-style-type: none"> <li>• A team of role models composed of ethnic minority youth, who have done well in the education system. The role models are visiting schools and educational institutions, youth clubs and ethnic organisations. They tell other young people their own story; how they managed to overcome barriers and prejudices. Since the beginning of</li> </ul>

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	<p>2003 the role models have been in contact and dialogue with more than 7500 young people from ethnic minorities.</p> <ul style="list-style-type: none"> <li>• A new team of models composed of ethnic minority parents with children who have done well in the education system. The parents are visiting language schools and ethnic minority organisations telling other parents of the importance of supporting their children in getting an education.</li> <li>• Special initiatives on institutions of vocational training in order to reduce the drop-out rate for youngsters from the ethnic minorities e.g. training the teaching staff in helping youngsters from the ethnic minorities to get a traineeship and establishing home work cafés in institutions of vocational training.</li> <li>• Special initiatives on unemployed from the ethnic minorities under the age of 25 targeted at 10 local authorities. The initiatives involve e.g. supervision of the local staff and establishment of networks between representatives from the local authorities and local businesses.</li> <li>• Homework cafés: projects helping children and young people with their homework. The placement of these projects – relying on the inclusion of volunteers – is typically the local public library. Until now 50 cafés have been established.</li> </ul> <p>ECRI has also been invited to note the following focussed campaigns:</p> <ul style="list-style-type: none"> <li>• Recruiting migrant youth in order to enrol training courses for jobs in the health and social sector.</li> <li>• The '100 Traineeships places in 100 Days' campaign focussing on vocational training and targeting migrant youth as well as employers.</li> <li>• 'One Uniform – Many Opportunities' aiming at recruiting young migrants to take an education within and to join the police force and the military.</li> <li>• The methods used by the campaigns are based on communication and information and includes among other things three yearly 'education fairs'.</li> </ul>
73. In its second report, ECRI recommended that the Danish Government strive to provide teachers with training on teaching in a multicultural environment and to recruit teachers from an ethnic minority background.	<p>In some teacher-training colleges Danish as a foreign language is offered as a pilot scheme. Some teacher-training colleges offer preparatory courses designed especially to immigrant students.</p> <p>As a pilot scheme many teacher-training colleges offer Danish as a foreign language as one of 18 main subjects (each student chooses four of the 18). Examinations are written and oral with the written part set by the Ministry of Education.</p> <p>Preparatory courses designed especially for immigrants and refugees have been offered by teacher-training colleges since 1994. Courses have a duration of one year and in most cases ensure that immigrant students gain access to teacher education programmes.</p>
74. ECRI has been informed that studies have	

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<p>indicated that approximately 80% of Danish teachers feel that they are not sufficiently qualified to teach in a multicultural environment. It has also been brought to ECRI's attention that there are teachers who do not have high expectations of ethnic minority children and who tend to teach them at a level that is too low for them. ECRI is aware that there are courses for Danish teachers to improve their ability in teaching in a multicultural environment and that some measures have been taken to recruit minority teachers. Nevertheless, ECRI considers that more could be done in these respects.</p>	
<p><b>Recommendations:</b></p> <p>75. ECRI strongly recommends that any measures taken to better integrate children from minority groups be made on a voluntary basis, with the full consultation of the parents and children involved. ECRI also recommends that the Danish Government adopt an all-encompassing policy for fighting school segregation by taking into account the employment, housing and social components of this problem.</p>	
<p>76. ECRI recommends that Denmark provide mother-tongue education to children in a non-discriminatory manner. It further strongly recommends that measures aimed at ensuring ethnic minority children's integration into the school system should not, in fact, amount to forced assimilation.</p>	<p>The Minister of Education lays down rules concerning instruction in mothertongue. The rules are in accordance to international law.</p>
<p>77. ECRI recommends that the Danish Government continue and expand its programmes for keeping ethnic minority pupils in the educational system. It considers in this regard, that sufficient funds should be allocated to such projects and that they should be part of a long-term policy.</p>	<p>The Government has invited ECRI to take the above remarks under paragraph 72 into account in the final wording of its recommendation.</p> <p>As regards the funding ECRI has also been encouraged to take into account the overall funding in this field. The campaign 'We Need All Youngsters' is expected to undertake more activities of the same sort. More funds which amount to a total of 24.0 mill. DKK/approx. 3.2 mill. Euro has been allocated by the Government and by the European Social Fund for the campaign in 2006 and 2007. Moreover, the Danish Parliament has allocated 16.0 mill. DKK/approx. 2.1 mill. Euro) in 2006 for a special effort aimed at raising the level of education for youngsters from the ethnic minorities, e.g. by further training of local guiding staff in dealing with children from ethnic minorities.</p>
<p>78. ECRI recommends that teachers be provided with more training on teaching in a multicultural environment and that further efforts be made to recruit minority teachers.</p>	
<p><i>-Access to housing</i></p>	
<p>79. In its second report, ECRI recommended that Denmark further investigate minority groups' access to the housing market and that it develop measures to ensure that they are</p>	

