



**International Convention on  
the Elimination  
of All Forms of  
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION  
OF RACIAL DISCRIMINATION

**REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9  
OF THE CONVENTION**

**Eighteenth and nineteenth periodic reports of States parties due in 2009\***

**DENMARK\*\***

[7 July 2009]

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\* This document contains the eighteenth and nineteenth periodic reports of Denmark, due on 8 January 2009, submitted in one document. For the sixteenth and seventeenth periodic reports and the summary records of the meetings at which the Committee considered the report, see document CERD/C/496/Add.1, CERD/C/SR.1772,1773 and 1785.

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## I. GENERAL OBSERVATIONS

1. The present report is the combined eighteenth and nineteenth periodic report submitted by the Government of Denmark in pursuance of article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination. The report deals, inter alia, with changes in national legislation and legal practices relating to material developments since the submission of the combined sixteenth and seventeenth periodic report (CERD/C/496/Add.1) submitted on 15 June 2005. Reference is also made to the concluding observations of the Committee on the Elimination of Racial Discrimination on that report (CERD/C/DEN/CO/17). Reference is further made to the information provided by the Government of Denmark on the consideration of the concluding observations of the Committee (CERD/C/DEN/CO/17/Add.1) submitted on 24 August 2007.
2. The present report covers the period June 2005-June 2009. To the extent that no changes have occurred in legislation and legal practice since Denmark's latest reporting to the Committee, reference is made to the seventeenth report.
3. The present report is compiled by the Ministry of Foreign Affairs on the basis of contributions from the relevant ministries and agencies of the Government of Denmark and the Home Rule Governments of Greenland and the Faeroe Islands.
4. Specific reports on the situations in Greenland and the Faeroe Islands are set out in annexes 1 and 2 respectively.

## II. INFORMATION RELATING TO ARTICLES 2 TO 7 AND ARTICLE 14 OF THE CONVENTION

### Article 2, paragraph 1 (c)

#### General measures to eliminate racial discrimination

5. Since Denmark's seventeenth periodic report (CERD/C/496/Add.1), the Government has promoted a wide range of initiatives intended to contribute to the elimination of racial discrimination and improve integration. Some of the more general initiatives are mentioned below.

#### Measures to improve integration

6. Reference is made to the extensive information given on this subject in paragraphs 8-16 of Denmark's seventeenth periodic report. The efforts mentioned in the present report continue and improvement of integration of immigrants and refugees is still a core element in the policy of the Government.

#### Measures to improve employment opportunities

7. Reference is made to the extensive information given on this subject in paragraphs 17-46 of the seventeenth periodic report. These efforts continue, and promoting labour market participation of immigrants and refugees continues to constitute one of the basic principles and objectives of Danish integration policy. Further information is provided in this report in the section dealing with article 5.

8. From 2004 to 2008, the employment rate among immigrants and descendants from non-Western countries has risen by 26,000. Thus the Government's goal of getting 25,000 more people into employment before 2010 has been reached before time.

### **The Action Plan to Promote Equal Treatment and Diversity and Combat Racism**

9. As mentioned in paragraph 184 of the seventeenth periodic report, the Government published an "Action Plan to Promote Equal Treatment and Diversity and Combat Racism" in November 2003. The Action Plan was enclosed in the seventeenth periodic report as annex 1.

10. The Action Plan is being revised at the moment, and a new Action Plan is expected to be launched by the end of 2009. The new Action Plan will entail a multi-faceted effort which will include both ongoing and new initiatives on combating discrimination on the basis of race or ethnicity, promoting diversity and equal opportunities, and maintaining Denmark as an open and diverse society.

### **Special funding of initiatives**

11. Furthermore, the Government carries out and supports a wide range of initiatives for the promotion of tolerance and diversity and the combat of racism and discrimination. In March 2006, the Minister of Refugee, Immigration and Integration Affairs allocated around DKK ten million (approx. €1.35 million) for initiatives concerning dialogue and diversity for the period 2006-2008. This allowed for initiatives with the aim of facilitating increased dialogue and understanding among ethnic and religious groups, create awareness on diversity within common boundaries, support common basic values on democracy and citizenship and counter prejudice and misconceptions between different groups. One of the projects under this initiative was a national constitutional speech contest. Clearly emphasizing democratic values as a corner stone of society serves not only as a solid and sustainable framework for tolerance and diversity but is also found necessary in order to ensure cohesion and positive coexistence.

12. An additional DKK ten million (approx. €1.35 million) have been allocated in 2007-2010 to support local activities and projects to promote equal treatment and combat discrimination. Financial support from this grant is given to projects promoting non discriminatory opinion shaping, education programmes on equal treatment and anti-discrimination etc.

13. In 2008, the Minister of Refugee, Immigration and Integration Affairs allocated DKK eight million (approx. €1.05 million) in the period 2008-2011 to strengthen social and language competences, parental responsibility among the socially weakest of the non-ethnic Danes, and to enhance the development of the organizational skills among newcomers and non-ethnic Danes.

### **European Year of Equal Opportunities for All 2007**

14. As part of the European Year of Equal Opportunities for All 2007, the Government implemented a wide range of initiatives promoting diversity and reinforcing the fight against discrimination. Some initiatives continued already ongoing work, while other initiatives were new. The aim was to produce various materials for use in a range of educational institutions and to design activities for young people that would make them think about equal opportunities and

equal treatment for all. Among many other things, special activities targeted at Denmark's school pupils as "diversity ambassadors" were launched. The "diversity ambassadors" were given an "ambassador kit" containing six cards with questions about diversity and equal opportunities. The "ambassadors" should then ask the questions to friends and family. Material was prepared for teaching and feature weeks and speeches were held in schools throughout the country.

### **Democratic platform for young Danes with immigrant background**

15. According to the Government Platform 2007 "Society of Opportunities", a democratic platform will be established in 2009 for young persons with different cultural backgrounds, who are involved in associations or networks that are engaged in democracy, civic citizenship or intercultural activities in order to target activities towards the group of young people feeling excluded from the democratic community. Furthermore, an internet forum for young people on democracy and radicalisation will be set up. The implementation of these initiatives shall contribute to encourage political awareness among all young people with different cultural backgrounds, in Denmark as a society based on liberty, broad-mindedness and democracy.

### **Division for democratic cohesion and prevention of radicalization**

16. On 1 April 2008 a Division for democratic cohesion and prevention of radicalization was established within the Ministry of Refugee, Immigration and Integration Affairs. The Division aims at gathering theoretical as well as practical knowledge on civic citizenship and prevention of extremist views in order to share this knowledge with local communities as well as with other ministries and relevant actors.

17. The Division plays a central role in coordinating the implementation of the initiatives in the Government Action Plan for the prevention of radicalisation and extremist views among young people which was presented in January 2009. This Action Plan contains 22 initiatives framed within seven focus areas: Direct contact with young people, Inclusion based on rights and obligations, Dialogue and information, Democratic cohesion, Efforts in vulnerable residential areas, Special initiatives in prisons and Knowledge, Cooperation and partnerships.

### **Effective and flexible Danish courses aimed at employment - language training**

18. With reference to paragraphs 35-40 of the seventeenth periodic report, it should be mentioned that in January 2008 the Ministry of Refugee, Immigration and Integration Affairs published an evaluation on the Danish courses provided to newcomers, showing that foreigners coming to Denmark learn Danish faster than earlier. This is partly because the foreigners coming to Denmark are better educated than earlier and partly because the language training centres are providing better Danish courses.

19. In September 2008 the Ministry of Refugee, Immigration and Integration Affairs published a benchmarking report on the efficiency of the Danish courses and the Danish language training centres. These reports show that the efficiency of foreigners learning Danish has risen since the new law on Danish Education was implemented in 2004.

20. The Ministry is undertaking continuous benchmarking and evaluations on the effects of the integration efforts in the municipalities. The last report showing the activity was published March 2009.

### **New initiatives to enhance education for all**

21. The Government has developed a strategy - "Progress, Innovation and Cohesion" - for pursuing the benefits of globalisation and coping with its challenges. The strategy comprises 350 proposals, of which 187 is in the area of education. The strategy is complemented by the Government's welfare reform proposals, which focus on getting young people to complete their studies and on improving the integration of immigrants. Inclusion is the keyword for these initiatives and they promote possibilities of full and equal enjoyment of human rights and fundamental freedoms.

22. As a Government target for 2015, 95 per cent of all young people should complete a programme of postsecondary education. In 2008, DKK ten million was allocated to special schemes for children and young people. The intention is for more young non-ethnic Danes to complete an educational programme that gives them the vocational qualifications needed to find permanent employment.

23. Following up on this globalisation strategy and the welfare agreement of 2006, several changes to the Vocational Training Act were implemented and adopted in June 2007. The changes were intended to streamline and simplify the overall system of vocational youth training programmes. Current legislation combines vocational education and training programmes, the basic social and health-care training programmes, and agricultural training programmes in a single act, which allows for simple, dynamic, target-oriented framework management.

### **Article 2 (c)**

**Effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations, which have the effect of creating or perpetuating racial discrimination wherever it exists**

### **Incorporation into Danish law**

24. In paragraph 10 of its concluding observations, the Committee recommended that the Government reconsider its decision not to incorporate the Convention on the Elimination of All Forms of Racial Discrimination in the domestic legal order. The Government attaches great importance to the Convention and emphasizes that the question of incorporation of the Convention into domestic law is not a question of complying or not complying with the Convention, but rather a question of the choice of methods to ensure its implementation.

25. As it appears from paragraphs 47-54 of the sixteenth and seventeenth report, the decision of the Government not to incorporate the Convention into Danish law was not related to legal obstacles. On the contrary, given the fact that the Convention - as well as other conventions that have not been incorporated - is a relevant source of law and is applied by the courts and other law applying public authorities, the Government does not consider it legally necessary to incorporate the Convention. Since it is not considered legally necessary, the Government does not find it politically desirable either.

26. In this connection the Government would like to reiterate that the human rights conventions which Denmark has ratified are all relevant sources of law regardless of the method

of implementation. Conventions that have not been explicitly implemented by specific acts of law 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, which is also clear from printed case law.

### **Asylum and refugee regulations**

27. As mentioned in the seventeenth periodic report, Act No. 365 of 6 June 2002 amended the Aliens Act, the Marriage Act and other Acts so that the possibility of obtaining de facto refugee status was replaced with the possibility of obtaining subsidiary protection status under sections 7 (2) of the Aliens Act. In accordance with the new section 7 (2), a residence permit will be issued to an alien if the alien risks the death penalty or being subjected to torture or other cruel, inhuman or degrading treatment or punishment in case of return to his or her country of origin.

