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# Council of Europe

## Parliamentary Assembly

*The President*

Strasbourg, 5 July 2006

**Re: Implementation of the Assembly Resolution 1515 on "Progress of the Assembly's monitoring procedure (May 2005-June 2006)", adopted on 29 June 2006**

Dear President,

I am pleased to transmit to you Resolution 1515 (2006) on "Progress of the Assembly's monitoring procedure (May 2005-June 2006)", adopted on 29 June 2006, in which the Parliamentary Assembly of the Council of Europe approved its Monitoring Committee's initiative to prepare periodic reports on the 33 member states, which are not currently subjected to a monitoring procedure or involved in a post-monitoring dialogue, with respect to the situation of democracy, rule of law and human rights in the states concerned.

For this year, the Monitoring Committee has prepared the first in a three-year cycle of periodic reports on 11 member states on the basis of alphabetical order. Denmark is dealt with as part of this first cycle. I enclose for your information and further action the periodic report on Denmark.

I wish to draw your attention to paragraph 13.1 of Resolution 1515 whereby the Assembly invites the national parliaments of the states concerned to:

*"13.1.1. use these reports as a basis for a debate on their country's record with regard to the fulfilment of its statutory and other conventional obligations as a member state of the Council of Europe;*

*13.1.2. promote execution of the judgments of the European Court of Human Rights and compliance with recommendations made by the Commissioner for Human Rights and the other Council of Europe specific monitoring bodies, both by provoking and accelerating necessary legislative initiatives and exercising their role of oversight of government action".*

The Assembly has also noted in Resolution 1515 that a number of the member states under consideration are not yet subject to certain specific monitoring mechanisms of the Organisation because they have not ratified relevant conventions or have not yet joined the relevant bodies. It thus invited these member states to take the necessary steps within three years.

.i.

Mr Christian MEJDAHL  
Speaker of the Folketing  
Christiansborg  
DK - 1240 COPENHAGEN K

Cc: Mrs Hanne SEVERINSEN, Head of the National Delegation of Denmark to the Parliamentary Assembly of the Council of Europe  
Mrs Mette VESTERGAARD, Secretary of the National Delegation

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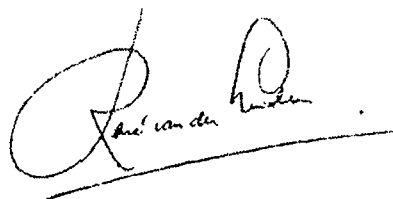
As regards Denmark the Assembly notably urged it to ratify – or sign and ratify – the following Council of Europe conventions:

- the 2005 Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism, noting that Denmark has ratified the 1990 Convention on the same subject-matter;
- Protocol No 12 to the European Convention of Human Rights;
- the Revised European Social Charter, noting that Denmark has ratified the 1961 European Social Charter;
- the Additional Protocol to the European Social Charter providing for a system of collective complaints.

The Assembly has also urged Denmark to join the MONEYVAL.

I would be grateful if you could ensure that appropriate follow-up is given to Resolution 1515 and inform me in due course of action taken and results achieved.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'René van der Linden', is written over a horizontal line. The signature is stylized and cursive.

René van der Linden

Provisional edition

## **Progress of the Assembly's Monitoring Procedure (May 2005 - June 2006)**

Resolution 1515 (2006)<sup>1</sup>

1. The Assembly welcomes the work carried out for over 9 years now by its Committee on the Honouring of Obligations and Commitments (Monitoring Committee). Its increasing efficiency, impact and credibility are widely acknowledged.

2. Out of the eight monitoring reports the Monitoring Committee has presented to the Assembly from May 2005 to June 2006, three take stock of the situation in Georgia, the Russian Federation and Ukraine and constitute genuine road maps for future reforms in these countries; the other five react to current political events, namely the constitutional reform in Armenia, the functioning of democratic institutions in Azerbaijan and Moldova, as well as the challenge of the still unratified credential of the parliamentary delegation of Azerbaijan on substantial grounds following the parliamentary elections in the country of November 2005.