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not directly or indirectly discriminated against in this regard.	
<p>80. ECRI was informed by the Danish authorities that no specific measures have been taken to monitor the letting or allocation of social housing in order to establish whether there are any discriminatory practices in this area. Since ECRI's second report, the Danish authorities have introduced a policy aimed at breaking-up "ghettos". In this regard, some NGOs have criticised the use of this term as being derogatory because it in fact refers to socially deprived areas where both ethnic Danes and minority groups live. The Danish authorities have thus created two programmes for integrating these socially deprived areas: the first, which consists of "flexible" letting, gives priority to certain groups of people (the elderly, the young, etc.) when apartments are distributed in those neighbourhoods; the second, "combined" letting, precludes people who are on social welfare from living in economically disadvantaged neighbourhoods, by housing them in other areas. ECRI notes with concern that people who fall under the "combined" letting scheme have a limited choice as to where they will be housed. The authorities have indicated that the Danish Institute for Human Rights has stated that it does not, in principle, oppose the "combined" letting programme, but that this programme should be not be used to discriminate against minority groups. ECRI is particularly concerned about reports of a sharp increase in the number of homeless people among minority groups. It has been thus informed that 5 years ago, 10% of homeless people were from minority groups and that this number has now increased to 50%, although such groups only comprise 8% of the total population.</p>	<p>The Government does not share the concern of ECRI as regards the "combined" letting scheme. It should be noted, that combined letting only applies in the 26 social housing areas in Denmark (pr. 1.3.06), which has the highest rate of inhabitants without connection to the labour market. People on social welfare, who are precluded, will always be offered access to suitable housing elsewhere in the same municipality. Furthermore it should be noted, that the Danish programme for prevention of ghettoisation is broad, and covers a large variety of instruments, which improves standards of living for the inhabitants in the deprived areas. E.g. could be mentioned:</p> <ul style="list-style-type: none"> <li>• The National Building Fund can spend 600 mill DKK (approx. 80.4 mill Euro) in 2006 on social activities and lowering of rents in deprived areas</li> <li>• In 2006 the National Building Fund can subsidise renovating and physical changes of deprived areas within a maximum of 2.2 billion DKK (approx. 297.3 mill Euro).</li> <li>• Social dwellings can be sold to the tenants, and thus create a mix of both social housing and privately owned apartments.</li> <li>• The possibility of promoting and establishing businesses, culture, education etc. in the areas is improved in order to create a greater variety and possibilities of employment in the areas.</li> </ul>
<i>-Access to public places</i>	
<p>81. As previously indicated, the Danish Government has taken some steps for fighting discrimination in access to bars, restaurants, discos, etc. In March 2005, the Copenhagen Police ran a two-week campaign to combat discrimination in access to public places such as discos, restaurants and bars, etc., in cooperation with some NGOs and the Danish Institute for Human Rights' Complaints Committee. ECRI notes however that this was a one-off campaign and that there appears to be no plans to carry out this type of campaigns on a regular</p>	

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basis and in other parts of the country.	
<p style="text-align: center;"><b>Recommendations:</b></p> <p>82. ECRI strongly recommends that any measures taken to ensure more multicultural neighbourhoods not have an adverse effect on minority groups by housing them in areas where they are, in fact, isolated. It moreover recommends that when members of minority groups are housed in new areas, they be given adequate financial and social support and that measures to promote neighbourly contacts be taken.</p>	<p>Considering the strong recommendation in this field ECRI has been encouraged to take into account that the Danish Government's policy to prevent ghettoisation and to improve conditions for all people living in deprived areas including minority groups has been strengthened considerably in the period 2004-2005. The Danish Government is in implementing its efforts in this field well aware of the importance of not isolating people living in disadvantaged neighbourhoods. The overall strategy is focussing on strengthening contact and interaction between disadvantaged neighbourhoods and the rest of the society. Social housing neighbourhoods must be made more open, and the opportunities for life, activity and variation in the unbalanced social housing neighbourhoods must be improved. As part of the strategy commercial letting opportunities in disadvantaged neighbourhoods have also been improved. See also paragraph 63 regarding the Job Shops in disadvantaged neighbourhood areas.</p> <p>As concerns the recommendation on adequate financial support ECRI has been encouraged to take into account that an amount of 600 mill. DKK/approx. 80.4 mill. Euro has been earmarked for activities and initiatives in connection to a social and preventive action in disadvantaged neighbourhoods.</p>
<p>83. ECRI encourages the Danish Government in its endeavours to fight racial discrimination in access to public places and recommends that it carry out a long-term and consistent policy for addressing this problem. ECRI recommends in this regard that more awareness-raising campaigns be carried out and programmes implemented throughout the country.</p>	
<p>84. ECRI strongly recommends that the Danish Government examine the cause of the disproportionately high number of homeless people among minority groups and find adequate solutions to this problem.</p>	
<b>Antisemitism</b>	
<p>85. ECRI deeply regrets the fact that Holocaust denial and revisionism are not a crime in Denmark. It has thus been brought to its attention that 90% of Nazi material and memorabilia as well as Holocaust denial material are published and manufactured in Denmark and sold in the rest of Europe, mainly in Russia. ECRI also notes with concern that as freedom of speech prevails in Denmark, antisemitic statements are not monitored. It has further been informed that although there are approximately 5000-6000 Jews in Denmark, very little research is carried out regarding their situation. As a positive matter, ECRI notes that since 2003,</p>	<p>The Ministry of Integration has financed a report conducted by the Danish Institute on International Studies about anti-Semitic and anti-Muslim views among school pupils at the age between 14 and 20 in Danish schools. The research takes the form of a pilot project and a report is about to be published. If the report shows tendencies to antisemitic and/or antimuslim views the Government will consider if there is a need for further investigation on the subject.</p> <p>The Ministry of Integration and the Ministry of Education furthermore finances Danish participation in an OSCE project on developing teaching materials for combating anti-Semitism and other forms of discrimination.</p> <p>It should also be noted that Denmark is a member of the Holocaust Task Force and thus actively participate in the international effort to maintain and promote knowledge</p>

