

Royal Danish Ministry of Foreign Affairs

The Danish Government is pleased to respond to the invitation of the Advisory Committee on the Framework Convention for the Protection of National Minorities to comment on the Second Opinion on Denmark, adopted on 9 December 2004.

Before commenting on the specific recommendations of the Advisory Committee, the Danish Government would like to reiterate its position with respect to the personal scope of the Framework Convention. As also mentioned in the Danish comments to the Advisory Committee's First Opinion on Denmark, the Danish ratification of the Framework Convention is based on the following views:

The Framework Convention does not contain a definition of the notion of national minority, nor do the other international instruments in the field of minorities. According to the Explanatory Report to the Framework Convention, this omission was intentional, thus leaving it to the Participating States to determine the personal scope of the Convention through their practice.

Under the general rules of interpretation, the fact that it follows from the previous history of the Framework Convention, that the Convention is aimed at minorities created by the various upheavals of European history must be taken into account when determining the notion of national minority in relation to the Framework Convention. Consequently, according to the preamble of the Convention, the Convention is needed because the upheavals of Europe have shown that the protection of national minorities is essential to stability in Europe. Furthermore, the preamble and Article 18 of the Convention state that the implementation of the principles of the Convention implies transfrontier co-operation between local and regional authorities. According to their wording, several of the provisions in the Convention contain territorial limitations, dealing with areas that are inhabited by persons belonging to national minorities, traditionally or in substantial numbers, reference is made to Article 10 (2), Article 11 (3), and Article 14 (2). Lastly, it is stated in section 66 of the Explanatory Report that the term "inhabited ... traditionally" does not refer to historical minorities, but only to those still living in the same geographical area.

It is against this background, that Denmark has identified the German minority in South Jutland as a national minority covered by the Framework Convention.

Therefore, in connection with the ratification of the Framework Convention, Denmark declared that the Framework Convention applies to the German minority

in South Jutland of the Kingdom of Denmark. As stated in the first report on Denmark's implementation of the Framework Convention, Denmark's declaration reflects the fact that the border between the Kingdom of Denmark and the Federal Republic of Germany does not delimit the areas inhabited by the two peoples. In the regions north and south of the border (which has been fixed since the referendums in 1920) – i.e. South Jutland in Denmark and Schleswig in Germany – Danes and Germans live together in traditional residential areas. The members of the German minority in Denmark are Danish citizens.

Based upon the above considerations, it is still the fundamental opinion of the Danish Government that the international obligations assumed by Denmark according to the Framework Convention only relate to the German minority in South Jutland and do not apply to any wider extent.

In addition, it should be noted, that it is established in section 43 of the above mentioned Explanatory Report that not all ethnic, cultural linguistic or religious differences necessarily lead to the creation of national minorities. The Danish Government holds the view that immigrants and refugees cannot be considered as covered by the notion of national minority.

Against this background, the Danish Government holds the view that Denmark is in full compliance with the international obligations laid down in the Framework Convention for the Protection of National Minorities and therefore cannot subscribe to the Issues of Concern raised in the Concluding Remarks of the Opinion of the Advisory Committee. In saying this, the Danish Government would also like to stress its appreciation of the constructive dialogue, which has developed between the Advisory Committee and the Danish authorities.

As to the specific recommendations of the Advisory Committee, the following comments are made:

Re Recommendations

189, 1. indent: Consult more widely with representatives of civil society and representatives of different ethnic and religious groups concerning the implementation of the Framework Convention.

The Danish Government holds the firm principle view that an engaged and constructive dialogue with representatives of civil society and representatives of different ethnic and religious groups is conducive to the implementation of the Framework Convention.

The Danish Government therefore makes great efforts to have a dialogue with representatives of civil society and with different ethnic groups of the Danish society in particular. This is undertaken at all levels of the integration policy work.

Examples of such work are given below:

The Minister for Integration consults representatives of ethnic minority groups in Denmark on a regular basis. Both well-established forums and *ad hoc* groups are consulted. The most well established forum is the Council for Ethnic Minorities (*Rådet for Etniske Minoriteter*), which the Minister for Integration has a statutory duty to consult. The Council for Ethnic Minorities is elected among members of the local integration councils, which represent local refugee and immigrant associations. The Minister invites the Council to quarterly meetings, and the Ministry provides secretariat assistance to the Council.