3. Amendments to Resolution 1115 (1997) which created the Monitoring Committee and defined its terms of reference, adopted last year by virtue of Resolution 1431 (2005), were aimed at reinforcing the role of the Assembly in what is a highly political area, namely the decision to open or re-open a monitoring procedure. One year after the entry into force of these changes, it appears, however, that the rules are still not clear, in particular as regards the time-limit within which the Bureau of the Assembly has to refer to the Monitoring Committee a motion for a resolution on an application to open a monitoring procedure.

4. Also, Resolution 1115 (1997), as revised by Resolution 1431 (2005), still fails to properly regulate the modalities governing the conclusion of the post-monitoring dialogue carried out with a member state for which the monitoring procedure has been closed.

5. Consequently, in order to enhance clarity and thus increase the credibility and transparency of its monitoring mechanism, the Assembly decides to further amend the terms of reference of the Monitoring Committee and notably to:

5.1. introduce the following paragraph after paragraph 2 of the Appendix to Resolution 1115 (1997):

"The Bureau shall refer applications tabled in accordance with paragraph 2. i and iii above to the Monitoring Committee at one of its next two meetings following their tabling.";

5.2. introduce in the Appendix to Resolution 1115 (1997) the following paragraph after paragraph 7:

"When reporting to the Bureau of the Assembly on the post-monitoring dialogue carried out with a member state upon a decision by the Assembly, the Monitoring Committee shall state in its relevant memorandum whether the post-monitoring dialogue with this state is to be considered concluded:

- if the Bureau agrees with the Monitoring Committee's recommendation to conclude the post-monitoring dialogue, such recommendation should be recorded in the Progress Report of the Bureau and the Standing Committee;

<sup>1</sup> *Assembly debate* on 29 June 2006 (22<sup>nd</sup> Sitting) (see Doc.10960, report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), rapporteur: Mr György Frunda). *Text adopted by the Assembly* on 29 June 2006 (22<sup>nd</sup> Sitting).

- in case the Bureau does not agree with the Committee's recommendation to conclude the post-monitoring dialogue, the memorandum adopted by the Monitoring Committee shall be transformed, by way of derogation from Rule 49.2 of the Rules of Procedure, into a report containing a draft resolution and the Bureau shall include the item in the agenda and order of business of the next Assembly part-session for debate and adoption of the draft resolution. A representative of the Bureau may speak in its name in this debate." ;

5.3. The new provisions shall enter into force upon their adoption.

6. The Assembly notes with satisfaction that the European Union Commission has regularly referred to the fulfilment of commitments and obligations towards the Council of Europe in its assessments of progress made by states involved in the European Union accession or pre-accession procedures. Compliance with Council of Europe obligations and commitments is also a very important element in the assessment of the democratic and human rights record of European states participating in the European Neighbourhood Policy (ENP) or of the Russian Federation with which the European Union has a special Partnership and Cooperation Agreement. Thus the work of the Monitoring Committee is of paramount importance in the framework of the European Union's future enlargement, the ENP or special agreements. This has been recently reaffirmed by Mr Juncker, Prime Minister of Luxembourg, in his report on the relations between the Council of Europe and the European Union.

7. Therefore the Assembly:

7.1. recalling its Recommendation 1724 (2005) on "The Council of Europe and the European Neighbourhood Policy of the European Union", reiterates that for the countries covered by the ENP which are members of the Council of Europe compliance with Council for Europe commitments and obligations should be made a pre-condition for any further European integration;

7.2. fully endorses the recommendation made in the Juncker report according to which a working rule should be established whereby the reports, conclusions and recommendations to the states concerned issued *inter alia* by its Monitoring Committee, as well as its own Resolutions on the honouring of obligations and commitments by Council of Europe member states should be systematically and expressly cited as the first reference source in Europe for democracy, rule of law and human rights;

7.3. encourages its Monitoring Committee to enhance its contacts with the European Parliament, as well as the relevant services of the European Union Commission and the Council of Ministers.