28. The wording of section 7 (2) is close to the wording of article 3 of the European Convention on Human Rights, from which it appears, inter alia, that no person may be subjected to torture or exposed to inhuman treatment or punishment. The Sixth and Thirteenth Additional Protocols to the European Convention on Human Rights also comprise a prohibition against the imposition of the death penalty and execution in peacetime.

29. It appears from the explanatory notes to section 7 (2) that it is presupposed that the immigration authorities will comply with the case law of the European Court of Human Rights in the field when applying the provision.

30. It furthermore appears from the explanatory notes to section 7 (2) that Denmark in addition to the provisions of the European Convention on Human Rights has an obligation to respect a number of other conventions of relevance to the provision, e.g. the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Covenant on Civil and Political rights and the Convention on the Rights of the Child.

31. The Danish Immigration Service and the Refugee Appeals Board will generally consider the conditions for issuing a residence permit under section 7 (2) to be fulfilled when there are specific and individual factors rendering it probable that the applicant will be exposed to a real risk of the death penalty or of being subjected to torture or other inhuman or degrading treatment or punishment in case of return to his or her country of origin.

### **Article 2, paragraph 2**

#### **Special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms**

32. In paragraph 12 of its concluding observations concerning Denmark's seventeenth periodic report, the Committee requested information regarding the Roma population in Denmark, including the reasons why the Roma do not have status of national minority.

33. There is no information in the Central Population Register, which could be used for determining the number and identity of Roma in Denmark. According to the information available to the Government, the Roma who live in Denmark today may be divided into two main groups: one group that came to Denmark in the end of the 1960s; the other groups that came to the country from the mid 1990s onwards fleeing the wars in the former Yugoslavia. All Roma who took up residence in Denmark prior to the 1960s have, according to the information available to the Government, been completely integrated and do not emerge as an identifiable group.

34. Neither the Framework Convention for the Protection of National Minorities nor other International legal instruments in the field of minorities contain precise guidance for States when they determine the notion of minorities. Furthermore, paragraph 43 of the Explanatory Report of the Framework Convention states that not all ethnic, cultural, linguistic or religious differences necessarily lead to the creation of national minorities.

35. According to the information available to the Danish Government, the Roma living in Denmark today have no historical or long-term and unbroken association with Denmark, but consist partly of immigrants and partly of refugees. Thus, in the opinion of the Danish Government, the Roma do not constitute a national minority in Denmark.

### Article 3

#### Prohibition against racial segregation

36. Reference is made to paragraph 63 the sixteenth and seventeenth periodic report with regard to the Act on Prohibition of Discrimination on the Labour Market. Since the last report, the following cases have been before the Danish Courts.

- *The Maritime and Commercial Court, 12 April 2007*. The case concerned a Dutch employee, who was dismissed from his job, when the section where he worked was closed down. The company chose to keep one employee with management experience and one who spoke Danish fluently. The Dutch employee claimed that he had been exposed to direct or indirect discrimination on grounds of national origin, as he did not speak fluently Danish. The Maritime and Commercial Court found that he had not been exposed to direct discrimination, as the notice of resignation did not contain a specific reference to his national origin. Concerning the requirement for employees to speak Danish fluently, the Court found that such requirement affects all employees, who do not speak Danish as mother tongue, and that such requirement therefore constitutes indirect discrimination. However, the Court found that in the specific case, where the work concerned establishing contacts to potential clients by phone, such a requirement could be justified. The Court hereafter concluded that it must be for the employer to decide whether the level of spoken Danish was sufficient. The company was thus acquitted. The decision was appealed to the Supreme Court. At the time of the reporting, a final decision was not made.
- *The Maritime and Commercial Court, 28 January 2008*. The Case concerned discrimination of a Muslim woman wearing a headscarf. An employee at a supermarket was suspended from her job for calling a Muslim colleague a *hættemåge* (black-headed gull), which referred to the headscarf of the colleague. The Maritime and Commercial

Court found that the usage of the word *hættmåge* in the concrete case, where it was aimed at a person wearing headscarf due to religious or cultural reasons, was to be considered slighting and degrading. However, the Court found that the expression must be considered differently depending on the context and tone used. In the actual case, there had been no previous incidents of criticism of the tone and behaviour of the employee in question, and, in addition to this, the employee was not given the opportunity to explain the remark before the suspension. Based on the statement of the employee, the Court found that the remark of the employee must be considered stupid and thoughtless rather than harassing. The Court thus found, that the decision to suspend her was not well-founded. The decision was not appealed.

- *Eastern High Court, 14 January 2008*. The case concerned a Muslim substitute, who was denied employment on a permanent basis due to her religion. The Muslim woman had worked a few times as a substitute at a boarding school for maladjusted children. Part of the job consisted in attending shared meals. On a shift the woman had to join the children having their meal, but because of the Ramadan she had to fast and could therefore not eat at the table. After that shift the woman was told, that she could not get a permanent substitute job at the boarding school. The Eastern High Court found that a contributory factor to the decision of the boarding school not to hire the woman was the fact that she did not eat during the children's meal. The Eastern High Court sentenced the employer a fine for infringement of the discrimination act (indirect discrimination).

37. In January 2006 the Ministry of Employment published a guide on the Act on Prohibition of Discrimination on the Labour Market. The guide is an update of an earlier guide from 2000. The purpose of the guide is to give organizations, employers, employees and others a tool to understand how the rules should be used and understood. The guide can be used as an encyclopaedia and includes examples of how the law should be understood.

#### **Article 4**

##### **Prohibition against promotion or incitement to racial hatred and discrimination**

##### **Efforts to prevent racially motivated offences and hate speech**

38. In paragraph 11 of its concluding observations concerning Denmark's seventeenth periodic report, the Committee recommended that Denmark increase its efforts to prevent racially motivated offences and hate speech, and to ensure that relevant criminal law provisions are effectively implemented.

39. Reference is made to paragraphs 64-70 of the seventeenth periodic report which provide general information concerning the relevant sections of the Criminal Code (*Straffeloven*). Reference is also made to information given in the follow-up report of 24 August 2007.

40. The Government shares the Committee's view on the importance of a constant prevention of racially motivated offences and hate speech. In January 2009, the Danish Government presented its action plan "A Common and Safe Future - an action plan to prevent extremist views and radicalisation among young people". In this connection hate crimes such as acts of racism are considered part of the phenomenon of extremism. Some of the initiatives in the action plan focus on anti-discrimination efforts.

41. Likewise, some victims of hate crime may possibly be motivated for radicalization. Hence, the prevention of hate crimes is part of the broad based prevention measures of the plan, some of which are dialogue initiatives, role models, campaigns, civic and democratic training and promotion of diversity in associations.

42. The Danish police and prosecution service has ongoing focus on the effort to prevent and prosecute hate crimes, including racist acts committed by politicians.

43. In 2006 new guidelines were issued by the Director of Public Prosecutions concerning inter alia violations of Section 266 B of the Criminal Code (Instruction No. 9/2006 replacing Instruction No. 4/1995).

44. All cases in which preliminary charges have been raised for violation of Section 266 B of the Criminal Code still have to be submitted to the Director of Public Prosecutions for determination of the final charges. In addition, the Director of Public Prosecutions has to be notified of reports to the police of violation of Section 266 B of the Criminal Code in the cases where, at the recommendation of a Commissioner of Police, the Public Prosecutor refuses to commence investigations or stops investigations that have been commenced. Thus, in such cases a scheme has been established to make it possible to ensure a uniform charging practice nationally and supervise the processing of cases. This contributes to an effective implementation of the provision.

45. In addition, the Security and Intelligence Service receives reports from the police districts about criminal offences and incidents that may be believed to have a racist background and are directed at foreign nationals as well as offences with a possible racist/religious background. The purpose of this procedure is to enable the Security and Intelligence Service to assess if any signs may be detected of the commitment of more organized and systematic criminal activity rooted in racism and xenophobia.

46. For cases involving violation of Section 266 B of the Danish Criminal Code, a scheme has been established by which the final rulings of the courts are accessible at the website of the Director of Public Prosecutions ([www.rigsadvokaten.dk](http://www.rigsadvokaten.dk)) in an anonymous form. This register helps increase the awareness of the field of application of Section 266 B. The register, which is updated on an ongoing basis, includes information concerning 52 rulings, including acquittals, ticket fines and cases, where all charges are dismissed, concerned with violation of Section 266 B of the Criminal Code in the period from 2000 to the latest update on 23 October 2008. The majority of these rulings are concerned with statements etc. aimed at persons of a certain ethnic background or aimed at people on the basis of the colour of their skin.

47. Concerning cases in which preliminary charges have been raised for violation of Section 266 B of the Criminal Code and therefore have to be submitted to the Director of Public Prosecutions for determination of the final charges, following statistics can be mentioned:

48. Table 1 includes cases in which charge has been raised for violation of Section 266 B of the Criminal Code.

**Table 1**

Year	Number of cases, in which charge has been raised	Number of charged persons	Number of cases, in which the result was conviction	Number of cases settled with a ticket fine	Number of cases, in which the result was acquittal
2004	3*	4	1		1
2005	3	3	3		
2006	6	6	5	1	
2007	8**	9	4	1	1
2008	4***	4		2	
Total	24	26	13	4	2

\* One case resulted in dismissal of all charges.

\*\* One case resulted in dismissal of all charges.

\*\*\* Two cases have not yet resulted in a final decision.

49. Table 2 concerns cases submitted to the Director of Public Prosecutions in which at the recommendation of a Commissioner of Police, the Public Prosecutor has refused to commence investigations or stopped investigations that have been commenced. In addition table 2 includes cases, in which the Director of Public Prosecution has withdrawn the charge.

**Table 2**

Year	Number of cases, in which it has been refused to commence investigations	Number of cases, in which investigations, that has been commenced, are stopped	Number of cases resulted in withdrawal of the charge
2004	12	5	4
2005	15	8	3
2006	11	10	6
2007	6	4	10
2008	1	3	1
Total	45	30	24

50. At the request of the Ministry of Justice, the Director of Public Prosecutions has set up a separate reporting scheme based on judgements in 2007, where Section 81, No. 6, of the Danish Criminal Code has been applied. According to Section 81, No. 6, the courts should, when determining the penalty consider it an aggravating circumstance, generally, if the act is motivated by the ethnic origin, religion, sexual inclination, etc., of others. Reference is made to the extensive explanation given in paragraphs 64-66 of the seventeenth periodic report.