The Minister for Integration frequently consults representatives of human rights organisations, such as the Danish Institute for Human Rights (*Institut for Menneskerettigheder*) and the Danish Red Cross (*Dansk Røde Kors*).

The local authorities also involve ethnic minority group representatives in their integration efforts. To this end the local integration councils may issue recommendations about municipal integration programmes, etc.

Moreover, the Danish Government has launched or financed several initiatives intended to boost the involvement of ethnic groups in the democratic process. To mention but one example: The governmental action plan promoting equal treatment and diversity and combating racism includes initiatives intended to promote public debate and dialogue with different ethnic groups. The Minister for Integration is also eager to involve ethnic groups in Danish club and association activities, which will facilitate not only a dialogue with ethnic groups, but also the entire process of integrating these groups into the Danish society.

Inhabitants on the Faeroe Islands and in Greenland are (generally) Danish citizens. Danish citizens from the Faeroe Islands or Greenland, who choose to take up residence in Denmark, are not registered as groups or individuals based on their descent. Therefore these individuals cannot be identified from the rest of the community and they have not joined in associations representing these individuals vis-à-vis other Danish citizens, the Danish Government or the Home Rule Governments. However, as all Danish citizens and other inhabitants in Denmark they enjoy protection both at national level and through the international instruments, which protect the rights of the individual and safeguard against

discrimination. The same applies to Danish citizens residing in Greenland or in the Faeroe Islands.

Concerning Danish citizens from the Faeroe Islands and Greenland residing in Denmark, the Danish Government upholds the opinion that these citizens are not to be considered as national minorities in Denmark. Therefore the Danish Government does not find it relevant to seek opinion from Faeroese and Greenlandic "associations" in Denmark, representative of Danish citizens from the Faeroe Islands and Greenland, as suggested. Likewise, the Government sees no reason to approach Danish "associations" in the Faeroe Islands and in Greenland, representative of Danish citizens from mainland Denmark.

However, the Danish Government would like to stress, that a number of steps taken in relation to Greenlanders in mainland Denmark as mentioned by the Advisory Committee are still in effect - e.g. an increase in funding for activities and actions in favour of persons belonging to this group.

In relation to the Roma the Second Opinion on Denmark of the Advisory Committee states, that Denmark does not agree with the Committee when it comes to the question of whether the Roma is covered by the Framework Convention in Denmark.

The fact that Denmark does not recognize the Roma as a national minority does, however, not mean that the Roma are unprotected in Denmark, as the constitutional rights and general legislation, such as the social law, the integration law and legislation forbidding discrimination etc., apply to the Roma.

189, 2. indent: Act upon manifestations of intolerance and xenophobia, including in the political arena, and counter these phenomena with the tools available.

The Danish Government gives high priority to the fight against discrimination in any form, including hate speech, and is of the firm opinion that effective precautions must be in place at any given time.

Since 1992, the National Commissioner of Police has received reports of criminal acts and incidents directed against foreigners on a presumed racist background from the 54 Danish police districts.

The purpose of this reporting system was to give the National Commissioner of Police a basis for ascertaining and assessing possible signs of a more organised and systematic criminal activity stemming from racism and xenophobia.

In December 2001, the reporting system was altered and revised in order to make it more simple and effective. Apart from safeguarding investigative purposes, the new reporting system provides a more reliable basis for international reporting on presumed racially motivated crimes in Denmark and a basis for informing the public of this subject.

From 1 February 2002, only criminal acts with a presumed racist or religious background are reported, that is to say acts or omissions punishable by law. Incidents of a solely political and not racist or religious nature and incidents not punishable by law are no longer reported. Furthermore not only acts directed against individuals of foreign origin but also acts directed against ethnic Danes are reported.

However, an element of uncertainty in the system is that the reporting is based on the police districts' knowledge or assumption of the motives behind the actual acts or omissions. Consequently, the reports cannot be presumed to give a complete picture of this particular field of activity in Denmark.

In 2002, 63 criminal acts or omissions with a presumed racist or religious background were reported. 52 cases were reported in 2003.

The number of criminal proceedings against politicians for violating section 266 b of the Danish Criminal Code – section 266 b is described in Denmark's second state report regarding article 4 - shows that the prosecution authorities and the courts do not hesitate to set limits for the freedom of expression for politicians when the said politicians have uttered racist comments, in some cases even comments bordering on hate speech.