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<p>each year the Holocaust Memorial Day is commemorated in Denmark on the 27<sup>th</sup> of January.</p>	<p>about Holocaust. Finally it should be noted that under the Danish Institute for International Studies (DIIS) a Department of Holocaust and Genocide Studies is established. The Department undertakes research, information and education on genocides and genocidal events. Reference is made to the comments on point 18 and 87 regarding the freedom of speech.</p>
<p><b>Recommendations:</b></p> <p>86. ECRI urges the Danish Government to forbid the public denial, trivialization, justification or condoning of the Holocaust as well as the production, publication and dissemination of Nazi memorabilia and Holocaust denial and revisionism material, as recommended in its General Policy No. 9 on the fight against antisemitism.</p>	
<p>87. ECRI strongly recommends that the Danish Government ensures that antisemitic statements are duly monitored and punished under Article 266 b) of the Criminal Code. ECRI also recommends that research be carried out regarding the situation of the Jewish community in Denmark in order to combat antisemitism in all its forms. ECRI also recommends that the Holocaust be included in all school curricula.</p>	<p>As mentioned in paragraph 18 in this report, the Danish Government in the follow-up report sent to ECRI on 23 June 2005 prior to ECRI's visit explained that the Director of Public Prosecutions is notified of all complaints regarding section 266 b of the Danish Criminal Code, cf. Instruction no. 4/1995. Antisemitic statements are comprehended in section 266 b of the Criminal Code. Thus, antisemitic statements compromising section 266 b of the Danish Criminal Code are reported to the Director of Public Prosecutions. Several of the cases concerning violations of section 266 b of the Criminal Code concerns antisemitic statements. Also as mentioned above criminal acts with a presumed racist or religious background are reported to the National Commissioner of Police. This also includes criminal acts with an antisemitic background. Therefore antisemitic statements are in fact duly monitored and punished under article 266 b of the Danish Criminal Code.</p>
<p><b>Vulnerable groups</b> <i>-Muslims</i></p>	
<p>88. In its second report, noting with concern the climate surrounding Muslims and Islam in Denmark, ECRI recommended that the Danish Government undertake awareness-raising measures in the public sphere as well as in the education system to promote a more objective and informed perception of Muslims. ECRI also recommended that public opinion leaders promote a more informed and diverse image of Muslims and Islam.</p>	<p>ECRI has been invited to note that the Government is actively working to promote equal treatment and diversity and combat racism among all groups in the Danish society. The above (in paragraph 64) mentioned Action Plan to Promote Equal Treatment and Diversity and Combat Racism also contains several initiatives aimed at dialogue and debate in the civic society to promote equal treatment and diversity and combat racism through improving perceptions of and communication between citizens regardless of ethnicity and at building mutual understanding. Dialogue encourages acceptance of differences and counteracts the development of a divided society. As part of the initiative, the Government in cooperation with national youth organisations seeks to develop ethnic minority organisations' work in themes of democracy, citizenship etc. The ethnic minority organisations are furthermore increasingly included in the general cooperation</p>

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	<p>between voluntary organisations in Denmark. An important aim is to involve more people of ethnic origin in voluntary organisations. The Action Plan furthermore contains an initiative to support smaller local - often cultural – events on advantages of, and potential barriers to, a tolerant society with room for diversity. These events – which are often organised at schools, in local associations, at theatres, in residential areas - bring people together, help eliminate prejudice and create mutual understanding of similarities and differences.</p> <p>Another initiative is directed towards the participation of ethnic minorities in political activities. Political participation strengthens the community as well as tolerance and respect for other people. As part of the initiative, Local Integration Councils and educational institutions have held local meetings and seminars on democracy, elections and political participation.</p> <p>The Government is furthermore supporting and partly financing a broad-spectra campaign on diversity and equal treatment and against racism to create awareness of the principles of equality and diversity which will begin in spring 2006 and is intended to last 3 years. The campaign is entitled 'Show Racism the Red Card' and will take off in the sphere of football. The campaign is inspired by similar campaigns in other European countries. The Danish Campaign is, however, not limited to racism connected to football, but will also include a range of initiatives directed towards schools and companies. The campaign is led by a secretariat but is also carried by professional football players in Denmark who are assumed to carry a high degree of authority in the target group. The Minister for Integration is personally engaged in the campaign and is planning to participate in the opening of the campaign. The Ministry of Integration furthermore provides financial support to the cultural festival "Images of the Middle East" which will take place in 2006. The aim of the festival is to give a more positive image of the Middle East, to support the integration of people from the Middle East, to increase the mutual understanding between different groups in the society and to present Middle Eastern culture in a positive way.</p> <p>In September 2006 Denmark intends to co-host with the Netherlands a European Conference on active participation of ethnic minority youth in society. An international youth forum will take place as part of the conference.</p>
<p>89. ECRI notes with deep concern that the situation concerning Muslims in Denmark has worsened since its second report. ECRI has been informed that, apart from the above-mentioned discrimination that Muslims face together with other minority groups in areas such as employment, education and housing, politicians from some political parties such as the Danish People's Party and some media continue to make incendiary remarks about Muslims. Although, in 2003, a number of cases of</p>	<p>ECRI notes that the police generally are reluctant to investigate complaints made by Muslims concerning hate speech directed against them.</p> <p>It does not appear on what basis ECRI supports the assumption that the police are reluctant to investigate cases concerning hate speech against Muslims.</p> <p>Again the Danish Government would like to draw the attention of ECRI to the fact that section 266 b in the Danish Criminal Code is interpreted in accordance with Article 10 in the European Convention on Human Rights and the case-law of the European Court of Human Rights. According to this case-law freedom of expression constitutes one of the</p>