51. Based on the reporting scheme the Director of Public Prosecutions has published a report in April 2008 on judgements in 2007, where the content of Section 81, No. 6, has been applied explicitly as a circumstance that has had influence on the sentence or there is an assumption that the provision nevertheless has had influence on the sentencing.

52. The Director of Public Prosecutions received ten cases applying Section 81, No. 6, of the Criminal Code. In eight of the cases the court ruled that the crime was committed - wholly or partly - on the basis of the victim's race, colour, national or ethnic origin, religion or sexual inclination. In two of the cases the court rejected that the crime was committed on the basis of the victim's ethnic origin or sexual inclination.

53. The majority of these rulings are concerned with violence. One case concerned offensive remarks aimed at a police officer with an ethnic origin other than Danish.

54. In the report it is stated that it is the opinion of the Director of Public Prosecutions, that the relatively few judgements concerning Section 81, No. 6, does not show the real amount of incidents where the crime is motivated by the ethnic origin, religious belief, sexual inclination, etc., of others. In some cases there might be a suspicion that a reported crime is racially motivated, but due to a lack of proof of the motive this is not tried further in the criminal proceedings. Furthermore, in a number of cases the offender is not identified, and in such cases it will therefore not be clarified whether the crime is racially motivated.

55. As of 1 January 2008 the yearly crime victim survey (conducted by the Research Division in the Ministry of Justice in cooperation with the University of Copenhagen) on the risk of becoming a victim of certain crimes in Denmark, inter alia, violence, includes whether such an incident is seen as racially motivated. The survey from 2008 shows that 6 per cent of the victims of violence were quite sure that racism caused the offence while another 4 per cent thought that might have been the case. As for victims of robbery, 4 per cent claimed that the motive for the robbery was racism and 5 per cent found that likely. There is a tendency for victims of violence caused by racism more often to report the incidence to the police (54 per cent report compared to 40 per cent of all victims of violence). The difference is, however, not statistical significant.

56. Concerning the Act on Prohibition against Discrimination on the basis of Race, reference is made to paragraphs 160-162 of the combined sixteenth and seventeenth report.

57. In compliance with the scheme concerning violation of Section 266 B of the Criminal Code mentioned above, cases concerning violation of the Act on the Prohibition of Discrimination based on Race also have to be submitted to the Director of Public Prosecutions according to Instruction No. 9/2006.

58. The report from April 2008 as mentioned above also includes cases concerning violations in 2007 of the Act on the Prohibition of Discrimination based on Race. The report shows that the Director of Public Prosecutions had received six cases concerning violation of the Act on the

Prohibition of Discrimination based on Race. One case, in which case a shopkeeper refused to serve a male transvestite on equal terms with other customers regarding the retail price, was settled with a fine. In three cases preliminary investigations were stopped due to a lack of proof of discrimination. Two cases were not finally decided at the time of the Director of Public Prosecutions' submission of his report.

## **Article 5**

### **Guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law**

#### **The independent and court like composition of the Refugee Appeals Board**

59. With regards to paragraph 13 of the concluding observations to Denmark's seventeenth report, Denmark provided a follow-up report in August 2007 (CERD/C/DEN/CO/17/Add.1). Following this, the Committee requested the State party to supply up-to-date statistics of the decisions of the Refugee Appeals Board. Noting that procedural matters may be brought before ordinary courts, the Committee also asked for specific information on the types of issues that may be brought before the ordinary courts, on the number of cases which have been brought before the ordinary courts and on their outcome.

60. Pursuant to section 56 (8) of the Aliens Act, a decision of the Board is final, which implies that Board decisions are not subject to judicial review. This has been established by the Supreme Court in several cases. The judgments in these cases have concluded that the Board is an expert board of a quasi-judicial nature and that deliberations of the courts are limited to points of law.

61. In 2008, four cases concerning the application of section 56 (8) of the Aliens Act have been brought before the Supreme Court. In all four cases, the Supreme Court found that the cases could not be subject to judicial review.

#### **Statistics of the Decisions of the Refugee Appeals Board**

62. In 2008, The Refugee Appeals Board assessed 389 cases. In 79 cases the applicants were granted refugee status under the 1951 Convention relating to the Status of Refugees and in 43 cases the applicants were granted subsidiary protection. 246 of the cases were dismissed.

63. In 21 cases the Refugee Appeals Board did not make a decision due to the applicants' withdrawal of their application or the fact that the cases had been referred back to the first instance (Immigration Service) for a review of their case.

64. In the first quarter of 2009, the Refugee Appeals Board assessed 102 cases. In 12 cases the applicants were granted refugee status under the 1951 Refugee Convention and in 14 cases the applicants were granted subsidiary protection. 65 of the cases were dismissed. In 11 cases the Refugee Appeals Board did not make a decision due to the applicants' withdrawal of their application or the fact that the cases had been referred back to the first instance (Immigration Service) for a review of their case.

**Article 5 (b)**

**The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution**

**Victims of domestic violence**

65. In paragraph 14 of its concluding observations concerning Denmark's seventeenth periodic report, the Committee recommended that Denmark take into consideration the specific vulnerability of foreign women who are victims of domestic violence, and take all appropriate steps to remove deterrents to their seeking assistance or taking steps to seek separation or divorce.

66. The Government shares the Committee's view on the importance of a constant consideration to the specific vulnerability of foreign women victims of domestic violence.

67. The Danish immigration authorities can revoke or refuse to extend a time-limited residence permit if the basis for the permit is no longer valid. This may be the case if a foreign national has received a residence permit on the grounds of marriage, and the spouses no longer live together.

68. In decisions on revocation of residence permits and refusal of extension of residence permits it is taken into consideration whether the revocation or refusal must be assumed to be particularly burdensome owing to the alien's personal circumstances and whether the applicant will suffer injury or harm in his or her country of origin. In such decisions regarding residence permits issued on the basis of spousal reunification it is taken into account whether the basis of residence is no longer present because of cessation of cohabitation due to the fact that the alien concerned has been exposed to outrages, abuse or other ill-treatment, etc., in Denmark. The Danish immigration authorities follow this area very closely and pay ongoing attention to any need of adjustment.

69. Since 2002 the practise in relation to the above-mentioned has been as follows: The alien must substantiate the invoked abuse. The assessment of whether the abuse is substantiated is based on a specific, individual assessment and weighing of the information given by parties of the case and the possible provided documentation. All kind of documentation can be put forward and enter into the assessment, for instance reports from the police, emergency rooms, statements from doctors, statements from women's safe houses, court judgements regarding the abuse, etc.

70. In cases where the immigration authorities find the invoked abuse substantiated, the authorities make an assessment of whether the abuse has caused the cessation of cohabitation. The Danish immigration authorities will in cases where the abuse is substantiated and is assessed to be the real cause of the cessation of cohabitation, make the decision whether revocation or refusal must be assumed to be particularly burdensome owing to the alien's personal circumstances and whether the applicant will suffer injury or harm in his or her country of origin. This decision is made on the basis of a specific, individual assessment and weighing of the circumstances in each case.

71. According to administrative practice foreigners who due to abuse, cf. above, leave their spouses before receiving a permanent residence permit are - depending on their connection to Denmark - in general allowed to stay in Denmark, already after approximately two years residence in the country.

#### **Article 5 (d) (i)**

##### **The right to freedom of movement and residence within the border of the State**

72. Reference is made to paragraphs 88-110 of the seventeenth periodic report.

##### **Duration of stays in the asylum centres**

73. In paragraph 13 of its concluding observations concerning the seventeenth periodic report, the Committee recommended that Denmark review its policy in relation to centres for asylum-seekers so as to ensure that their rights under the Convention are fully respected.

74. The Government shares the Committee's view on the importance of a constant review of the effects of its policies, and refers to the thorough information to this recommendation in sections 23-29 of the follow-up report.

75. As a supplement to the follow-up report, the Government wishes to stress that the average asylum case is decided by the authorities well within a year. If the asylum-seeker meets the terms for being recognized as a refugee he or she is granted a residence permit and relocated in a local municipality. If the application for asylum is rejected the asylum-seeker is obliged to depart from Denmark within a specific date set by the authorities. If the rejected asylum-seeker does not comply with this date of departure and refuses to leave the country he or she is in principle residing illegally in Denmark.

76. The Government finds that rejected asylum-seekers are obliged to leave Denmark, and thus to reside in an asylum centre until departure can be carried out. This policy is crucial for the credibility of the Danish asylum system. In other words the persons, who in some cases live in the centres for a number of years, are not asylum-seekers in general but only rejected asylum-seekers.

77. Furthermore, the Government would like to emphasize that rejected asylum-seeker families with children who have resided in Denmark for more than three years after the final rejection of their application for asylum, and who originate from a country to which forcible deportation is not possible, are given an opportunity to live in special accommodations outside the asylum centres. (Please refer also to the mentioning below on a Government agreement of 16 January 2008.)

78. Regarding transfers between centres, it should be mentioned, that the Danish Red Cross, which operates all Danish asylum centres but one, recently estimated that asylum-seekers currently are transferred between centres three times on average. For further information on the reasons for transfers between centres in Denmark, see sections 30-31 of the follow-up report.

### **Provision on non-refoulement of the Danish Aliens Act**

79. By letter of 7 March 2008, the Committee made some observations concerning the information provided by the Government on the implementation of its concluding observations. With regard to paragraph 13 of the concluding observations on Denmark's seventeenth report, the Committee requested the State party to supply information on the criteria for deciding if an asylum-seeker may be forcibly returned or not.

80. According to section 31 (1) of the Aliens Act an alien may not be returned to a country where he will be at risk of the death penalty or of being subjected to torture or inhuman or degrading treatment or punishment, or where he will not be protected against being sent on to such a country.

81. It follows from section 31 (2) of the Aliens Act that an alien falling within section 7 (1) may not be returned to a country where he will risk persecution on the grounds set out in article 1 A of the 1951 Refugee Convention, or where the alien will not be protected against being sent on to such country.

82. According to section 7 (1) of the Aliens Act a residence permit will be issued to an alien if the alien falls within the provisions of the Refugee Convention.

83. The provision on non-refoulement in section 31 of the Aliens Act implies that an alien whose application for a residence permit has been rejected cannot be forcibly returned if the alien falls within the scope of section 31.

84. When the Danish immigration authorities make a final rejection of an application for a residence permit (asylum), the immigration authorities simultaneously set a deadline for the departure of the alien. In this connection it appears from section 30, subsection (1) of the Aliens Act, that an alien, who is not entitled to stay in Denmark according to the Aliens Act, must leave Denmark.