To illustrate this point further, a summary of a number of convictions of Danish politicians is listed below:

- By judgment of the District Court of Haderslev of 20 November 2001 two local politicians (A and B) were sentenced to (A) 20 day-fines of DKK 300 and (B) 15 day-fines of DKK 300 for statements to a journalist, who quoted the statements in a newspaper. A had stated that "In five or six years the blacks [meaning Muslims] will have bred like rats, ..." and "the blacks must be punished according to the Muslim Penal Code. If they steal, we cut off

their hands”. B had supported the statements put forward by A and stated: “I could have said exactly the same. It is true: They breed like rats.”

- By judgment of the District Court of Hvidovre of 11 October 2002 four young politicians were sentenced to 7 days of suspended imprisonment for having placed an advertisement on the Internet and in several technical periodicals stating: ”Mass rape, serious assault, insecurity, forced marriages, suppression of women, gang crime; This is what a multiethnic society has to offer.” (accompanied by pictures). The District Court did not consider the advertisement to be a statement of a propaganda-like character. Two editors who had printed the advertisement in their periodicals were sentenced to 5 day-fines of DKK 500 each. The Eastern High Court characterized the advertisement as propaganda and increased the sentence of the four young politicians to 14 days of suspended imprisonment – the two editors did not appeal their judgment.
- By judgment of the Supreme Court of 3 December 2003 a politician was sentenced to twenty days of suspended imprisonment for having stated on a home page on the Internet: “The solution is a three stage plan: 1) Capture all Muslims in Denmark (for this purpose approximately 10,000 additional policemen are needed). 2) Gathering of the Muslims in concentration camps (one concentration camp in each county). 3) Deportation to a destination of choice (the living standard in the camps must be gradually reduced for each month that the deadline for leaving the country is overrun)” and other similar statements. The City Court of Copenhagen had found that the statements did not have a propaganda-like character and only fined the politician 6 day-fines of DKK 500. However, the Eastern High Court characterized the statements as propaganda and increased the fines to 20 day-fines of DKK 500. The Supreme Court also characterized the statements as propaganda and ordered the above mentioned twenty days of suspended imprisonment instead of day-fines.
- By judgment of the Eastern High Court of 5 February 2004, a politician was sentenced to 10 day-fines of DKK 400 for having stated the following regarding Muslims in e-mails to 44 Members of Parliament: “Criminals, potential freeloaders of society and confidence abusers, psychopath-like fighters against infidels” and similar statements.

On a broader scope it can be noticed, that on 15 March 2005, the European Monitoring Centre on Racism and Xenophobia (EUMC) published a Summary Report on Majority Attitudes towards Migrants and Minorities. As regards

Denmark, the survey reveals that resistance to a multicultural society has been falling since 1997 and that resistance to a multicultural society is now below the average of the "old" EU Member States.

This survey is in line with a Danish survey carried out by the Danish research institute CATINÉT among 1.000 refugees, immigrant and descendants. The survey shows that, in 2000, 22 per cent of those who felt discriminated against pointed to problems when applying for jobs; by December 2004, this figure had dropped to 12 per cent. The total number of persons who feel discriminated against has become significantly lower. Five years ago, 42 per cent of the questioned immigrants, refugees and descendants experienced discrimination to a greater extent than persons of a Danish background. Today the figure is 27 per cent. 63 per cent of all newcomers find that Danes have gained a more positive understanding of them as persons, while only 13 per cent experience Danes as more negative.

Also long-term comparisons show a reduction in Danish intolerance. More than 60 per cent agreed with a racist statement in 1970 compared with just under 30 per cent in 2001 (the Rockwool Foundation Research Unit (*Rockwool Fondens Forskningsenhed*), June 2002, Tøgeby 1997).

However, the CATINÉT survey further reveals – as was also indicated in the opinion the Advisory Committee on the Framework Convention for the Protection of National Minorities – that an increasing number of immigrants and refugees feel that politicians and the media have become more discriminating.

Both the media and politicians are responsible for promoting inter-human tolerance and understanding.

In this respect it is essential to increase consciousness – among journalists, media workers and the general population – about the way that the language chosen may influence the predominant view of particular population groups.