8. Resolution 1115 (1997) clearly underlines the importance "*to ensure full compliance with the undertakings made by all [Council of Europe] member states, in a spirit of co-operation and non-discrimination*" and entrusts the Monitoring Committee with the task of verifying not only the honouring of the specific commitments accepted by member states upon their accession to the Council of Europe but first of all "*the obligations assumed by the member states under the terms of the Council of Europe Statute, the European Convention on Human Rights and all other Council of Europe conventions to which they are parties*".

9. However, despite the clear wording of Resolution 1115 (1997) and subsequent appeals by the Assembly, the Monitoring Committee has so far been unable to carry out its full mandate and to verify the honouring of statutory obligations assumed by all member states since, with the exception of one member state, monitoring procedures have so far been initiated only with respect to member states that have joined the Organisation since 1989. At the same time, it is also true that the mechanism to open new monitoring procedures is complex and carries a certain political weight.

10. Consequently, the Assembly welcomes the Monitoring Committee's initiative to prepare and attach to its annual Progress Reports to the Assembly periodic reports on states which are not currently subjected to a monitoring procedure or involved in a post-monitoring dialogue. Such reports will be based on:

10.1. a country-by-country assessment carried out by other Council of Europe bodies and institutions (the Committee of Ministers, the Commissioner for Human Rights, the Congress of Local and Regional Authorities of Europe, the Group of States against Corruption (GRECO), the Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL), the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), the Advisory Committee on the Framework Convention for the Protection of National Minorities, the Committee of Experts of the European Charter for Regional or Minority Languages, the European Commission against Racism and Intolerance (ECRI) and the European Committee of Social Rights);

10.2. resolutions and recommendations of the Assembly on specific issues in member States that have been examined by rapporteurs from other Committees of the Assembly.

11. The Assembly underlines that, should the situation warrant it, the existence of such periodic reports shall not prevent the initiation of a monitoring procedure with respect to one or more of the states concerned in accordance with paragraph 2 of the Appendix to Resolution 1115 (1997).

12. For this year, the Monitoring Committee has presented such reports on 11 out of the 33 member states currently not involved in a monitoring procedure or a post-monitoring dialogue, which have been chosen on the basis of alphabetical order: Andorra, Austria, Belgium, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France and Germany. A second group of states will be examined as part of the Monitoring Committee's Progress Report for 2007 whereas the first 3-year cycle will be completed with the last group of states being examined in 2008.

13. On the basis of the reports attached to this year's Progress Report of the Monitoring Committee, the Assembly:

13.1. invites the national parliaments of the states concerned to:

13.1.1. use these reports as a basis for a debate on their country's record with regard to the fulfilment of its statutory and other conventional obligations as a member state of the Council of Europe;

13.1.2. promote execution of the judgments of the European Court of Human Rights and compliance with recommendations made by the Commissioner for Human Rights and the other Council of Europe specific monitoring bodies, both by provoking and accelerating necessary legislative initiatives and exercising their role of oversight of government action;

13.2. noting the Interim Resolution adopted by the Committee of Ministers on 5 April 2006 concerning the judgment of the European Court of Human Rights in the case of Čonka against Belgium, encourages the Belgian authorities and, in particular, the Belgian Parliament, to accelerate the legislative reforms required to ensure full execution of the judgment;

13.3. invites the Commissioner for Human Rights to give priority in organising visits and preparing reports on Austria, Belgium and Germany, which his predecessor did not visit.

14. The Assembly, noting that a number of the member states under consideration are not yet subject to certain specific monitoring mechanisms of the Organisation because they have not ratified the relevant conventions or have not joined the relevant bodies, invites the member states to take the necessary steps within three years. It notably urges:

14.1. Andorra to sign and ratify and France to ratify the European Charter of Local Self-Government;

14.2. Andorra, Austria, Belgium, France and Germany to ratify the Civil Law Convention on Corruption;

14.3. Andorra, Austria, France and Germany to also ratify the Criminal Law Convention on Corruption;

14.4. Andorra, Croatia, the Czech Republic, Denmark, France and Germany to sign and ratify and Austria, Belgium, Cyprus and Finland to ratify the 2005 Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism, noting that all of them have ratified the 1990 Convention on the same subject-matter;