85. From section 30, subsection (2) of the Aliens Act it appears, that if the alien does not leave Denmark voluntarily, the police must make arrangements for the aliens' departure from the country. In practice this means, that a rejected asylum-seeker, who is not (or no longer) entitled to stay in Denmark because the person concerned has had his/her application for asylum finally rejected is under obligation to depart from Denmark at the latest at the expiration of the deadline for departure set by the immigration authorities. If the alien does not depart from Denmark, the alien will be forcibly returned to his/her home country by the police.

86. The provisions are implemented under full respect for Denmark's obligations under international law, including the International Covenant on the Elimination of All Forms of Racial Discrimination.

### **Contract Scheme - Programme to Support Rejected Asylum-seekers Who Return Voluntarily**

87. By Act No. 507 of 6 June 2007 amending the Aliens Act the Parliament introduced a contract scheme for rejected asylum-seekers.

88. The Act allows certain groups of rejected asylum-seekers six to nine months of training in Denmark on the condition that the applicants sign a contract with the Danish Immigration Service to return voluntarily once the training in Denmark has been accomplished. The Act also introduces provision of economic support upon voluntary return as well as reintegration assistance in the home country linked to the training in Denmark. The scheme will only be offered to nationals from countries presently in a reconstruction phase, and only nationals of countries that do not accept forced returns.

89. From the outset the scheme only applied to rejected Iraqi asylum-seekers in Denmark. The scheme may later be extended to other nationalities of rejected asylum-seekers.

90. On 28 November 2008 the contract scheme was terminated for rejected asylum-seekers who originate from the three Northern Iraqi provinces Erbil, Dohuk and Sulaymaniyah since it has become possible forcibly to return refused asylum-seekers from these provinces. The contract scheme continues without any changes for refused Iraqi asylum-seekers who do not originate from these provinces.

91. As from the beginning of May 2009, 26 rejected asylum-seekers from Iraq (25 adults and one child) have returned to their home country benefiting from the contract scheme. 14 rejected asylum-seekers have signed a contract with the Immigration Service and are currently receiving training in Denmark prior to their voluntary return.

92. On 14 May 2009 this contract scheme was terminated also for rejected Iraqi asylum-seekers who originate from the other Iraqi provinces than the three Northern provinces mentioned above.

#### **Asylum-seekers' right to engage in social, professional, educational and cultural activities**

93. As mentioned above it is mainly rejected asylum-seekers who reside in the asylum centres for more than one year.

94. The Government finds that rejected asylum-seekers are obliged to leave the country and until this is carried out they are obliged to reside in an asylum centre. Thus, participation in educational and activation activities takes place within the asylum centre, although certain exceptions can be made so that a rejected asylum-seeker is allowed to e.g. take certain lessons outside the centre.

95. The Government wishes to underline that as a general rule inhabitants in the Danish asylum centres are free to come and go as they please. They are not obliged to remain within the centres 24 hours a day.

96. Finally it is emphasized that asylum-seeking children (including children of rejected asylum-seekers) are allowed to attend leisure time activities - e.g. sports - amongst other children in the local community. On certain terms the children are also given the opportunity to attend classes in a local public school.

97. On 16 January 2008 the Government reached an agreement with the Danish People's Party which - among other initiatives aimed to improve living conditions for rejected asylum-seekers -

ensures that rejected asylum-seeking families with children are given an opportunity to live in special accommodations outside the asylum centres. Such an offer is given to families who have resided in Denmark for more than three years after the final rejection of their application for asylum and who originate from a country to which deportation is not possible. Finally it is a fundamental requirement that the rejected asylum-seeking family - and especially the children - benefits in regard to their well-being by being moved to such a special accommodation. The Government expects that these families will be able to obtain a family life which is more agreeable than the family life that they currently have - and in some cases have had for several years - in the asylum centres. Furthermore it is expected that the families will be able to enhance their collective quality of life and strengthen the foundation for a successful return to their home country.

### **Article 5 (d) (iv)**

#### **The right to marriage and choice of spouse**

##### **The 24-year rule**

98. With regards to paragraph 15 of the concluding observations to Denmark's seventeenth report, reference is made to the information provided by the Government in the follow-up report. The Committee further requested the State party to carry out further research as to whether the 24-year condition for spousal reunification actually does limit the number of forced marriages and on the impact which this rule may have on the various minorities in Denmark.

99. The Ministry of Refugee, Immigration and Integration Affairs has decided to update its data on marriages and couples among ethnic minority groups. A new research project has been launched, which focuses on the impact of the rules on family reunification, introduced from 2002 and onwards in relation to marital patterns and family reunification among ethnic minorities. In connection with this, the research will also look at the development in the scope and risk of forced marriages, including non registered marriages conducted inside as well as outside Denmark. The results of the research project, conducted by SFI - The Danish National Centre for Social Research, are expected to be published in September 2009.

##### **Family reunification of children under the age of 15**

100. By letter of 7 March 2008, the Committee asked for further information concerning research on the widespread of practices of re-education journeys and the possible negative impact of such practices on the integration process. The Committee also requested information as to why the age limit of 15 years has been chosen.

101. According to section 9 (1) (ii) of the Aliens Act a residence permit may on certain conditions be issued to an unmarried child under the age of 15 of a person permanently residing in Denmark. The age limit of 15 years of age was introduced by Act No. 427 of 9 June 2004 on changes to the Aliens Act. It appears from the explanatory notes that the amendment was motivated in general by the conviction that on account of the child itself and the possibility of integration a residence permit based on family reunification should be applied for as early as possible.

102. It furthermore appears from the explanatory notes that the motivation behind the amendment was to prevent parents residing in Denmark from deliberately letting a child stay in the country of origin until the child is almost an adult before applying for reunification. Similarly the amendment aims at preventing parents residing in Denmark from sending children on an extended stay in the family's country of origin in order to go through a more or less formal re-education.

103. It should be noted that the provision is always applied in compliance with Denmark's obligations under international law, including International Covenant on the Elimination of All Forms of Racial Discrimination.

104. Statistics on the number of re-education journeys is not available, but it is the impression of the Ministry of Refugee, Immigration and Integration Affairs that re-education journeys and other long term journeys with a negative impact on the child are not common. On the other hand, surveys initiated by the Ministry of Refugee, Immigration and Integration Affairs and carried out by *Niras-konsulenterne* (2004) and *Ankestyrelsen* (2004) show that such practices exists. The surveys show that long term stays in a foreign country for minor children in order to receive cultural, religious or social re-education training can have a seriously negative impact on the children and the integration of the children into the Danish society. The negative consequences for the children includes lack of self-esteem, reduced Danish language skills and educational skills in the Danish school system and disturbed personal relations to family members and friends. Often conflicts already existing before the re-education journey aggravate after the return to Denmark.

105. Though the problem is not widespread, it is the Government's policy that the severe consequences for each child at stake require that the problem is taken seriously. This implies an efficient and active effort to prevent such practices - and making sure that the necessary tools to help the children is available. At the same time the Government recognizes that not all journeys with a cultural, religious or social purpose have a negative impact on the integration process.

#### **Article 5 (d) (vii)**

#### **The right to freedom of thought, conscience and religion**

106. The Danish constitution guarantees the right to freedom of thought, conscience and religion. People are free to form congregations for the worship of God or any other religion in a manner in accordance with their own convictions. The religion or community in question does not need approval from the Danish State and can therefore exist without any kind of public registration. The affairs of the Evangelical - Lutheran Church are placed under the Ministry of Ecclesiastical Affairs. Affairs of other religious communities are either placed under the jurisdiction of other public agencies or not interfered with at all by Danish public authorities.

107. Religious communities other than the National Church and their members can obtain a substantial indirect subsidy from the State. This is due to the possibility for taxpayers to deduct contributions (gifts and other regular payments) to other religious communities in their tax returns. If a religious community wishes to be included under these tax relief schemes, it has to

seek approval by the Danish tax authorities. The Danish tax authorities both approve tax deductible communities and oversee whether these conditions for approval are met on a continuous basis.

108. Recognized and approved religious communities also enjoy a number of rights, among others the right to perform marriage ceremonies with legal effect under the Danish Marriage Act, the right to residence permits for foreign preachers under the Aliens Act, a number of further tax benefits and the right to establish their own cemeteries under the Danish Cemeteries Act.

109. The State does not grant direct financial support for the establishment of cemeteries to any religious community, or to the cemeteries of the Evangelical - Lutheran Church. Religious communities must arrange for the acquisition of the area themselves and be in charge of the establishment and operation of the cemetery. For this a district plan has to be prepared and approved by the local municipal authorities relating to the establishment of cemeteries. Further, the area must be suitable for burial, which means that the health authorities must approve the sites suitability as a burial ground. The Ministry of Ecclesiastical Affairs issues the actual permits to religious communities other than the Evangelical - Lutheran Church to establish their own cemetery. Such permits may be made conditional upon the provision of security for the maintenance of the cemetery. Rules must also be laid down on an executive committee, supervision and use. Areas which have been approved for the establishment of a cemetery are exempt from real-estate tax.

110. The registration of births is performed by a ministerial register, but the informer does not come into contact with the Lutheran - Evangelical faith or is confronted with any religious activity. The registration of births has for historical reasons been placed upon the National Church. The registration of births is placed on a neutral form - called birth certificate, which can also be ordered at other offices than the local church-office. At the registration of birth one does not have to provide information about one's religious affinity. The registration of birth can even be given without personal appearance by mail delivery or via e-mail. Birth certificates concerning non-members of the National Church are provided as a neutral certificate without carrying the text "The National Church of Denmark". A birth certificate can also be issued by a recognized religious community, if the child is named by baptism in a recognized religious community.

#### **Article 5 (e) (i)**

#### **The right to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration**

111. The Government is continuously aware of disseminating knowledge of good practices regarding labour market inclusion of ethnic minorities. A diversity programme targeting enterprises is implemented in the years of 2006-2011. The programme consists of a range of initiatives, including visits to companies, where a team of consultants passes on the good examples and gives advice on management of diversity. Furthermore, national campaigns regarding mentor arrangements have been initiated.

112. In order to further promote the dissemination of good practices on integration, a team of consultants ('the Integration Team') has been set up by the Ministry of Refugee, Immigration and Integration Affairs. The consultants have specific knowledge of integration, especially with respect to education and employment. The consultants are disseminating good and practical experiences from municipalities, educational institutions and enterprises.

113. To promote equal opportunities for participation in society, the Government has in 2007 launched an initiative targeting women with ethnic minority background. The initiative runs in the years of 2007-2011 and aims at enhancing network, employment and entrepreneurship among women and at the same time strengthen development and integration of their children.