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<p>incitement to racial hatred in general, and against Muslims in particular were successfully prosecuted, ECRI notes that the police are generally reluctant to investigate complaints made by Muslims concerning hate speech directed against them. ECRI regrets in this regard that the lack of a strong message that would be sent by consistently prosecuting those who breach Article 266 b) of the Criminal Code has given some politicians free reign to create an atmosphere of suspicion and hatred towards Muslims. This problem is compounded by the fact that the media mostly interview those imams who express the most extreme views, thus confirming the image that is being given of Muslims as a threat to Danish society. In September 2005, with the stated intention of verifying whether freedom of speech is respected in Denmark, a widely-read Danish newspaper called on cartoonists to send in caricatures of the Prophet Mohammad; such drawings are considered to be offensive by many Muslims. This newspaper thus published 12 such cartoons, one of which portrayed the Prophet as a terrorist. The issue has caused widespread condemnation and a protest march was organised in Copenhagen as a result. The fact that, according to a survey carried out regarding the publication of these drawings, 56% of the respondents felt that it was acceptable is a testimony of the current climate in Denmark. ECRI considers that the goal of opening a democratic debate on freedom of speech should be met without resorting to provocative acts that can only predictably elicit an emotional reaction. ECRI wishes to bring to the Danish Government's attention in this regard, that in its General Policy Recommendation No. 5 on combating intolerance and discrimination against Muslims, it calls on Member States to encourage debate within the media on the image which they convey of Islam and Muslim communities and on their responsibility in this respect in avoiding the perpetuation of prejudice and biased information.</p>	<p>essential foundations of a democratic society and one of the basic conditions for its progress and for individual self-fulfilment. See the comments made to paragraphs 18 and 20.</p> <p>The Danish Government recurrently appeals to the upholding of a proper tone in the public debate and to counter prejudice and misconceptions. This has been the case in several statements from the Danish government including the Prime Minister's New Year's address. The Danish Prime Minister Anders Fogh Rasmussen touched upon this in his New Year's address of 1 January 2006:</p> <p><i>"I wish to state this very clearly: I condemn any expression, action or indication that attempts to demonise groups of people on the basis of their religion or ethnic background. It is the sort of thing that does not belong in a society that is based on respect for the individual human being.."</i></p> <p>On January 31 2006 the Prime Minister stated the following regarding the drawings of the prophet Mohammed:</p> <p><i>"In a press statement issued January 30th the Danish daily, Jyllands-Posten, apologized to the Muslim world. The newspaper stressed that it was not their intention to be offensive. The newspaper apologises for the indisputable offence to many Muslims caused by the drawings. I want to emphasise that in Denmark we attach fundamental importance to the freedom of expression, which is a vital and indispensable part of a democratic society. This being said I would like to stress as my personal opinion that I deeply respect the religious feelings of other people. Consequently, I would never myself have chosen to depict religious symbols in this way. Likewise I am deeply distressed by the fact that these drawings by many Muslims have been seen as a defamation of the Prophet Mohammed and Islam as a religion. I hope that the apology of the independent newspaper Jyllands-Posten will contribute to comfort those that have been hurt. I am pleased to note that this apology has been received positively by Muslim communities in Denmark and that they have pledged support for our efforts. I want to emphasise that the Danish Government condemns any expression, action or indication that attempts to demonise groups of people on the basis of their religion or ethnic background. It is the sort of thing that does not belong in a society that is based on respect for the individual human being. On this basis I call on all parties to abstain from any statement or action that will create further tension. In Denmark as well as in other countries we must do our utmost to get back to the dialogue and build on the friendship that has always characterized the relations between Denmark and the Muslim world."</i></p>
<p>90. In its second report, ECRI recommended that the Danish Government engage in discussions with representatives of the Muslim communities and consistently involve them in measures directed at improving the</p>	

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situation of Muslims.	
91. ECRI welcomes the fact that the Danish Minister for Integration has begun to engage in a dialogue with members of the Muslim communities and that in April and September 2005, this Minister met with a group of Imams in order to involve them in ensuring that Muslim youth get an education and enter the job market. ECRI has also been informed that the Danish Prime Minister has met with representatives from the Muslim communities.	
<p style="text-align: center;"><b>Recommendations:</b></p> 92. ECRI urges the Danish Government to send a strong signal that incitement to racial hatred against Muslims will not be tolerated, by strengthening Article 266 b) of the Criminal Code to that end. It also strongly recommends that the Government carry out awareness-raising campaigns throughout the country, in which members of Muslim communities, NGOs, the media as well as members of local and national authorities are involved, in order to present a more objective and balanced view of Muslims and Islam and to foster a constructive debate on living in a plural society.	The Government has invited ECRI to take the above mentioned remarks in paragraph 88 into consideration when reviewing the final wording of this recommendation. The Danish Government would again like to draw the attention of ECRI to the fact that section 266 b in the Danish Criminal Code is interpreted in accordance with Article 10 in the European Convention on Human Rights and the case law of the European Court of Human Rights. According to this case law freedom of expression constitutes one of the essential foundations of a democratic society and one of the basic conditions for its progress and for individual self-fulfilment. See the comments made to paragraphs 18, 20 and 89.
93. ECRI recommends that the Danish Government continue to meet with members of Muslim communities in order to work with them on issues of particular concern to Muslims such as, <i>inter alia</i> , access to education and employment.	
<i>-Roma</i>	
94. Although there are no official figures, ECRI has been informed that there are at least between 1000 to 2000 Roma in Denmark. ECRI notes that Roma representatives consider that there is no place in Danish society for their culture, language or history. They thus deeply regret the fact that Roma are still not recognised as a national minority under the Framework Convention for the Protection of National Minorities, despite the fact that they have held several meetings with the Danish Government to that end. ECRI further considers it important that Roma should not be portrayed in a negative manner. It also notes with concern that there is widespread discrimination against Roma in, amongst others, the employment sector and that many of them are relegated to menial jobs. In this regard, ECRI wishes to bring to the Danish Government's attention its General Policy Recommendation No. 3 on combating discrimination and intolerance	