14.5. Andorra, Denmark and France to sign and ratify and Austria, Belgium, the Czech Republic, Estonia and Germany to ratify Protocol No 12 to the European Convention of Human Rights;

14.6. France to ratify Protocol No 13 to the European Convention of Human Rights;

14.7. Andorra and Belgium to ratify Protocol No 14 to the European Convention of Human Rights;

14.8. Austria, the Czech Republic, Denmark and Germany to ratify the Revised European Social Charter, noting that all of them have ratified the 1961 European Social Charter;

14.9. Andorra, Estonia and Germany to sign and ratify and Austria, the Czech Republic and Denmark to ratify the Protocol to the European Social Charter on collective complaints;

14.10. Andorra and France to sign and ratify and Belgium to ratify the Framework Convention for the Protection of National Minorities;

14.11. Andorra, Belgium and Estonia to sign and ratify and the Czech Republic and France to ratify the European charter for Regional or Minority Languages;

14.12. Austria to join the specific monitoring bodies of GRECO and MONEYVAL;

14.13. Belgium, Denmark, Finland and Germany to join the MONEYVAL.

# Parliamentary **Assembly** **Assemblée** parlementaire

Parliamentary Assembly  
Assemblée parlementaire



COUNCIL OF EUROPE    CONSEIL DE L'EUROPE

**Doc. 10960 Addendum (Extract)**  
12 June 2006

## **Progress of the Assembly's Monitoring Procedure (May 2005 - June 2006)**

Addendum

Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee)

Rapporteur: Mr György Frunda, Romania, Group of the European People's Party

Periodic reports on the honouring of statutory obligations by Andorra, Austria, Belgium, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France and Germany based on a compilation of conclusions and recommendations issued by Council of Europe monitoring mechanisms as of 30 May 2006

**PERIODIC REPORT ON THE HONOURING OF STATUTORY OBLIGATIONS BY  
DENMARK**

CoE member State since **5 May 1949**

Number of CoE Conventions ratified (as of 30 May 2006): **127 (out of 199)**

Number of CoE Conventions signed (as of 30 May 2006): **16**

**I. PLURALISTIC DEMOCRACY**

**A. *FREE AND FAIR ELECTIONS***

System of government: **constitutional monarchy**

Last general elections: **8 February 2005**

Next general elections: **2009**

**B. *LOCAL AND REGIONAL DEMOCRACY***

Last municipal elections: **November 2005**

Next municipal elections: **November 2009**

**European Charter of Local Self-Government** (see Section III)

Last **Congress of Local and Regional Authorities** monitoring report: May 2005 [CG(12)8 Part II], **Recommendation 164 (2005)** on local and regional democracy in Denmark adopted on 2 June 2005.

Extract of doc. **CG(12)8 Part II:**

**"Conclusions**

In this section, we summarize the consequences of our findings with special regard to the compatibility of the Danish system of local and regional government with the European Charter of Local Self-Government, respecting also the view of Danish central authorities that it might not cover the new regions, unless the Danish government decides otherwise. Our assessment is also partly based on the draft Charter of Regional Self-government which is likely to cover the new regions in the future.

Actually, the present situation is quite a curious one, because, as we referred to it above, the Charter cannot be invoked directly before a Danish court or other law enforcing authority, since it has not been incorporated into the Danish domestic law. Nevertheless, its principles and requirements are met in other way, because the existing Danish laws are in harmony with them.

Denmark has a long democratic tradition including far-reaching local autonomy and decentralisation. The Constitution recognises the role of local authorities in regulating and managing local public affairs freely and independently in accordance with the requirements of the Charter of Local Self-Government. Although the Constitution refers only to the municipal self-governments, the Local Government Act contains rules also for county governments. The effect of the Charter as Denmark has signed and ratified it extends to the counties as well.