### **Assessment of the reasons for the relative higher unemployment among persons originating from third countries and measures taken to improve the situation**

114. In paragraph 16 of its concluding observations concerning Denmark's seventeenth periodic report, the Committee recommended that Denmark assess the extent to which the disproportionate level of unemployment among persons coming or originating from countries outside the European Union, North America and the Nordic countries is the result of discrimination they face in accessing jobs, and that it take measures to combat this phenomenon.

115. The Government shares the Committee's view on the importance of a constant focus on the prevention of discrimination and the rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work and to just and favourable remuneration.

116. Recent statistics<sup>1</sup> show that the unemployment rate among immigrants and descendants originating from countries outside the European Union, North America and the Nordic countries continues to be higher than the unemployment rate among native Danes.

117. In recent years, however, the differences in unemployment rates among the different population groups have been decreasing. The employment rate has gone up while the unemployment rate has gone down among immigrants and descendants from non-Western countries. Although the unemployment rate of the total population has been decreasing, the decrease has been more significant among immigrants and descendants from non-Western countries. While the unemployment rate among immigrants and descendants from non-Western countries has fallen from around 15 per cent in January 2000 to around 10 per cent in January 2007, the unemployment rate among native Danes has fallen from approx. 4 per cent in January 2000 to 2.5 per cent in January 2007.

118. In the recent years there has in general been a positive development in the attachment to the Danish labour market of non Western immigrants and descendants. Among others, this can be seen by:

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<sup>1</sup> The sources of the following statistical information are: Statistics Denmark, National Labour Market Authority, and jobindsats.dk.

- The employment frequency for 16 to 64 year old immigrants and descendants from non-Western countries has increased from 45 per cent in 2001 to 55 per cent in 2007, which corresponds to 42,890 more persons having obtained employment. For ethnic Danes, the increase in employment frequency in the same period has been only one percentage point - from 78 per cent in 2001 to 79 per cent in 2007.
- Even from 2006 to 2007, the employment frequency for immigrants and descendants from non-Western countries has increased from 50 to 55 per cent - an increase of five percentage points. A similar development in a single year has not been seen since measuring began in 1981. In the same period, the employment frequency for ethnic Danes increased from 77 per cent to 79 per cent - an increase of just two percentage points.
- The number of full-time employed immigrants has increased markedly from 1 January 2003 to 1 January 2007. Almost 30 per cent more immigrants from non-Western countries have thus obtained employment in the period.
- A significant drop in the percentage of young immigrants on social security benefits or starting allowance has occurred. In 2004, almost 16 per cent of the 20-29 year old immigrants from non-Western countries were on social security benefits or starting allowance. In 2007, the number dropped to almost 9 per cent. This corresponds to 3,400 more immigrants obtaining employment or undergoing education.

119. The Danish labour market is open to employment of all immigrants and descendants. Several public and private businesses have gained experience with immigrants and descendants at the workplace.

- Thus, the percentage of the private companies with experience of employing immigrants or descendants has increased from 56 per cent in 2004 to 66 per cent in 2007; just as the percentage has increased from 71 per cent in 2004 to 76 per cent in 2007 for public enterprises.
- Almost 80 per cent of the private and public businesses with experience of employing immigrants and descendants have predominantly good or very good experiences with them.
- Nine out of ten of the Danes who work together with immigrants and descendants do not see any problems in this connection.

120. Despite these positive developments, the unemployment rate for immigrants and descendants from non-Western countries remains higher than for the rest of the Danish population. This may, among other things, be due to a lack of proficiency in Danish or lack of formal qualifications. Many of the non-Western immigrants have either no education or a very low level of education from their home countries. Furthermore, factors such as lack of insight in the Danish labour market and its possibilities, together with not having a business related network, may play a part in the higher unemployment level for this segment.

121. However, discrimination may also be a influential factor. In 2006 the *Think Tank on integration in Denmark* published a report in which perceived discrimination amongst

immigrants and descendants from selected non-Western countries was examined. The report shows a decline in the number of immigrants and descendants who believe to have been subject to discrimination when applying for jobs. In the year 2000 23 per cent of the immigrants and descendants from selected non-Western countries felt discriminated when applying for jobs. This number had dropped to 13 per cent in 2005.

122. The Government has recently initiated a number of new political initiatives in order to ensure that more immigrants and descendants become integrated into the Danish labour market. This includes i.e.:

- The initiative “NY CHANCE TIL ALLE” (“New Chance for All”), operating from 1 July 2006 to 30 June 2008. “New Chance for All” was an active initiative directed towards recipients of social security benefits and starting allowance that had been passive for at least one year. The purpose of this initiative was to ensure that all long term unemployed recipients of social security benefits had their case reviewed once again. Furthermore, it aimed at securing education and a job for them - or providing them with an attractive offer that would bring them closer to the labour market. Non-Western immigrants and descendants comprised between one fourth and one third of the target group for the initiative. The results show that a significantly higher number of the lasting recipients of social security benefits, including immigrants and descendants, came into jobs during the initiative than prior to it.
- With the welfare reform of 2006, DKK 300 million (approx. €40.3 million) was earmarked for the employment of additional company focused job consultants for the period 2007-2010 in the 15 municipalities, which have the majority of non-Western immigrants and descendants on starting allowance, social security benefits or introduction benefits. The funds have been set aside to strengthen the integration efforts in the municipalities and to take care of those immigrants and descendants who need a particularly close and focused follow-up in order to get a job.
- The Government, Local Government Denmark, Regions Denmark and social partners entered into a new four-party agreement in 2006, which supplements the four-party agreement from 2002. The agreement covers the stairway model, the mentor scheme, network for immigrant women, skills clarification, and local cooperation between municipalities/job centres, businesses, workplace management and employees as well as job packages.
- Job packages are contiguous phasing in courses for unskilled unemployed persons within areas lacking manpower. For instance, there are courses for kitchen assistants, shop assistants, cleaning assistants and bus drivers. The municipalities can use the phasing in courses to strengthen the focus on the weak unemployed, including immigrants and descendants.
- A trial initiative called *Alle i Gang* (Everyone Working), which through an intensive contact process with the unemployed aims at ensuring that long-term social security recipients quickly obtain employment. A large part of these are immigrants and descendants. The initiative started 1 April 2008.

### **Review of policy concerning social benefits for newly arrived persons**

123. In paragraph 18 of its concluding observations concerning Denmark's seventeenth periodic report, the Committee recommended that Denmark review its policy concerning the social benefits for newly arrived persons in order to ensure that foreigners newly arrived in Denmark are not pushed into poverty and social marginalization.

124. The Government shares the Committee's view on the importance of a constant review of the effects of its policies. For that purpose the Government has continuously initiated analyses and surveys on the effects of the reduced cash benefit - the so-called starting allowance. These surveys show positive results.

125. Statistics from the Ministry of Employment show that a relatively large number of foreigners receiving introduction allowance on the level of starting allowance get into ordinary employment compared to foreigners receiving introduction allowance on the level of cash benefit. A survey from April 2007 carried out by *Rockwoolfonden* confirms these tendencies. The survey shows that 56 per cent more persons receiving the starting allowance get into ordinary employment than is the case for persons receiving the higher cash benefit.

126. On this basis, it is the Government's intention to uphold the starting allowance as an important tool to motivate persons receiving cash benefits from the State to seek employment. In the context of integration, it is still the Government's view that active labour market participation is the main key to successful integration into the Danish society.

127. The Danish Eastern High Court rendered a decision 24 April 2009 in a civil case, where a plaintiff had pleaded, that the fact that he had received starting allowance constituted a breach of international obligations, amongst those article 11 of the Covenant on Economic, Social and Cultural Rights. The Court came to the conclusion that no international conventions have been breached, and the Court stated that the rules in the Danish legislation serve a legitimate aim.

128. At the same time the Government recognizes that for some vulnerable groups other initiatives are also necessary to avoid social marginalization and disintegration among newcomers. The Government has thus recently launched a range of new initiatives.

129. These initiatives include:

- Strengthening of the municipal effort concerning non-adapted youths - DKK 3.7 million (approx. €500,000) in financial support to municipalities. The purpose of these projects is to strengthen the motivation for immigrant youth to adapt to the general community.
- Support for specifically vulnerable groups of unemployed immigrants and refugees - DKK two million (approx. €270,000) in financial support has been allocated to disabled immigrants. The purpose of these projects is to develop the possibilities for disabled persons from immigrant communities to gain access to the labour market.
- Initiatives in socially vulnerable communities - DKK 27 million (approx. €3.6 million.) in financial support to local employment projects and DKK 40 million (approx. €5.3 million) in financial support to the establishment of local integration partnerships. The purpose of

these projects is to strength integration of immigrants on the labour market and to promote establishing of local integration partnership between municipalities and local companies.

130. Furthermore, the Danish Government has in June 2007 put forward a wide range of initiatives which shall ensure that more women with ethnical background become active citizens in the Danish society.

#### **Article 5 (d) (i) and (e) (iii) and (vi)**

#### **Other civil rights, in particular the right to freedom of movement and residence within the border of the State and economic, social and cultural rights, in particular the rights to housing and the right to equal participation in cultural activities**

#### **Strategy against “ghettoization”**

131. In paragraph 17 of its concluding observations concerning Denmark’s seventeenth periodic report, the Committee requested Denmark to provide the Committee with further information on the impact of the policies against “ghettoization”. The Committee also requested to be informed about the extent to which persons belonging to ethnic or national minorities participate in the decision-making affecting them.

132. The Government wishes to ensure that all people benefit from the opportunities a modern everyday life in a democratic society has to offer. All persons should have a life characterized by opportunities and free choice. In 2004 the Government introduced its anti-ghettoization strategy, as ghettoization is found to be a significant barrier for integration into social life, the educational system and the labour market.

133. The strategy aims at improving the conditions for all residents in deprived urban areas, including crime prevention, education, employment initiatives etc. Some of these areas have a resident composition of more than 90 per cent immigrants, refugees and descendents. Therefore the anti-ghettoization strategy also contains a wide range of specific integration initiatives.

134. Within the framework of the strategy against ghettoization a Programme Board for Dialogue and Balance in Vulnerable Neighbourhood composed of representatives from the housing sector, the business sector and local councils was established for the period 2004-2008. The purpose of the Programme Board was development of a comprehensive forward-looking strategy for action in the most vulnerable neighbourhoods in Denmark.

135. In November 2008 the Programme Board published a report with its observations and recommendations to the Government, local councils and housing organizations.