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against Roma/Gypsies.	
<p>95. The biggest Roma population in Denmark is in the town of Helsingør where approximately 200 Roma families live. The Municipality of Helsingør established 3 classes where Roma children were segregated until a complaint was filed against this practice and it was deemed to be a violation of the Danish Act on Public Schools. Although ECRI welcomes the fact that these classes have now been closed, it is nevertheless worried by reports according to which some Roma children are currently being placed in "youth schools" (for 14 to 15 year olds who have left school), despite their parents' opposition to this measure which they consider to be detrimental to their children's education as there is a high level of delinquency in those classes. However, there are also more positive developments in Helsingør. As regards younger school children, the social services of Helsingør have for a year employed on a full-time basis two social workers whose job is to ensure that pupils go to school. This programme includes all children who missed school – both ethnic Danish and Roma children– and has proved to be successful.</p>	<p>In Denmark, only the German minority in Southern Jutland is recognised as a national minority. The Ministry of Education is not informed about any actual plans to increase the number of minority groups to be regarded as national minorities.</p> <p>The Ministry of Education has been informed by the local educational authority in Elsinore that there are no longer specific classes for Roma children neither in the primary nor in the secondary school as well as in the "youth school".</p>
<p><b>Recommendations:</b></p> <p>96. ECRI recommends that the Danish Government enhance Roma's cultural, historical and linguistic heritage by, <i>inter alia</i>, envisaging their recognition as a national minority under the Framework Convention for the Protection of National Minorities. ECRI also strongly recommends that Denmark combat all forms of educational segregation against Roma children as well as other forms of discrimination that Roma face, as indicated in its General Policy Recommendation No.3.</p>	<p>In section 96 of the draft ECRI recommends that the Danish Government enhance Roma's cultural, historical and linguistic heritage by, <i>inter alia</i>, envisaging their recognition as a national minority under the Framework Convention for the Protection of National Minorities.</p> <p>This recommendation gives Denmark cause to remark that Denmark discusses issues related to the possible recognition of national minorities under the Framework Convention with the Advisory Committee on the Framework Convention for the Protection of National Minorities. Denmark therefore refers to the previous discussions between the Advisory Committee and Denmark about this question."</p>
<p><b>Conduct of law enforcement officials</b></p>	
<p>97. Although, according to the Danish authorities, police officers receive some form of basic and on-going training on matters pertaining to relations with minority groups, this does not appear to be enough. In this regard, ECRI deeply regrets the fact that the police often make statements in the media about the disproportionately higher crime rate among youth from minority groups. The words "immigrant crime" have thus become a reoccurring theme, particularly when the media quote the police.</p>	<p>Concerning the education of police officers, cultural anthropology, psychology and human rights in general are integrated subjects in the curricula for the basic education of police students at The Police College.</p>
<p>98. The Danish authorities have indicated that there is a complaints procedure for police misconduct, but that there are no statistics</p>	<p>As to the reluctance of the police to bring up charges under article 266 b of the Danish Criminal Code the Danish Government would again like to draw the attention of ECRI</p>

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<p>about the percentage of complaints filed by minority groups as this type of information is not recorded. As previously indicated, another problem that was consistently brought to ECRI's attention by minority representatives is the police's reluctance to bring charges, under Article 266 b) of the Criminal Code, against anyone who makes statements that are likely to incite racial hatred, despite the fact that this is a reoccurring problem.</p>	<p>to the fact that section 266 b in the Danish Criminal Code is interpreted in accordance with Article 10 in the European Convention on Human Rights and the case-law of the European Court of Human Rights. According to this case-law freedom of expression constitutes one of the essential foundations of a democratic society and one of the basic conditions for its progress and for individual self-fulfilment. See the comments made to paragraph 18, 20, 89 and 92.</p>
<p><b>Recommendations :</b></p> <p>99. ECRI strongly recommends that the Danish Government provide basic and on-going training to police officers on issues pertaining to racism and racial discrimination. ECRI also recommends that disaggregated data be collected on the number of complaints of police misconduct filed by members of minority groups and that such complaints be duly followed up.</p>	
<p><b>Monitoring the situation</b></p>	
<p>100. In its second report, ECRI reiterated the importance of collecting data on, <i>inter alia</i>, complaints of racism and discrimination in various spheres of life. It stressed that such information should be gathered with due respect for the right to privacy and standards of data protection as well as with the free and informed consent of the people involved.</p>	
<p>101. There is no established system in Denmark for collecting information on complaints of racism and racial discrimination. ECRI has been informed by the Danish Data Protection Agency (DDPA), that Article 10 of the Act on Processing of Personal Data, allows the processing of ethnic data for the sole purpose of carrying out statistical or scientific studies of a significant social importance and where such processing is necessary in order to carry out these studies. There is no established system of ethnic data collection aimed at assessing the situation of minority groups in areas such as education, employment, housing and health and addressing past and present inequalities. However, data on members of immigrant groups is regularly collected on education, employment and housing. The DDPA has informed ECRI that it has received no complaints regarding the collection of ethnic data. ECRI notes with concern that the DDPA has requested that the Danish National Police Commissioner review the 443 alerts it had issued to the Schengen Information System on foreigners who are to</p>	<p>Data collection on the number of complaints to the Complaints Committee for Ethnic Equal Treatment and the number of charges under Article 266 b) of the Criminal Code already exists. Furthermore, surveys on perceived discrimination and the attitudes of the majority population towards immigrants are available. For instance the research company Catinét Research half-annually carries out surveys on perceived discrimination among immigrants and descendants. The Rockwool Foundation Unit has furthermore studied the attitudes of the majority population towards immigrants, the perceived discrimination among immigrants and descendants and the consequences of perceived discrimination for employment. It is not correct when DDPA has informed that there as regards reporting to the Schengen Information System (SIS) on foreigners is found other errors (such as failure to update the data) in 15% of the cases. The Danish National Police Commissioner has informed that the correct percentage is 9.53 %. The Danish National Police Commissioner underlines that the mentioned errors have not resulted in erroneous expulsions. The mentioned errors are unfortunate, but solely concern incorrect information entered into SIS.</p>