The Charter of Local Self-Government defines local self-government as "the right and the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population". Considering the present distribution of local government tasks and functions, it seems to be a well-established view that the subsidiarity principle of the



Charter is followed by balancing it with the requirement of efficiency and economy. As we have seen above, a wide ranging scope of public responsibilities (social, welfare and communal services) is exercised at municipal level, that is close to the citizens, while the boundaries and capacities of the basic level local governments have been, and – see below – will be adjusted to the tenets of economic efficiency and effectiveness, and equal level of public services. The determination of functions of the county self-governments is guided by the regional interest, but they are also regarded as having general competence.

At the same time, while municipalities and counties comply with all the elements of the broad definition of local self-government laid down by the Charter, the status of the new regions as it is designed in the administrative reform raises some doubts. As we have seen above, the new regions really seem to be much less multifunctional regional governments than the existing counties are. Nevertheless, neither the Charter, nor the draft Charter on Regional Self-Government specifies which or what kind of functions should be assigned to the regional level of local governments. The crucial point in this aspect is the assessment of the role of the would-be regions. Whereas the present counties have unambiguously general competence at the regional level, the primary function of the new regional councils will be health care. The rest of their future responsibilities will only be secondary or supplementary tasks and duties. Most of them are not full and exclusive functions as is requested by the Article 4, Section (4) of the Charter.

For the protection of the boundaries of local governments, the Charter says that “[c]hanges in local authority boundaries shall not be made without prior consultation of the local communities concerned, possibly by means of a referendum where this is permitted by statute”. Although the consultation procedure was criticized by a few local councils and citizens groups, primarily because the Minister of the Interior and Health did not follow the wishes of the municipalities concerned when drawing up the new map of municipal governments, according to our assessment, although there is not an authoritative interpretation of the precise meaning of consultation, it does not include the central government accepting the opinions and wishes of those who are consulted.

Another debating point relates to the finance of the new regional councils, since the regions will not have the right to levy taxes. It seems to be in contrast with the Article 9, Section (3) of the Charter which requires that the financial resources of local authorities must derive partly from local taxes prescribing that they must have the power at least to determine the rate of the tax within the limits of statute. The new regions will not have such revenues, which appears to eliminate one of the basic elements of the local self-government.

Noteworthy, as we were informed, the new regions' right to establish consortia with other regions or the municipal governments will be strongly restricted which seems to be in contrast with the Article 10, Section (1) of the Charter according to which “[l]ocal authorities shall be entitled, in exercising their powers, to co-operate and, within the framework of the law, to form consortia with other local authorities in order to carry out tasks of common interest.”

As it was set out above, under the transition period of introducing the new administrative structure, the tenure of the members of the existing municipal and county councils will be prolonged by an extra year. Although it is apparently a technical solution to ensure the smooth transition, during our visits, it was argued by a few, that it is not a democratic measure and is incompatible with the Charter. The relevant provision of the Charter says that the right to local self-government must “be exercised by councils or assemblies composed of members freely elected by secret ballot on the basis of direct, equal, universal suffrage”, whereas the explanatory report adds to it that “the rights of self-government must be exercised by democratically constituted authorities”. In Denmark, the local and county councillors were elected for a fixed period (4 years), therefore after the expiry of their mandate, the standards of the Charter will not prevail. Nevertheless, the representatives of the new municipal and regional councils will be

elected in due time, even if they begin their work only from 1 January, 2007. According to our assessment, the prolongation of the tenure of the present councillors, as an exceptional case, might be accepted regarding the extraordinary situation, its restricted time and the election of the new councils in due time.

Certainly, all the possible objections might be avoided if Denmark does not submit the new regional councils to the effect of the Charter, as it seems to. No doubt, the Article 13 of the Charter recognizes that any member state has the right to exclude certain categories of authorities from the scope of the Charter. Nevertheless, the Congress should encourage Denmark not to do so at a time when the Council of Europe specialised bodies are making efforts to gather and extend the "acquis" of the local governance in Europe, and to respect the principles and norms of the Charter as fundamentals of local and regional democracy. From this point of view, it would be the most desirable, if the new regional governments complied with all the standards of the Charter. However, it is also possible for a member state to make exemptions from a few provisions of the Charter, if it cannot or does not want to comply with them. In the latter case, the Danish government could consider to do so concerning the Article 4, Section (4), Article 9, Section (3), and Article 10, Section (1), in order to ensure that also the new regions be covered by the Charter."