#### **Housing agreements**

136. In the 2006 and 2007 housing agreements between the Government, the Danish People’s Party and the Social Liberals, the parties agreed to expand the current investment facility for renovation in the most deprived areas by DKK 2.125 billion (approx. €285 million) in 2006 and by DKK 2.400 billion (approx. €322 million ) in each of the years 2007-2012.

137. Further DKK 2.200 billion (approx. €295 million) was allocated for social and preventive measures, as well as for local coordination and evaluation in social housing divisions where substantial problems of a financial, social or other nature have been found, including high rent, high rate of turnover, large share of occupants with social problems, violence, vandalism or run-down buildings and open spaces in the most deprived areas in the period 2006-2010.

### **Act on Social Housing**

138. As mentioned in the seventeenth periodic report, the Danish Parliament adopted a Bill on 28 April 2005 (Act on Social Housing) allowing regulation of the composition of social housing tenants in order to prevent economic and social deprivation, due to overrepresentation of residents outside the labour market. In accordance with the Act, applicants at the top of the waiting list for a social dwelling may be rejected, if they or their spouses by that time have received social benefits for six consecutive calendar months pursuant to the Act on Active Social Policy or introduction benefit pursuant to the Act on Integration of Immigrants in Denmark.

139. Concerning the request by the Committee for more detailed information on the anti-ghettoization initiatives and policies in Denmark, in particular on measures to strike an adequate balance between the need to prevent ghettoization and the right of freedom of residence and cultural rights, the Government would like to emphasize that avoiding any discrimination or abuse as a result of the provisions of the Act is a high priority. Various measures have been taken to ensure that Denmark fulfils its obligations in accordance with International Covenant on the Elimination of All Forms of Racial Discrimination. For example, all the local councils enjoying the right to regulate the composition of tenants are obliged to send annual reports to the Ministry of Welfare with the information on the number of persons rejected, number of persons allocated another suitable dwelling, time limit etc. Further, every fifth year, the local council shall evaluate the composition of residents in the area to assess whether the applicants specified above shall continue to be rejected. The Minister for Social Affairs may require that the local council withdraw its decision when the composition of residents has considerably improved.

140. From the available information the Government has not been able to detect any cases of discrimination on ethnic or national grounds as a result of the regulation of the composition of tenants in the deprived neighbourhoods in accordance with the Act.

141. As to the Committee's concern about whether the current anti-ghettoization policy might affect the right to freedom of residence and cultural rights of persons belonging to ethnic or national minorities, the Government would like to stress that anti-ghettoization measures do not impede on their right to housing. Those rejected as a result of the Act regulations will be offered an alternative dwelling in a more attractive area within the same municipality where they would have had a lesser chance of being assigned a social dwelling otherwise, due to longer waiting lists. However, it should be noted that there is a tendency among ethnic and national minorities to move to more attractive neighbourhoods when their income improves.

142. It should also be stressed that housing societies administering social housing in Denmark are democratically organized meaning that elected tenants constitute a majority in their decision-making bodies. Persons belonging to the ethnic and national minorities have the right to participate in the decision making process on equal footing with everybody else in society.

**Article 5 (e) (iv)****The right to public health, medical care, social security and social services**

143. All residents in Denmark are entitled to public health care benefits in kind.

**Right to interpretation**

144. Patients who do not speak Danish are entitled to interpreter assistance in connection with a consultation at the patient's general practitioner or a specialist or in a hospital, to ensure the correct medical care. It is a condition for the patient's right to receive the interpreter assistance that the treatment is given free of charge in accordance with the health legislation and that the treating doctor in connection with the actual treatment considers interpretation necessary. In these cases the public health care service covers the costs.

**Children and youngsters with special needs**

145. According to Danish health legislation all primary health care nurses should pay attention to children and youngsters with special needs, including families with a non-Danish ethnic background if there are any signs of failure to thrive (a term which in Danish includes social and familiar circumstances, besides health and growth parameters). For all children at the age of 0-one year the nurse offers home-visits as well as extra visits if there is a concern about the child's health and development and if circumstances within the family demands extra attention. She cooperates with the General Practitioner and the social welfare department. During the years in school the primary health-care nurse offers regularly health dialogue with all children, and also in this setting pays extra attention to children with special needs.

146. In the years 2005-2007 four projects concerning Health Care Houses for ethnic minorities were established in three parts of the country. They elaborated new methods suitable for health care working with different ethnic groups in a local society. The results have been described in two publications, which have been distributed to all municipalities in Denmark.

**Ethnic minorities and HIV/AIDS**

147. In Denmark all persons have equal access to prevention, treatment, care and support in relation to HIV/AIDS. An important element of the Danish AIDS policy is to avoid any form of discrimination. Information and motivation are very important elements in the AIDS policy. The number of diagnosed new HIV cases has stabilized in Denmark in recent years and today amounts to about 300 per year. In 2007 there were 307 new cases of which 130 were immigrants.

148. The task of the Project and Knowledge Unit in the organization 'Cross Over' under the Danish AIDS-foundation is to enter into dialogue with different community based immigrant organizations and on a partnership based approach define, develop and implement HIV/AIDS related activities. The Unit supports the collaborating partners with both health professional aspects and financial assistance, and the community based organizations contribute with their knowledge on specific cultural and linguistic matters relevant to all the phases of the activities.

149. The participatory approach has highly increased the HIV/AIDS preventive activities in the ethnic communities. The ethnic minority organizations and associations have in general responded very positively on placing HIV/AIDS issues on the agenda in their communities and changing the strategy from top-down preventive efforts to the participatory approach.

150. In general there seems to be an increasing focus within the health system to upgrade the effort targeting ethnic minorities. As an example a network for health professionals and representatives from different NGO's working with ethnic minority groups were initiated in 2005.

151. In the future attention will be paid especially to adolescents with other ethnic background than Danish. Knowledge on ways of transmission and on contraception will be ensured through information made available for the adolescents in sport clubs and youth clubs.

### **Article 5 (e) (v)**

#### **The right to education and training**

152. Surveys have shown that bilingual students academically perform at significantly lower levels than their ethnic Danish classmates. The education system is aware of the importance of securing equal opportunities in this regard, and a range of initiatives have been taken to address the problem.

153. DKK 70 million (approx. €9.4 million) has been earmarked for the period 2007-2009 for the continuing education of teacher training and social education instructors. In addition, new IT-based language screening tools have been introduced to help teachers assess students' needs for Danish as a second language.

154. The Ministry of Education has also carried out a comprehensive project, "This Works at Our School!" which aims to identify and disseminate good practice at schools with a large bilingual student population. The project is expected to provide ideas for helping bilingual students learn Danish along with the academic content of all subjects and thus improve their academic performance.

155. Building on some of the results of this project, the Ministry of Refugees, Immigration and Integration Affairs and the Ministry of Education have recently given financial support to a research project called "Signs of Language" with a total budget of DKK 24 million (approx. €3.2 million), which aims at exploring the nature of the challenges facing bilingual pupils in the Danish primary and lower secondary schools and develop pedagogical knowledge and approaches addressing these challenges.

156. It has been decided to set up an advisory unit regarding the teaching of bilingual students. The unit will assist local authorities and schools in their efforts to help bilingual students benefit more from their schooling.

157. Initiatives have been taken to strengthen cooperation with parents of bilingual students as surveys have shown that this cooperation is vital for the development and learning processes in this student group. The aim of the initiatives is to promote equal educational and employment opportunities for bilingual and ethnic Danish citizens.

158. In addition to initiatives specifically addressing the challenges faced by bilingual pupils, several initiatives have been taken in the *Folkeskole* (public primary and lower secondary school) to improve the learning outcomes of all pupils that are also expected to impact on the learning outcome of bilingual pupils. This includes initiatives to strengthen the evaluation of the progress of the individual pupil and a requirement for the municipalities to further document their efforts in a range of areas - including the education of bilingual pupils - through the so-called “quality reports”.

### **Review of the policy regarding mother tongue tuition**

159. After receiving the Committee’s recommendation contained in paragraph 19 of its concluding observations, the Government has once again considered the policy in the area of mother tongue tuition in relation to article 5 (e) (v) and (vi) of the Convention.

160. The municipalities’ obligation to offer tuition in mother tongue is limited to bilingual children from EU and EEA countries and from the Faeroe Islands and Greenland. The rules implement the obligation regarding mother tongue tuition contained in Council Directive 77/486/EEC of 25 July 1977 on the education of the children of migrant workers. The purpose behind the directive is to encourage the free movement of workers among the EU/EEA countries by guaranteeing the preparation of their children for a future return to their country of origin through mother tongue tuition. The rules thus contribute to the effectiveness of the Common Market to the economic benefit of all member countries.

161. The reason behind giving children from the Faeroe Islands and Greenland a right to mother tongue tuition is to ensure the mobility of Danish citizens within the Danish commonwealth which includes areas where Greenlandic and Faroese are official languages as well as areas where Danish is the official language. The same reasons for giving mother tongue tuition do not apply to other bilingual children. The difference in the educational offer given to these two groups is therefore based on objective criteria and is proportionate to the pursuit of this legitimate aim.

162. While there is no government funding of mother tongue tuition, the Government has laid no restrictions on the ability of municipalities and private organizations to carry out mother tongue tuition.

## **Article 5 (f)**

### **The right of access to any place or service**

163. With regard to the Act on Prohibition against Discrimination on the basis of Race, etc., reference is made to the information given under article 4 of the present report.

## **Article 6**

### **Establishment of a special complaints body**

164. Reference is made to the remarks in the present report under article 4.

### **Strengthening of the Complaints Committee**

165. In paragraph 21 of its concluding observations, the Committee recommended that Denmark ensure that the Complaints Committee for Ethnic Equal Treatment has the adequate power to fulfil its task to combat racial discrimination, in particular by granting it the power to recommend that free legal aid be granted to the alleged victim when it sees fit.

166. Since the last report, the Government has taken protection against discrimination even further and has decided to establish a new and stronger Complaints Board on Equal Treatment. In May 2008 the Danish Parliament *Folketinget* adopted the Act on The Board of Equal Treatment.

167. The Board of Equal Treatment, which came into force on 1 January 2009, will cover all fields of discrimination stipulated in the Danish anti-discrimination legislation today. The Board may consider complaints on ground of gender, race, colour, religion or belief, disability, political opinion, age or sexual orientation, national, social or ethnic origin. The Board may award compensation and set aside dismissals to the extent provided for by the said acts, etc.