A new two-year diploma course at the Danish School of Journalism (*Danmarks Journalisthøjskole*) aimed at students with an ethnic minority background has attracted many students, and the first class commenced in September 2003. With their cultural background, the new journalists will contribute to a media image that is more reflective of the composition of society and more varied in its coverage of social issues. The future journalists can also offer public insight into matters seen from the perspective of the ethnic minorities in society.

As regards the role of politicians and political parties in connection with racist statements, please be advised that, in the opinion of the Government, direct requests to non-governmental political parties to refrain from racist or discriminatory statements should be made not by the Government, but by organisations and associations combating racial discrimination. In that connection, the Ministry of Integration has forwarded the Charter of European Political Parties for a Non-Racist Society to the former Board for Ethnic Equality (*Nævnet for Etnisk Ligestilling*) (now an entity under the Danish Centre for International Studies and Human Rights (*Det Danske Center for Internationale Studier og Menneskerettigheder*)) and has invited the Board to work for the successful implementation of the Charter recommendations.

189, 3. indent: Address criticisms of the Aliens legislation and the Government's integration strategy in order to further promote tolerance and ensure that issues of discrimination are tackled.

The Danish Government finds that a prerequisite for a successful integration is a consistent and fair immigration policy. The Government therefore aims to pursue an immigration policy that enjoys public understanding and provides the requisite room for integration of foreigners already living in or coming to Denmark.

Such immigration policy will be obtained through restricted immigration and by ensuring that foreigners coming to Denmark will be a minimum burden on the Danish social security system. Moreover, all foreigners who are not entitled to stay in Denmark must leave the country as soon as possible – if necessary by use of coercion if they refuse to leave voluntarily.

It is crucial to the Government that Denmark's international obligations are observed – also in the immigration field. Therefore the Government's immigration initiatives are found in accordance with Denmark's obligations under the European Convention for the Protection of Human Rights and Fundamental Freedoms, the International Convention relating to the Status of Refugees and similar conventions.

The reason for the tightened immigration law is the concern for integration of the ethnic groups in Denmark. The Government has thus tightened the immigration requirements exactly to avoid discrimination of foreigners already residing in Denmark.

The Government has also regularly focused on combating racism, one means being the adoption of the Act on Ethnic Equal Treatment (*lov om etnisk ligestilling*),

another being the action plan promoting equal treatment and diversity and combating racism. The Government also attempts to focus on good examples of situations where mutual respect among people and equal citizenship are given pride of place.

One example is the campaign "All young people needed" (*Brug for alle unge*) which is intended to break the negative social background of ethnic minority youth. In connection with this campaign, role models visit schools in selected areas of Denmark. These role models are young people of ethnic minority backgrounds who have chosen a career that is unconventional for most immigrants and their descendants. These role models are to inspire other young people's choice of education or training and answer questions about the choice of education, training and profession. Another example is the annual integration event held by the Ministry of Integration. This event has created great interest in integration work. In connection with the event, a public and a private labour market award, an educational initiative award and an integration inspiration award are presented.

In this connection it may be relevant to make a short explanatory statement on the collection of ethnicity data (reference is made to para. 62).

No ethnicity data are recorded in Denmark.

However, it should be mentioned that Statistics Denmark (*Danmarks Statistik*) has drawn up a statistical definition of foreigners according to which foreigners are delimited to immigrants and their descendants.

A person is considered a Dane if at least one of his or her parents is a Danish national and was born in Denmark. It is therefore irrelevant whether such person is a Danish national himself/herself or was born in Denmark.

A person who is not a Dane is considered to be:

- An immigrant if born abroad; or
- A descendant if born in Denmark.

These statistical data are widely used to launch targeted integration policy initiatives in particularly vulnerable neighbourhoods, towards particular age groups, etc. With respect to the specific issue of tackling the said discrimination, reference is made to the comments under the 2. indent.

189, 4. indent: Find alternative solutions for the Roma children who remain in a separate Roma class in order to guarantee equal education.

The main minority group of Roma children is located in the Municipality of Elsinore. The Ministry of Education has through several years been in continuous dialogue with the Municipality about solutions to the Roma children's education. Most recently the Ministry of Education on request by the Municipality of Elsinore has submitted a written reply stating that the compulsory education requirement after the 7th form level may be complied with by participating in the full-time education offered by the municipal youth school. However, in this regard it is a condition that the parents accept their children to be enrolled in the municipal youth school.