Last report by the **Steering Committee on Local and Regional Democracy (CDLR)**:

**Structure and operation of local and regional democracy: Denmark: Situation in 1997:**

The CDLR comprises representatives of the national ministries responsible for local and regional authorities. This study presents the legal and institutional framework of local and regional authorities in Denmark as well as their operation, including their competencies and financial and human resources.

**II. RULE OF LAW**

**A. VENICE COMMISSION**

No specific opinion concerning Denmark.

**B. FUNCTIONNING OF THE JUDICIARY**

The first report «European Judicial systems 2002» adopted by the European Commission for the Efficiency of Justice (CEPEJ) has been presented to the Committee of Ministers of the Council of Europe on **19 January 2005**.

It is one of the first major achievements of the CEPEJ under the terms of reference given to by the Committee of Ministers. As a result of the replies to the questionnaire sent in by 40 member states, the CEPEJ had been able to carry out the first ever evaluation of European judicial systems on such a large scale. Denmark is one of the countries having replied to the questionnaire.

**C. THE FIGHT AGAINST CORRUPTION AND ORGANISED CRIME**

**Civil law convention on corruption signed on 4 November 1999**

**Criminal law Convention on corruption signed on 27 January 1999, ratified on 2 August 2000,**

**Additional Protocol signed on 15 May 2003, ratified on 16 November 2005**

Extract of: **Second Evaluation Round: evaluation report on Denmark adopted by GRECO at its 22<sup>nd</sup> Plenary Meeting (Strasbourg, 14-18 March 2005)**

"Conclusions:

Denmark has a well-developed system of legislation, law enforcement and judicial authorities to deal with economic crime, including corruption and the confiscation of proceeds of corruption. The Criminal Code and the Administration of Justice Act provide a detailed definition and precise criteria regarding the confiscation of gains from a criminal act. Confiscation of assets from third parties is possible and, under certain conditions, extended confiscation as well. The Public Prosecutor for Serious Economic

Crime is the main body responsible for the investigation of corruption and its proceeds. It is supported by a multidisciplinary team composed of prosecutors and investigators with different professional backgrounds. Auditors permanently employed in the team could complete the range of technical expertise already existing in the staff of the office of the Public Prosecutor for Serious Economic Crime. Further involvement of the tax authorities in detecting corruption offences is indispensable. At all levels of Danish society (public administration, private business, associations, scientific community or the media), the general opinion is that corruption has no chance in Danish society. There is a common conviction that even changes in moral attitudes and the evolution towards a more diversified society with different moral and ethical roots will not be a challenge to traditional Danish values with regard to corruption. The GET hopes that this certainty will not cause a false sense of security, and that people will remain aware of the dangers of corruption. In any case, formulating some more binding rules on the prevention of corruption and on avoiding conflicts of interest will strengthen this stable base.

In view of the above, GRECO addresses the following recommendations to Denmark:

- i. to introduce clear rules/guidelines for situations where civil servants move to the private sector and to consider introducing guidelines with regard to sideline activities / outside employment, in order to avoid conflicts of interest (paragraph 43);
- ii. to adopt the ethical guidelines (Code of Conduct) for public administration which are under preparation as soon as possible (paragraph 45);
- iii. to ensure that civil servants are aware of the possibility to report suspicions of corruption in public administration directly to the competent law enforcement authorities – i.e. even without previously informing their superior -, and to ensure that civil servants who report such suspicions in good faith are adequately protected (paragraph 47);
- iv. to consider the possibility of establishing a register of convicted legal persons that would be used for the same (preventive) purposes as the register of convicted natural persons who have been disqualified by the court as managers or directors of legal persons (paragraph 58);
- v. to establish special training - and/or provide guidelines - for the tax authorities concerning the detection of corruption offences and their reporting to the competent law enforcement agencies (paragraph 61);
- vi. to consider introducing additional sanctions for legal persons (paragraph 63).