168. The complaints will be treated on a written basis, which for example implies that the Board of Equal Treatment will not be in a position to provide evidence such as party explanations or testimonies. The secretariat of the board can dismiss complaints if they are not found suitable for treatment by the board. If the legal process of a case presupposes that evidence is put forward it will lead to a dismissal of the case. Further, the Board of Equal Treatment is entitled to dismiss cases which are deemed to be suitable for treatment by the courts.

169. The decisions made by the Board cannot be appealed to any other administrative authority. Once the Board has made a decision about a complaint, either party may bring the matter before the courts. Where the decisions made by the Board are not observed, the Board shall, at the complainant's request and on his or her behalf, bring the matter before the courts.

170. Referring to the remark in paragraph 21 of the Committee's concluding observations, it is important to emphasise that bringing a case before the Board of Equal Treatment is free of charge. It is also free of charge for the complainant, when the board, at the complainant's request, brings the matter before the court.

171. As a consequence of the establishment of the Board of Equal Treatment, The Gender Equality Board and The Complaints Committee for Ethnic Equal Treatment have been closed down.

172. For more general information on the role and functioning of the Danish Institute for Human Rights, please refer to the information given in paragraphs 165-169 of the seventeenth periodic report.

### **Article 7**

#### **Combating prejudices, which lead to racial discrimination**

173. In general, Danish society and Danish law ensure equal treatment, equal opportunities and equal rights for all persons. Notwithstanding this, surveys show that there are individuals and

groups in Denmark that feel discriminated against. A report made by the Ministry of Refugee, Immigration and Integration affairs in 2007 showed that 11 per cent of the immigrants experienced discrimination in the street, while 9 per cent often felt discriminated against in public transportation.

174. Please refer also to the remarks made under article 2, on the general measures to eliminate racial discrimination, and to the remarks made in paragraphs 181-193 of the seventeenth periodic report.

**Ensuring that integration policies do not restrict the cultural rights of persons belonging to national or ethnic minorities in a disproportionate manner**

175. In paragraph 22 of its concluding observations, the Committee also recommended that Denmark ensure that its integration policies and programmes have neither the purpose nor the effect of restricting cultural rights of persons belonging to national or ethnic minorities in a disproportionate matter. The Committee further encouraged Denmark to ensure the participation of these groups in the design and implementation of integration policies and programmes, at both national and local levels.

*The Integration Act*

176. With reference to the explanation of The Integration Act in the seventeenth periodic report, Denmark can once again ensure the Committee that the Integration Act does not have the purpose of restricting cultural rights of persons belonging to national or ethnic minorities in a disproportionate matter.

177. With regard to the participation of these groups in the design and implementation of integration policies and programmes at both national and local levels, please refer to the fifteenth periodic report (CERD/C/408/Add.1) about the influence of ethnic minorities, and the update in the seventeenth periodic report (paras. 14-16) on the integration councils.

178. As mentioned in paragraph 6 of the seventeenth periodic report, the Act aims to ensure that all newly arrived immigrants and refugees can exploit their capabilities and resources and become participatory and contributory citizens on an equal footing with other citizens.

*Reflecting the cultural diversity of Denmark in the fields of education, culture and information*

179. In paragraph 22 of the concluding observations, the Committee recommended that the Danish Government adopt immediate and effective measures to reflect the cultural diversity of Denmark in the fields of education, culture and information.

180. The objects clause in the Act on the *Folkeskole* sets as one of the primary learning goals that the teaching should create understanding of other countries and cultures. The binding end and form level objectives require that children learn about everyday life in other cultures, influence and transformation of cultures, the values that form the basis of different religions, norms and ways of life, how values and norms are created in interaction between people and many other subjects relating to both culture in general and the culture of other countries and minority groups.

181. The objects provisions of the *Folkeskole* (Primary and Secondary School) Act include the specification that schools are responsible for “preparing pupils for participation, sharing responsibility and their rights and obligations in a society based on freedom and democracy. The foundation of the schools’ teaching and daily life must therefore be intellectual freedom, equality and democracy.” In addition, it is prescribed in the binding end and form level objectives for teaching in primary and secondary education that pupils must learn “to reflect on the importance of their own and other persons’ rights and obligations in a democratic society” and “reflect on the implications of their own and other persons’ stereotypical views of various groups”.

182. In addition to the binding objectives, the Ministry of Education oversees the preparation of a central curriculum the use of which is optional for the schools that can choose to substitute it with one of their own choosing. This curriculum contains even more numerous references to culture generally and to different cultures including that of minority groups. The form level and end objectives are currently under revision and the attention given to culture, including cultures different from that of the ethnic majority is maintained.

183. Danish municipalities, schools and teachers have great autonomy in the choice of curriculum, teaching materials and teaching methods. Implementing the requirements of end objectives in a way that sufficiently takes into consideration the culturally mixed composition of children in the Danish schools and the needs of minority children, including the need to feel validated, requires intercultural competencies on the part of the teachers. The Government is aware of the need to continually strengthen the competencies of teachers in this area, which is the principal reason behind the latest changes of the education of teachers in which the field of intercultural competencies was strengthened.

184. The pedagogical subjects of the teacher training programme have been amended to better qualify teachers to work with children of non-Danish ethnic origin. Student teachers must develop skills for teaching in culturally diverse primary and lower secondary schools. Students work with theories of multicultural background, social integration, cultural encounters and intercultural education.

185. The subject ‘Christianity/civics/citizenship’ plays a central role in the new teacher training programme, dealing with such key themes as the history of ideas, ethics, democracy and citizenship. The objective of the subject is - among other things - that the teachers should contribute to developing the pupils’ critical faculty and teaching them to live together with respect for one another’s values and norms. The curriculum includes key values for democratic citizenship such as tolerance, authority, equality, freedom and brotherhood. Through this subject, future teachers in primary and lower secondary school are given the tools to teach democracy both in theory and in practice.

186. During their training teacher students can chose to qualify in teaching bilingual pupils. The aim of the subject Danish as a second language is to qualify teachers to support bilingual pupils in developing their language skills.

187. The Ministry of Education also works with the Ministry of Refugees, Immigration and Integration Affairs on intensifying efforts to recruit bilingual young people and young people of

non-Danish ethnic origins to the social education and teacher training programmes. The two-fold aim is to ensure that teaching staff reflect the composition of the population and to enhance the cultural diversity of the teaching body.

188. In collaboration with Local Government Denmark (LGDK), the Danish Union of Teachers and a number of other organizations, the Ministry of Education has initiated a series of campaigns such as “Watch Out for Bullying” and “Together against bullying - for confidence, tolerance and security”). The campaigns contain a wide range of initiatives, including so called confidence “ambassadors”, telephone counselling, information and inspirational materials, education of pupils to stop bullying and other initiatives to ensure that children and juveniles do not become victims of bullying at their place of education.

189. In 2006-2007 the Ministry of Education worked with the Ministry of Refugees, Immigration and Integration Affairs to establish a task force as part of the campaign ‘We need all young people’ to help vocational schools retain bilingual students. Compared with their ethnic Danish peers, these students are at greater risk of dropping out of a post-secondary education programme.

190. Another project launched in 2007 was the Ministry of Education’s mentor scheme for young people following the basic courses of vocational training. The scheme is an attempt to increase the percentage of young people completing these programmes by giving potential dropout students better opportunities for completing their education. The mentor scheme uses students with added resources as role models for other young people. A new campaign has just started to supply these initiatives to reduce the drop-out rate.

### **Education and training of the police**

191. In 2007 Learning Lab, Danish Centre for Youth Research at the Danish University of Education issued its second report on encounters between ethnic minority youths and the police.

192. Compared to the first report of 2003, which was mentioned in the seventeenth periodic report to the Committee, the second report widens the scope and identifies the backgrounds to encounters and how youths and police officers perceive them.

193. The 2007 report was drawn up in order that police and others who work regularly with juveniles could benefit from its findings, and it contains a number of recommendations that may be favourably applied in these activities.

194. In December 2007 the report was distributed to police districts, and in March 2008 the Centre for Youth Research and the National Police held a conference which introduced the report and its recommendations. A separate project was also introduced including an e-learning module aiming at disseminating the findings of the report.

195. The Danish Police College enhanced human rights training and education during 2006 and 2007. This was done, inter alia, by implementing an increase in the number of lessons on the subject. Two of those lessons have been devoted to a further examination of the issue of

non-discrimination (on the basis of gender, ethnicity, handicaps, religion and sexual orientation) and the issue of international human rights, where focus is on Denmark's international obligations.

196. In the English language training curriculum four lessons have been devoted to an inter-disciplinary project of English, human rights and police ethics. Students will undertake comparative analyses of the provisions of the English texts of the ECHR/the European Code of Police Ethics and the corresponding provisions in Danish Law. Thus, their knowledge and skills within both disciplines will be reinforced. In addition, students will carry out case studies of some of the ethical dilemmas that police officers will have to face in the course of performing their duties.

197. The Police Knowledge and Research Centre (located at the Police College) has launched a one-year research programme relating to professional ethics. The programme will contribute towards establishing a foundation for the education in professional ethics in the future bachelor education programme. In addition, the project aims at promoting the awareness of ethical problems connected with exercising police functions (see above).

### **Recruitment of ethnic minorities to the police**

198. The National Commissioner of Police has continuously had a particular focus on recruitment of ethnic minorities to the police. In the new management policy it is stated that the police, as far as possible, in the composition of the staff must reflect the communities they serve.

199. The National Commissioner of Police has found that relatively more applicants with other ethnic backgrounds than Danish fail the tests for recruitment to the police. No single element explains why. In order to ensure that officers with other ethnic backgrounds than Danish are recognized by their colleagues with a Danish ethnic background all applicants are, regardless of (ethnic) background, assessed on an equal and uniform basis. However, the National Commissioner of Police has set up a procedure in which applicants with other ethnic backgrounds than Danish who are considered to have potential but fail the tests are contacted and advised regarding their opportunities for improvement.

200. In order to ensure increased recruitment of qualified applicants with other ethnic backgrounds than Danish the police have launched a series of initiatives, e.g. police employees with other ethnic backgrounds than Danish act as role models in the marketing of the Police Service as a diverse workplace, and The Copenhagen Police has successfully implemented an integration project *Flere Nydanskere i Politiet* ("More employees with other ethnic backgrounds than Danish in the police"), targeting young people with ethnic minority backgrounds with an interest in employment with the police. In September 2008 the National Commissioner of Police also launched a special recruitment effort with mentoring and a specific sum of money to support the project.