189, 5. indent: Review the situation of the privileged funding of the Danish National Church and the system of registration of names by the Danish National Church.

It is of the opinion of the Danish Government, that both the question concerning the financing of the Danish National Church and the question of which authority manages the registration of names in Denmark fall outside the sphere of the Framework Convention for the Protection of National Minorities.

As previously stated in the written Danish reply to question 16 in the List of Issues of 30 September 2004 it is "the opinion of the Danish Government that the special position of the Evangelical Lutheran Church has nothing to do with the right to manifest religion that is recognized through Article 8".

Therefore the Danish Government does not see any need to review the financing of the Danish National Church.

Never the less it seems appropriate in this connection to rectify an apparent misconception by the Advisory Committee concerning the collection of Church Tax, reference is made to the findings in point no. 109 of the Second Opinion.

Church Tax is collected *only* from members of the Danish National Church.

Persons who are *not* members of the Danish National Church (including persons who have been but are no longer members of the Danish National Church) are thus *not* required to actively announce, that they do not want to pay Church Tax, since the Tax is not collected from them in the first place.

Turning to the system of registration of names by the Danish National Church the Danish Government is confident that a suitable and pragmatic procedure has been established. As noted by the Advisory Committee the registration of names may be made in writing and does not require the presence of non-members of the Danish National Church in person. Furthermore the Committee has noted that for non-members of the Danish National Church, the text “Den danske folkekirke” (“The Danish National Church”) is no longer automatically stated on certificates from the Church’s register of names. It is the opinion of the Danish Government that these precautions meet any valid concern by persons not belonging to the Danish National Church.

As a matter of form it shall also be noted, that the Danish Law of Names in § 13 states, that naming through baptism outside South Jutland may take place in the Danish National Church or in a recognized religious community.

In Denmark the recognized religious communities are:

- Den romersk-katolske kirke (The Roman Catholic Church)
- Det mosaiske Troessamfund (The Mosaic Community)
- Den reformerte kirke (The Reformed Congregations)
- Det metodistiske Trossamfund (The Methodist Church)
- Baptistkirken I Danmark (The Baptist Church)
- Den ortodokse russiske kirkes menighed i København (The Russian Orthodox Congregation in Copenhagen)
- Den norske menighed ved Kong Haakon Kirken (The Norwegian Congregation in Copenhagen)
- Svenska Gustafs församlingen (The Swedish Congregation in Copenhagen)
- St. Alban’s English Church in Copenhagen (Anglican).

Outside the Region of South Jutland, persons not belonging to one of the recognized religious communities must register names in the register of the Danish National Church.

189, 6. indent: Examine how further support can be provided to local radio and televisions broadcasting for the German minority.

On the issue of public financial support for local broadcasting for the German minority it was mentioned in the Opinion of the Advisory Committee, that the German minority had been encouraged by the Ministry of Culture to apply for government funding to support the German language news bulletins on a local commercial radio.

The Danish Government informs the Committee, that the Ministry of Culture has subsequently granted a subsidy of 250.000 DKK annually for a trial period of 3 years for this purpose, with the possibility of renewal.

Regarding the Committee's recommendation that the authorities examine whether additional funding could be made available to the regional public service television broadcaster TV Syd for further programming in German and for the German minority, attention is drawn to the Broadcasting Act, which establishes that the regional TV 2-stations in their programming are to pay special attention to their regional affiliation. In order to carry out their public service obligations they are financed through proceeds from licence fees. Because of the importance of the independence and autonomy of the media it is left to the regional stations themselves to prioritise their programming investments.

In its Opinion, the Committee refers to the Opinion of the Committee of Experts of the Language Charter that Denmark has not encouraged and/or facilitated the creation of a radio or a television station in a regional or minority language. The Committee therefore finds that Denmark has not fulfilled its obligations under the Charter.