Finally, pursuant to Rule 30.2 of the Rules of procedure, GRECO invites the Danish authorities to present a report on the implementation of the above-mentioned recommendations by 30 September 2006."

#### **D. THE FIGHT AGAINST MONEY LAUNDERING**

**Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime of 1990** ratified on 19 November 1996

**Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the financing of terrorism** (revised) neither signed nor ratified

Denmark is not a member of MONEYVAL.

### III. PROTECTION OF HUMAN RIGHTS

#### A. ACTIVITIES OF THE COMMISSIONER FOR HUMAN RIGHTS

First report on Denmark published in July 2004 following a visit to the country in April 2004.

Extract of Report by Mr Alvaro Gil-Robles, Commissioner for Human Rights on his visit to Denmark, 13-16 April 2004, for the attention of the Committee of Ministers and the Parliamentary Assembly:

##### "Recommendations

Denmark has a long-standing and justified reputation as a country guaranteeing a high level of respect for human rights. The importance the Danish authorities attach to human rights is evidenced by the detail in which international obligations are examined in the preparation of new legislation, and the seriousness with which errors of practice are typically addressed. Indeed the respect for human rights requires constant vigilance both in respect of new challenges and to ensure that high standards are not weakened. It is against this background that the following recommendations are made, in conformity with article 8 of Resolution (99)50:

1. Reconsider some of the provisions of the 2002 Aliens Act relating to family reunion, in particular
  - the minimum age requirement of 24 years for both spouses for family reunion and the 28 year citizenship requirement for the exemption from the condition of both spouses aggregate ties to Denmark;
  - such economic conditions as the 50,000 DKK deposit and permanent employment for the granting and retention of residence permits for spouses, as may violate equality before the law;
  - the maximum age limit of 14 for the family reunion of children, in favour of a limit of 17, in accordance with the principles of the UN Convention on the Rights of the Child
2. Ensure that the rights of refugees to family union are clearly stated in the law
3. Ensure the possibility of appealing negative asylum decisions before a qualified and independent authority. As a minimum, the original composition of the Refugee Board should be restored.
4. Grant a more prominent role and greater resources to the Council of Ethnic Minorities.
5. Ensure equal access to quality education, countering the *de facto* and *de jure* segregation of ethnic minority and Roma children.
6. Strengthen efforts to promote an inclusive society and combat discrimination and intolerance.
7. Provide the necessary infrastructure and resources for the detention of serious criminals in need of psychological treatment in Greenland.
8. Strengthen the independence and role of the Police Complaints Board
9. Adopt legislation imposing tighter controls on the use of restraining measures in the treatment of psychiatric patients; introduce alternatives to the use of long-term immobilisation.
10. Adopt a more flexible to the granting residence permits to foreign women ceasing to co-habit with violent partners.

11. Increase the access of victims of human trafficking to residence permits, particularly for witnesses testifying in criminal cases."

**B. EUROPEAN CONVENTION ON HUMAN RIGHTS**

**ECHR ratified on 13 April 1953**

**No reservation, no declaration**

Protocol No. 6 ratified on **1 December 1983**

Protocol No. 12 **neither signed nor ratified**

Protocol No. 13 ratified on **28 November 2002**

Protocol No. 14 ratified on **10 November 2004**

Number of judgments delivered against Denmark in 2005: **3** (out of a total of 1105).

Resolutions adopted by the Committee of Ministers in 2005: **0**

Resolutions adopted by the Committee of Ministers in 2006 (as of 10 April 2006): **0**

**C. EUROPEAN CONVENTION FOR THE PREVENTION OF TORTURE AND INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (CPT)**

**Convention ratified on 2 May 1989, additional protocols 1 and 2 ratified on 26 April 1994**

Last country visit: **January/February 2002**

Publication of the last report: **September 2002**

Press release of 25 September 2002:

"The Danish government has requested the publication of the report of the Council of Europe's Committee for the Prevention of Torture (CPT) on its visit to Denmark in January/February 2002. The visit was carried out within the framework of the CPT's programme of periodic visits for 2002; it was the Committee's third visit to Denmark. The CPT visited a number of police stations, prisons and psychiatric establishments inter alia in Copenhagen, Horsens and Nykøbing Sjælland, as well as the Sandholm Foreigners Detention Centre. The Committee paid particular attention to the use of solitary confinement of remand prisoners by court order, measures taken to address inter-prisoner violence and intimidation and the conditions of detention of aliens deprived of their liberty. The CPT also examined, for the first time in Denmark, conditions and treatment in psychiatric institutions.