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<p>be denied entry into the Schengen area. The DDPA thus found that the reporting had been erroneous in 5.6% of the cases and found other errors (such as failure to update the data) in 15% of the cases. It concluded that these error margins, which included cases of failure to comply with, <i>inter alia</i>, the Aliens' Act and the Act on Processing of Personal Data, were unacceptably high.</p>	
<p><b>Recommendations:</b></p> <p>102. ECRI recommends that the Danish Government establish and implement a system of ethnic data collection to assess and redress racial discrimination in full compliance with all the relevant national laws, including the Act on Processing of Personal Data Such, as well as European and international regulations and recommendations on data protection and the protection of privacy, as stated in ECRI General Policy Recommendation No.1 on combating racism, xenophobia, antisemitism and intolerance. The Danish Government should ensure that data collection is carried out with full respect for the anonymity and dignity of the people involved and in accordance with the principle of full consent. Furthermore, the data collection system on racism and racial discrimination should take into consideration the gender dimension, particularly from the viewpoint of possible double or multiple discrimination.</p>	<p>ECRI has been invited to take into account the above-mentioned information.</p>
<p><b>II.SPECIFIC ISSUES</b></p>	
<p><b>Climate of opinion</b></p>	
<p>103. In its second report, ECRI expressed deep concern about the rise in xenophobia and intolerance in Denmark and stressed that acknowledging Denmark as a multicultural society would contribute to enabling all members of the Danish society to enjoy real equality in all areas of life.</p>	
<p>104. ECRI notes with deep concern that, as indicated above, the climate in Denmark has worsened since its second report and that there is a pervasive atmosphere of intolerance and xenophobia against refugees, asylum seekers, as well as minority groups in general and Muslims in particular. The media, together with politicians play a major role in creating this atmosphere. As also previously indicated, members of the Danish People's Party, have, on several occasions, made shockingly racist statements in the media, without being suspended from this party. The police's</p>	<p>As to the reluctance of the police to bring up charges under article 266 b of the Danish Criminal Code the Danish Government would again like to draw the attention of ECRI to the fact that section 266 b in the Danish Criminal Code is interpreted in accordance with Article 10 in the European Convention on Human Rights and the case-law of the European Court of Human Rights. According to this case-law freedom of expression constitutes one of the essential foundations of a democratic society and one of the basic conditions for its progress and for individual self-fulfilment. See the comments made to paragraph 18, 20, 89, 92 and 98.</p> <p>ECRI should note that several of the adopted Bills regarding the Government proposals for amendments to the Aliens</p>

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<p>reluctance to bring charges against those who incite racial hatred in accordance with Article 266 b) of the Criminal Code and the fact that freedom of expression is placed above all else have contributed to giving free reign to some politicians to make derogatory statements in the media about minority groups. Moreover, the fact that the Government depends on the Danish People's Party to maintain its coalition has given this party considerable leverage, which enables it to push through an anti-immigration agenda and to pass laws which in effect disproportionately disadvantage minority groups. The previously mentioned restrictions which have been introduced in, amongst others, the Aliens' Act, the Integration Act and the Nationality Act are a manifestation of this influence. As discussed above, these measures, which are presented as aiming to improve minority groups' integration into Danish society, in fact have a discriminatory effect that only serves to marginalise them further. ECRI has thus been informed that many members of minority groups who have the means to do so have left Denmark because of the current climate.</p>	<p>Act or the Integration Act and political agreements since 2001 have been adopted with the support not only from the Danish People's Party but also from the Social Democrat's. Please, see the comments above under paragraph 63 as regards the statement that measures to improve integration in fact have a discriminatory effect that only serves to marginalise third-country nationals further. The Danish Government reiterate that it does not agree with this conclusion and finds the statement both tendentious and of a political nature.</p>

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<p>105. ECRI also notes with deep regret that the current atmosphere in Denmark is such that even initiatives which have, at the outset, a positive aim, such as the Minister of Culture's decision to create a committee on the best of Danish art and culture, is used as an opportunity to make derogatory remarks about minority groups. This project was thus presented by the Minister of Culture as a tool for fighting minority groups' negative influence on Danish society and he only retracted his statement after members of this Committee threatened to resign. He does not appear to have been charged with incitement to racial hatred under Article 266 b) of the Criminal Code. The relative impunity with which politicians in general and members of the Danish People's Party in particular regularly make incendiary statements against minority groups in the media, has contributed to worsening these groups' image with the majority of ethnic Danes. The general public is thus constantly given the impression that integration has failed and that minority groups are to blame as they do not wish to integrate. In this regard, parts of the media do not provide a forum in which minority groups who do not conform to these stereotypes can express themselves. Thus, the disproportionate space given in the media to negative stories about minority groups in general and Muslims in particular has succeeded in convincing many ethnic Danes that these groups are a threat to Danish society.</p>	<p>The Danish Government agrees that the initiative to create a list (a cultural canon) of the best of Danish art and culture has and should have a positive aim. The list has been drawn up by committees with independent professionals from the cultural field without any political bindings. The final list from the committees speaks for itself. The Danish minister for culture has not, as presumed in the report, used this initiative "as an opportunity to make derogatory remarks about minority groups". The minister has expressed the hope that the cultural canon also might be one of many relevant tools to give foreigners, among them immigrants, an impression and a better understanding of Danish culture, cultural heritage, identity, democracy and way of living. ECRI is correct in assuming that the Danish minister for culture was not charged for violation of section 266 b of the Danish Criminal Code. The obvious reason for this is that there was clearly no basis for bringing up charges against the Danish minister for culture.</p>
<p>106. ECRI has also been informed that the fact that ethnic Danes are constantly confronted with negative images of minority groups has increased their level of intolerance to the point where there is a polarisation between those who try to express a different opinion or to fight discrimination and parts of the Danish society. Although ethnic Danes do not consider that racism and discrimination are a problem in Denmark, a recent study has indicated that only 30% of ethnic Danes are interested in meeting members of other groups. It has also been brought to ECRI's attention that Denmark is still perceived as a homogenous society and that many ethnic Danes will go through the whole education system without ever meeting members of other ethnic groups. The media and politicians thus play a major role in forging their image of minority groups and ECRI deeply regrets the fact that they have unfortunately used this role to divide rather</p>	<p>ECRI seems to build its analysis on insufficient information. ECRI should take into account that recent reports show a more positive picture than the one described by ECRI, namely that both the opinion of ethnic minorities towards the majority population and the opinion of the majority population towards ethnic minorities generally seem to have improved. Furthermore racist violence and crime seems to be on the decline.</p> <p>A survey, conducted by the research company Catinét Research from September 2005 shows that in 2000 42.7 pct. of immigrants and refugees in Denmark felt that they had experienced discrimination when at work, in school or other educational institutions, when applying for a job, in the search of housing, at public offices, in public transportation, when shopping or in residential areas. In 2005 the percentage was down to 33.3 pct.</p> <p>A report of the European Monitoring Centre on Racism and Xenophobia (EUMC) from March 2005 on Majorities' Attitudes towards Minorities in Europe (Eurobarometer) shows that Danes figure below the European average in expressing resistance to immigrants and cultural diversity. The EUMC annual report 2005 in the section covering racist</p>