In this context the Danish Government wishes to reiterate that it does not agree with this finding. As also described in Denmark's first report on the Charter in December 2002, Danish media legislation does, in fact, facilitate the creation of local radio- and television stations by providing the technical infrastructure for such stations and the possibility of acquiring a broadcasting licence as well as state support for running the stations. The fact that these opportunities are also available to other groups in society does not constitute "not facilitating". As far as German

programmes on the public service channels of DR and TV 2 are concerned, the Danish Government considers the provisions in the public service obligations of the two broadcasters i.e. to serve the entire population and place requisite emphasis on freedom of information and expression as sufficient protection, taking the principle of the independence and autonomy of the media into consideration.

189, 7. indent: Examine, with those concerned, how to better reflect the culture, history, language and religion of persons belonging to the German minority and other ethnic and religious groups in the curriculum and textbooks.

The Danish Folkeskole (primary and lower secondary education) is the national as well as the local school. The Danish Folkeskole is centrally regulated by the Act on the Folkeskole, which sets the framework for the activities of the school. This means that all municipal schools have common aims, common provisions for the subjects that are to be taught at the different form levels, common provisions for the central knowledge and proficiency areas of the subjects and common provisions for the organisation of the school system. But it is the responsibility of the individual municipality to decide how the schools of the municipality are to function in practice within the framework of the Act.

The common objectives set out by the Ministry of Education indicate what knowledge and proficiencies the pupils are to have acquired of the subject or the topic, respectively at the end of the education and with regard to specific attainment targets.

The teaching of culture, history, language and religion of the German minority and other ethnic and religious groups is integrated into the teaching of mainly social subjects and history. But also subjects as Danish, German and religion include aspects concerning minorities.

Even though no official directives use the terms of any specific minority, ethnic or religious group, there is a long and widespread tradition of teaching German culture and history in the Folkeskole. One of the central knowledge and proficiency areas in history concerns "Power, rights, interests and human rights" and this central knowledge and proficiency area normally includes teaching about minority groups.

Furthermore minority, ethnic and religious groups are often an integrated part of the mandatory project assignment taking place at the 9th form level. The pupils are given the opportunity to complete and present an interdisciplinary project of which the main content must be taken from history and social subjects. The project assignment is assessed in two ways: According to the official Danish marking scale

and a written statement. The assessment of the project assignment can be indicated in the leaving certificate according to the student's wish.

The municipalities and schools decide how to reach the common objectives. And the individual teacher must select the proper teaching methods, the books and materials amongst the materials approved by the school board.

This brings the Danish Government to conclude, that Denmark has a national as well as a local tradition of including relevant minorities, ethnic and religious groups in connection with the minorities' national religious events or specific national holidays in order to ensure that their interests are taken into account. In practice this is done by establishing specific networks, committees and working groups with participants from the minorities enabling them to influence the planning and realisation of such events along with others.

189, 8. indent: Ensure that the proposed administrative reforms do not have an adverse impact on the effective participation of the German minority at the municipal and regional levels and also at the level of the Region of South-Jutland Schleswig. Similarly ensure that there is no adverse impact on the system of German minority schools and day care facilities (kindergartens).

The German minority in South Jutland is a national minority in Denmark. The historical status of the minority implies in the view of the Danish Government that the rights of this minority deserves special consideration in connection with the implementation of the structural reform. The Government has in the Agreement on a Structural Reform, June 2004, undertaken an obligation to have a dialogue with the German minority in order to ensure this.

The Danish Government has had a very good dialogue with the German minority about the minority's future possibilities of obtaining political representation at the regional and the local level. The German minority has taken an active and engaged part in the discussions with the Government.

On 24 February 2005 the Government – in the light of its discussions with the German minority – submitted a proposal on this issue to the relevant parties as part of the first package of bills, which will implement the structural reform. In general the German minority has expressed its satisfaction with the proposal.

The Danish Parliament is expected to pass the bills in June or July 2005.

As regards the German minority the bills have the following contents:

The regional level:

The German minority has very limited interest in tasks within the field of responsibility of the region as those tasks are mainly in the hospital sector. Because of this fact special schemes are not going to be established with a view to ensure the German minority political representation at the regional level. On the other hand special schemes are going to be established within those regional spheres where the German minority has specific interests.

According to one of the bills (Bill on Promotion of Business Environment) (L 47 Forslag til lov om erhvervsfremme) one or two growth fora will be established which are going to play an important role in connection with the regional co-operation across borders. This is a very important issue for the German minority.