The Danish government is currently preparing its response to the issues raised by the Committee."

**Next country visit in:** unknown

**D. EUROPEAN CHARTER OF LOCAL SELF-GOVERNMENT**

**European Charter of Local Self-Government ratified on 3 February 1988**

**E. FRAMEWORK CONVENTION FOR THE PROTECTION OF NATIONAL MINORITIES**

**Convention signed on 1 February 1995, ratified on 22 September 1997, entered into force on 1 February 1998**

Last opinion by the Advisory Committee adopted in **December 2004** [ACFC/INF/OP/II(2004)005]:

"Summary:

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

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

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

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

**Last CM resolution** on the implementation of the Framework Convention: **ResCMN(2005)9**

**Next State report foreseen:** date unknown

#### **F. EUROPEAN CHARTER FOR REGIONAL OR MINORITY LANGUAGES**

**Convention signed on 5 November 1992 and ratified on 8 September 2000**

Last State report submitted on **3 December 2002**

Last Committee of Experts' evaluation report adopted on **21 November 2003**

Last Committee of Ministers' Recommendation adopted on **19 May 2004**

Last biennial report of the Secretary General to the Parliamentary Assembly: **3 September 2005**

#### **G. EUROPEAN COMMISSION AGAINST RACISM AND INTOLERANCE (ECRI)**

**Last report by ECRI:** the Second report on Denmark was adopted on 16 December 2005 and made public on **16 May 2006**

Extract of doc. **CRI(2006)18:**

"Executive summary:

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

However, a number of recommendations made in ECRI's second report have not been implemented, or have only been partially implemented. The Nationality Act, the Integration Act and the Aliens' Act have been further modified in a manner which

disproportionately restricts the ability of members of minority groups to acquire Danish citizenship, to benefit from spousal and family reunification and to have access to social protection on par with the rest of society. The general climate has continued to deteriorate in Denmark, with some politicians and parts of the media constantly projecting a negative image of minority groups in general and Muslims in particular. In this regard, the relevant law on incitement to racial hatred is seldom applied to those who make statements against these groups, thus creating a sense of impunity that contributes to a further worsening of the public climate. There is still no clear and coherent policy for ensuring that minority groups have equal access to employment, housing and education. The Danish Government has also reduced or withdrawn funding from many NGOs, thus making it more difficult for minority groups to have issues of particular concern to them being addressed and brought to the public forum.

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

#### **H. SOCIAL RIGHTS**

**European Social Charter of 1961** signed on **18 October 1961**, ratified on **3 March 1965**, entered into force on **2 April 1965**

**European social Charter** (revised) signed on **3 May 1996**, but not ratified

**Additional Protocol to the European Social Charter Providing for a System of Collective Complaints** signed on **9 November 1995**, but not ratified

**No collective complaint against Denmark.**

Every year the states parties submit a report indicating how they implement the Charter in law and in practice. Each report concerns some of the accepted provisions of the Charter: in odd years the report concerns the «hard core» provisions (Articles 1, 5, 6, 7, 12, 13, 16, 19 and 20; States must have accepted at least 6 of these 9 Articles); in even years half of the other provisions.

**25<sup>th</sup> report on the implementation of the European Social Charter submitted by the Government of Denmark (for the period from 1 January 2003 to 31 December 2004: Articles 1, 5, 6, 12 13, 16) on July 2005.**

#### **I. PARLIAMENTARY ASSEMBLY**

No specific recent text concerning Denmark.