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<p>than to unite people. ECRI has also been informed that the onus is constantly placed on minority groups to integrate, to the point where this in actual fact amounts to an attempt to assimilate them. Therefore, any signs of being different are increasingly being perceived as resistance to integration. In this regard, the Danish Broadcasting Corporation will, for example close down its foreign language services. As with many of the measures mentioned above, this decision will in fact have the opposite effect to the stated aim of improving minority groups' integration, as members of these groups will now most likely turn to foreign radio and television stations. In conclusion, ECRI reiterates that the onus is on the political leadership as well as those who transmit their message, namely the media to ensure that equality between all members of society is brought about by inclusion and mutual respect.</p>	<p>violence and crime states that data from the EU Member States on racist violence and crime are not directly comparable due to <i>inter alia</i> differences in legislation, criminal justice data collection and the public's willingness to report racist violence and crime. A more meaningful way of interpreting data on racist violence and crime is to look at trends over time within the same country. According to this report Denmark, Austria and Germany are the only countries of the EU-15 from which comparable data exists that has shown an overall downward trend in official reports/records of racist violence and crime (based on data covering the period 2001 to 2003). Statistical information from the Director of Public Prosecutions furthermore indicates that charges and convictions because of the crime of wider dissemination of degrading remarks regarding race, colour, national or ethnic origin, religion, or sexual inclination criminalised by the Danish Criminal Code section 266 b has declined steadily since 2002. In 2002 10 charges were pressed in 10 cases. 5 of these cases involved statements made by politicians. The accused were found guilty in all 10 cases. In 2003 6 charges were pressed. 2 of the cases involved statements made by politicians. The accused were found guilty in all 6 cases. In 2004 2 charges were pressed. One case involved statements made by a politician. The accused was found guilty in 1 case.</p>
<p><b>Recommendations:</b></p> <p>107. ECRI urges the Danish Government to give a more balanced view of issues pertaining to minority groups and their role in Danish society. It also urges the Government to send a strong message that incitement to racial hatred will not be tolerated by ensuring that those who commit such acts are consistently prosecuted in accordance with the Criminal Code. ECRI strongly recommends that awareness-raising campaigns be carried out on the benefits of a multicultural society, and that members of minority groups, relevant NGOs as well national and local authorities work together at all stages of these campaigns. ECRI also wishes to bring to the Government's attention the principles contained in the Charter of European Political Parties for a Non-Racist Society and in its Declaration on the use of racist, antisemitic and xenophobic elements in political discourse.</p>	<p>The Government on the basis of the apparent statistical evidence and with due regard to the Governments remarks above on vulnerable groups has encouraged ECRI to reconsider both the factual information in paragraph 103-106 and its recommendation in this respect.</p>
<p>108. ECRI strongly recommends that the Danish Government encourage and provide financial support to initiatives aimed at training journalists on issues pertaining to human rights in general and to racism and racial discrimination in particular.</p>	
<p><b>BIBLIOGRAPHY</b>  <i>This bibliography lists the main published sources used during the examination of the situation in</i></p>	<p>The Danish Government would like to draw attention to the fact that the bibliography of the third report on Denmark from ECRI - even though this biography should not be</p>

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<p><i>Denmark it should not be considered as an exhaustive list of all sources of information available to ECRI during the preparation of the report.</i></p> <ol style="list-style-type: none"> <li>1. CRI (2001) 4: <i>Second Report on Denmark</i>, European Commission against Racism and Intolerance, Council of Europe, April 2001</li> <li>2. CRI (99) 1: <i>Report on Denmark</i>, European Commission against Racism and Intolerance, Council of Europe, October 1999</li> <li>3. CRI (96) 43: <i>ECRI General Policy Recommendation n° 1: Combating racism, xenophobia, antisemitism and intolerance</i>, European Commission against Racism and Intolerance, Council of Europe, October 1996</li> <li>4. CRI (97) 36: <i>ECRI General Policy Recommendation n° 2: Specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level</i>, European Commission against Racism and Intolerance, Council of Europe, June 1997</li> <li>5. CRI (98) 29: <i>ECRI General Policy Recommendation n° 3: Combating racism and intolerance against Roma/Gypsies</i>, European Commission against Racism and Intolerance, Council of Europe, March 1998</li> <li>6. CRI (98) 30: <i>ECRI General Policy Recommendation n° 4: National surveys on the experience and perception of discrimination and racism from the point of view of potential victims</i>, European Commission against Racism and Intolerance, Council of Europe, March 1998</li> <li>7. CRI (2000) 21: <i>ECRI General Policy Recommendation n° 5: Combating intolerance and discrimination against Muslims</i>, European Commission against Racism and Intolerance, Council of Europe, April 2000</li> <li>8. CRI (2001) 1: <i>ECRI General Policy Recommendation n° 6: Combating the dissemination of racist, xenophobic and antisemitic material via the Internet</i>, European Commission against Racism and Intolerance, Council of Europe, December 2000</li> <li>9. CRI (2003) 8: <i>ECRI General Policy Recommendation n° 7: National legislation to combat racism and racial discrimination</i>, European Commission against Racism and Intolerance, Council of Europe, December 2002</li> <li>10. CRI (2004) 26: <i>ECRI General Policy Recommendation n° 8: Combating racism while fighting terrorism</i>, European</li> </ol>	<p>considered as an exhaustive list of all sources of information available to ECRI during the preparation of the report - is very limited in scope and cannot be said to offer an comprehensive view on Danish integration policy.</p> <p>The bibliography is thus limited to documents and reports coming primarily from a very limited number of NGOs that each promotes special interests, documents from ECRI itself and documents from other international organisations, which creates an extensive risk of repeating and reinforcing inaccurate or outdated information offered by existing reports. This does not in itself constitute a problem, but given the nature of the mentioned sources it is of utmost importance that the information contained herein is not repeated uncritically.</p> <p>The Government would like to stress that it has especially indicated to ECRI that it would be willing to provide more in-depth information concerning among other things the relation between the Act on Ethnic Equal Treatment and the Act on the Prohibition of Discrimination in the Labour Market, concerning the various efforts in disadvantaged neighbourhoods and with respect to naturalisation. ECRI has not contacted the Danish Government in this regard.</p> <p>The Government must consequently express its deep regret to the fact that ECRI in the drafting of its third report on Denmark has only used governmental or statistical sources to a very limited extent. It is even more disturbing that reports or statistical evidence referred to in the remarks of the Government that directly contradicts the views expressed in the ECRI report seem to have been almost systematically excluded.</p> <p>The Government regrets this development in ECRI's otherwise important and usually objective and useful reporting.</p>