If the region establishes more than one growth forum, the German minority will obtain one seat in the growth forum, which covers South Jutland. If only one growth forum is established in the region of South Denmark, the German minority will participate as an observer in that forum.

Finally, the German minority will be a member of a body, which the local parties establish in order to handle the cross-national co-operation in the Danish-German border region in South Jutland. The co-operation of the Region South Jutland/Schleswig will be able to continue after the structural reform – also with members of the German minority as participants.

The local level:

According to another bill (Bill on the Municipal Division), (L 68 Forslag til lov om revision af den kommunale inddeling) it will be laid down that the number of members of the municipal council will be 31, which is the maximum, in those cases where SP (*Schleswigsche Partei*) in the last or the last but one election period was represented in the municipal council.

This provision will strengthen the possibilities of SP to obtain representation in the municipal council. According to the rules in force, the municipal council shall have at least 9 members. In the municipal elections in 2005 the municipal council for the new merged municipalities will have at least 25 members, according to the proposals of the government. From the municipal election in 2009 and onward, the municipal council of all municipalities with at least 20,000 inhabitants shall have at

least 19 members. From the municipal elections in 2005 and onward, the number of members of a municipal council (except Copenhagen City Council) must not exceed 31.

The German minority has proposed that the number of members of all municipalities in South Jutland be 31 even though SP has not recently been represented in the area. At the moment the government is reflecting upon this proposal.

According to the bill it will also be laid down that SP will get a delegate in the municipal council if SP gains at least 25 % of the number of votes which is enough to get the cheapest seat in the municipal council. The delegate will almost get the same rights as the other members of the municipal councils apart from the right to vote. Furthermore the delegate will get a seat in one of the standing committees of the municipal council and have the same rights as the other members of the committee apart from the right to vote.

The Danish Government is aware that the Advisory Committee finds that further discussion is needed about the German minority's voting rights on seats at municipal level. According to the rules for municipal elections there is no minimum percentage of the votes necessary for a party to be represented in council. The seats are divided among the parties according to the d'Hondt's "method". Any party, including SP, can obtain a seat in the municipal council provided the party has obtained the sufficient number of votes to get the cheapest seat in the municipal council.

On this basis the Danish Government finds that if the delegate gets the right to vote it will not be in accordance with a fundamental principle which pledges that a party obtains political representation when it has got a seat in the municipal council (or parliament) according to rules of election which apply to all parties.

In this connection the Advisory Committee should notice that the German minority in general is satisfied with the proposal of solution, and that the minority is aware that it may cause unwillingness towards the minority if the delegate gets the right to vote in spite of the fact that he has only gained perhaps 25 % of the number of votes which is enough to get the cheapest seat in the municipal council.

Finally it will – according to the bill – be laid down that there will be established a specific committee with participation of the German minority which will be preparatory and advisory in cases regarding the German minority, if SP does not obtain political representation in spite of the above-mentioned rules. The necessary condition of establishing such a committee is that the German minority gains

between 10 and 24 % of the number of votes, which is enough to get the cheapest seat in the municipal council.

The proposed schemes will probably have as a result that the German minority will be represented in or have a forum of discussion in all municipal councils in the present South Jutland County.

The structural reform will not have any adverse impact on the German minority schools. The German minority schools are subsidized by the State according to the Act of Private, Independent Schools, which will not be changed as a consequence of the structural reform.

The structural reform may have adverse impact on the kindergartens of the German minority. The minority kindergartens are relatively small and unprofitable and may have difficulties surviving in the new enlarged municipalities, because they may choose to give notice to terminate the agreements with the German minority kindergartens in order to enhance the efficiency of the day care institutions in the new enlarged municipalities.

After a very good dialogue with the German minority the government has presented a proposal of solution, which takes such possible adverse impact into account. This solution is based upon a bill on private institutions (L 25, Forslag til lov om ændring af lov om social service og lov om retssikkerhed og administration på det sociale område - Private leverandører af dagtilbud - pengene følger barnet). The Danish Parliament is expected to pass the bill in May 2005. According to that bill the German minority kindergartens will no longer depend on an agreement with the municipalities, if they choose to convert the institutions into a new kind of private institutions. With the bill it will furthermore be ensured that the German minority institutions that convert into the new kind of private institutions will get the same subsidy from the municipality as they get today.

The German minority has expressed that they are very satisfied with the proposal of the government.