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<p>Commission against Racism and Intolerance, Council of Europe, March 2004</p> <p>11. CRI (2004) 37: <i>ECRI General Policy Recommendation n° 9: The fight against antisemitism</i>, European Commission against Racism and Intolerance, Council of Europe, June 2004</p> <p>12. CRI (98) 80 rev: <i>Legal measures to combat racism and intolerance in the member States of the Council of Europe</i>, European Commission against Racism and Intolerance, Council of Europe, 2000</p> <p>13. Act No 429 of 31 May 2000 on Processing of Personal Data</p> <p>14. Act No 374 of 28 May 2003 on Ethnic Equal Treatment</p> <p>15. Act No 411 of 6 June 2002 establishing the Danish Centre for International Studies and Human Rights</p> <p>16. Aliens (Consolidated) Act of 14 July 2004</p> <p>17. Act N° 375 of 28 May 2003 on Danish Courses for Adult Aliens</p> <p>18. Ministry of Refugee, Immigration and Integration Affairs, <i>A new chance for everyone – the Danish Government's integration plan</i>, May 2005</p> <p>19. CommDH (2004) 12: <i>Report by Mr Alvaro Gil-Robles, Commissioner for Human Rights, on his visit to Denmark of 13-16 April 2004</i>, Council of Europe, 8 July 2004</p> <p>20. European Court of Human Rights, <i>Case of Amrollahi v. Denmark (Application no. 56811/00)</i>, Judgment of 11 July 2002, Strasbourg, 11 October 2002</p> <p>21. ACFC/SR/II (2004) 004: <i>Advisory Committee on the Framework Convention for the Protection of National Minorities, Report submitted by Denmark pursuant to Article 25, paragraph 1 of the Framework Convention for the Protection of National Minorities</i>, Council of Europe, May 2004</p> <p>22. ACFC/INF/OP/II(2004)005                      Advisory Committee on the Framework Convention for the Protection of National Minorities, <i>Second Opinion on Denmark</i>, adopted 9 December 2004, Council of Europe, 1 May 2005</p> <p>23. CPT/Inf (2002) 18: <i>Report to the Government of Denmark on the visit to Denmark carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 28 January to 4 February 2002</i>, Council of Europe, September 2002</p> <p>24. <i>Recommendation RecChL(2004)2 of the Committee of Ministers on the application of the European Charter for Regional or Minority</i></p>	

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<p><i>Languages by Denmark</i>, Council of Europe, adopted 19 May 2004</p> <p>25. MIN-LANG/PR(2003)1: European Charter for Regional or Minority Languages, <i>Initial Periodical Report presented to the Secretary General of the Council of Europe in accordance with Article 15 of the Charter: Denmark</i>, Council of Europe, January 2003</p> <p>26. ECRML (2004) 2: European Charter for Regional or Minority Languages, <i>Application of the Charter in Denmark</i>, Council of Europe, 26 May 2004</p> <p>27. CERD/C/60/CO/5: <i>Concluding observations of the Committee on the Elimination of Racial Discrimination: Denmark</i>, 21 May 2002</p> <p>28. CERD/C/SR.1508: <i>Summary record of the 1508<sup>th</sup> meeting, Consideration of the fifteenth report of Denmark</i>, 1 August 2002</p> <p>29. CERD/C/408/Add.1: <i>Reports submitted by States parties under Article 9 of the Convention: fifteenth periodic reports of States parties due in 2001, Addendum: Denmark</i>, 21 May 2001</p> <p>30. E/C/12/1/Add.102: <i>Concluding Observations of the Committee on Economic, Social and Cultural Rights: Denmark</i>, 14 December 2004</p> <p>31. CEDAW/C/SR.561 and 562: <i>Concluding Observations of the Committee on the Elimination of Discrimination against Women</i>, 21 June 2002</p> <p>32. EUMC/Raxen National Focal Point for Denmark, <i>Raxen 3 Report, Migrants, Minorities and Employment in Denmark</i>, September 2002</p> <p>33. EUMC/Raxen national focal point for Denmark, <i>Analytical Report on Legislation</i>, 2004</p> <p>34. EUMC/Raxen National Focal Point for Denmark, <i>Analytical Report on Education</i>, 2004</p> <p>35. EUMC/Raxen National Focal Point for Denmark, <i>Manifestations of Antisemitism in the EU 2002-2003, Part on Denmark</i>, Vienna 2004</p> <p>36. Hansen, Niels Erik, <i>Executive Summary – Discrimination on the Grounds of Religion and Belief: Denmark</i> in Migration Policy Group, <i>The implementation of European anti-discrimination legislation: work in progress</i>, December 2004</p> <p>37. Eurobarometer 57.0 – May 2003, <i>Discrimination in Europe</i>, Marsh Alan and Sahin-Dikmen (Policy Study Institute London) and the European Opinion Research Group (EEIG) for the European Commission, Directorate General of Employment and</p>	

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