### **Recruitment of ethnic minorities among prison officers**

201. As described in paragraphs 203-205 of the seventeenth periodic report, preparatory school courses were implemented for persons of other ethnic backgrounds, who want to train as prison officers.

202. Concerning the mentioned course on the island of Funen in 2005, 12 persons participated in the course and 8 have now passed the employment test and thus obtained employment.

203. In 2006 yet another preparatory school course took place. Ten persons participated in the course and five have now passed the employment test and thus obtained employment.

### **Recruitment of ethnic minorities for the judiciary**

204. The Court Administration (*Domsstolsstyrelsen*) is in its own recruitment as well as in its instructions of the courts aware of the State Employer's Authority's (*Personalestyrelsen*) general instructions and guidelines regarding initiatives intended to improve the recruitment of ethnic minorities in the state administration.

205. In 2009 the Court Administration is offering a course in cultural understanding and ethnicity to the legal employees of the Danish courts.

206. Furthermore the Court Administration has an ambition to ensure, that the heads of administration of the Danish courts pay attention to employing persons of other ethnic origins. This issue will also be given special attention when the Court Administration's new recruitment strategy is drawn up.

## **Article 14**

### **Public release**

207. In paragraph 23 of its concluding observations concerning Denmark's' seventeenth periodic report, the Committee recommended that the reports of the State party be made available to the public from the time they are submitted and that the concluding observations of the Committee on these reports are similarly publicized.

208. The present eighteenth and nineteenth periodic report will be made available to the public on the official internet site of the Ministry of Foreign Affairs: [www.um.dk](http://www.um.dk). The concluding observations will similarly be made available on the same website when these are received and made the subject of a press release.

## **Annex 1**

### **Reporting on Greenland**

#### **Part I**

1. Reference is made to the combined sixteenth and seventeenth periodic report (CERD/C/469/Add.1), paragraphs 211-233, concerning Greenland.

#### **Information on the question of indigenous peoples**

2. In paragraph 20 of its concluding observations concerning Denmark's sixteenth and seventeenth periodic report, the Committee recommends that the State party pay particular attention to the way in which indigenous peoples identify themselves.
3. The Supreme Court in its judgment included the question of indigenous peoples in casu the Thule Tribe situated in the North-Western part of Greenland (the Ummannaq settlement). The Supreme Court stated that the Thule Tribe does not constitute a tribal people or a distinct indigenous people within or coexisting with the Greenlandic people as a whole.
4. At this point, the Supreme Court is consistent with the declaration made by the Danish government, acceded to by the Greenland Home Rule Government, in connection with the ratification of the ILO Convention. According to this declaration, Denmark has "only one indigenous people" in the sense of the Convention, namely the indigenous population in Greenland or the Inuit.

#### **Part II**

##### **Article 1**

5. By 1 January 2008 the total population in Greenland amounted to 56,462; 50,270 (89 per cent) born in Greenland and 6,192 (11 per cent) - mostly Danes - born outside Greenland.

#### **Renewal of Greenland's involvement in foreign-policy decisions**

6. An Act of June 2005 concerning the conclusion of agreements under international law by the Government of Greenland (the Authorisation Act) was implemented and entered into force on 26 June 2005. With the Act, the Government of Greenland has been given the opportunity, on behalf of the Kingdom of Denmark, to negotiate and conclude international agreements with foreign states and international organizations which relate entirely to fields of affairs taken over by the Greenland public authorities.
7. The arrangement shall not apply to agreements under international law affecting defence and security policy, or agreements which are to apply to Denmark or which are negotiated within an international organization of which the Kingdom of Denmark is a member. Greenland is involved and has influence in foreign and security policy matters of special importance to Greenland.

8. The Government of Greenland and the Government of the Faroe Islands may decide to act jointly in connection with agreements under international law, which relate to both Greenland and the Faroe Islands, when the conditions of the Acts are met.

9. The powers of the Danish Government and the Danish Parliament in the area of foreign policy under Section 19 of the Danish Constitutional Act are not limited by the provisions in the Authorisation Act.

### **A new Self-Government arrangement for Greenland**

10. Reference is made to paragraphs 226-231 of the seventeenth periodic report which describe the task of The Greenland-Danish Self-Government Commission.

11. The Commission submitted its report to the Government of Denmark and the *Landsstyre* (the Greenland cabinet) in May 2008, including a draft Act on Greenland Self-Government.

12. After negotiations between the Government and the *Landsstyre* the Greenland Parliament has considered the Act on Greenland Self-Government in November 2008 on the basis of a non-binding referendum in Greenland on 25 November 2008, where the Greenland people with 75.5 per cent for and 23.6 per cent against approved the new Self-Government arrangement for Greenland. The Government of Denmark submitted the Act to the *Folketing* on 5 February 2009. The Act on Self-Government entered into force on 21 June 2009, the national day of Greenland, by which the Home Rule Act was revoked.

13. Key elements in the Act on Greenland Self-Government are:

#### *The Self-Government authorities' assumption of fields of responsibility*

14. Since the introduction of the Home Rule Arrangement in 1979, the Greenland Home Rule Government has assumed responsibility for practically all the fields that are listed in the Home Rule Act. With the Self-Government Arrangement, the stage is set for assuming a large number of additional fields of responsibility, for example, the mineral resource area; the police and the prosecution service; the administration of justice, including the establishment of courts of law; the prison and probation service; law of legal capacity, family law and succession law; aliens and border controls; the field relating to company law, accounting and auditing; financial regulation and supervision.

15. With reference to the unity of the Danish Realm and the Danish Constitution the Self-Government authorities cannot take over the following fields of responsibility: the constitution, foreign affairs, defence and security policy, the Supreme Court, nationality, and exchange rate and monetary policy.

#### *The economic relations between Greenland and Denmark*

16. The Act introduces an overall model for the economic relations between Greenland and Denmark including the following main elements:

(a) The Government subsidy to remain unchanged at the 2009 level, i.e. around DKK 3.4 billion (approx. €457 million) a year, adjusted for price and wage development;

- (b) Greenland itself to finance fields of responsibility that are taken over in the future;
- (c) Revenue from mineral resource activities in Greenland to accrue to the Greenland Self-Government authorities;
- (d) The Government subsidy to be reduced by an amount corresponding to half the revenue from mineral resource activities exceeding an annual DKK 75 million (approx. €10 million);
- (e) The Government and the Self-Government authorities to cooperate in the first five-year period on tasks relating to mineral resources. Subsequently, it will be for the Self-Government authorities to decide whether to renew the agreement;
- (f) Negotiations to be initiated between the Self-Government authorities and the Government when the Government subsidy to Greenland has been reduced to zero kroner. The negotiations will include the issue of the distribution of revenue from mineral resource activities in the Greenland subsoil and the issue of a resumption of the Government subsidy to the Self-Government authorities.

#### *Foreign affairs*

17. The Act introduces an overall regulation of the Self-Government authorities' participation in foreign policy matters. The proposal corresponds to the existing regulation in the Authorisation Act from 2005 and agreements and customs in the foreign policy area.

#### *Greenland's access to independence*

18. The Act encompasses rules on how Greenland can become an independent state at some point in the future. The decision to commence negotiations on independence is to be taken by the people of Greenland, and the Government of Denmark will then commence negotiations with a view to concluding an agreement between the *Landsstyre* and the Government.

19. The conclusion of an agreement between the *Landsstyre* (now *Naalakkersuisut*) and the Government on independence requires the consent of both the *Landsting* (now *Inatsisartut*) (the Greenland Parliament) and the *Folketing* (the Danish Parliament). With respect to the *Folketing*, this follows from the Danish Constitution, according to which the Government cannot, without the consent of the *Folketing*, "undertake any act whereby the territory of the Realm shall be increased or reduced".

#### *Language*

20. Greenlandic shall be the official language of Greenland.

21. In addition to the above-mentioned key elements the Act on Greenland Self-Government includes provisions on:

- (a) The Self-Government authorities and the Courts;

(b) The cooperation between the Greenland Self-Government authorities and the central authorities of the Realm regarding legislation of significance to Greenland;

(c) Dispute resolution.

### **Article 2**

22. Discrimination on the grounds of race etc. is punishable according to chapter 20, section 71 (a) of the Greenland Criminal Code. Discrimination will also be punishable according to the new Greenland Criminal Code which will enter into force by 1 January 2010.

23. The Greenland Government supports the Inuit Circumpolar Conference financially.

### **Article 3**

24. The Danish Act No. 289 of 9 June 1971 on Prohibition against Discrimination on the Basis of Race applies to Greenland according to Royal Order No. 27 of 4 February 1972.

### **Article 4**

25. The principles in the guidelines issued by the Director of Public Prosecutions in Instruction No. 9/2006 as described under article 4 above are followed by the Chief Constable of Greenland. Thus cases concerning violation of Section 71a of the Greenlandic Criminal Code and violation of the Act on the Prohibition of Discrimination based on Race will be submitted to the Director of Public Prosecutions. Information on such cases is not accessible.

26. The Chief Constable of Greenland reports criminal acts with a presumed racist or religious background, which are punishable by law, to the National Commissioner of Police according to the same reporting system as in Denmark. In 2007 one case was reported. This case concerned violence with a presumed racist background committed by three Greenlandic persons against an ethnic Danish person.

### **Article 5**

27. The Greenland Parliament Act No. 10 of 25 October 1990 concerning primary and lower secondary education has been superseded by Act No. 8 of 21 May 2002. The act continues the policy of integration between the Greenlandic-speaking and Danish-speaking pupils.

28. The Danish acts on Integration of Aliens, the Marriage Act and the Repatriation Act do not apply to Greenland.

## **Annex II**

### **Reporting on the Faeroe Islands**

#### **Part I**

1. Reference is made to Denmark's fourteenth periodic report (CERD/C/362/Add.1, paras. 366-383) concerning the Faeroe Islands.

#### **Part II**

##### **Article 1**

2. As of January 1st 2008 the total population of the Faeroe Islands was 48,433. The national statistics do not distinguish between Danish citizens (i.e. Danes, Faroese and Greenlandic) and of the total population on the Faeroe Islands 47,343 were registered as Danish citizens (97.5 per cent). In addition, 319 persons were from the other Nordic countries (Iceland, Norway, Finland and Sweden), 417 came from other European countries, 181 came from countries in Asia, 93 came from the Americas, and 63 were citizens of African countries.

3. In 2005 the Danish and the Faroese Governments agreed to modernize the legislation concerning Faroese Home Rule. For a further description of the modernization, reference is made to the fifth periodic report of Denmark under the International Covenant on Civil and Political Rights (CCPR/C/DNK/5).

##### **Article 2**

4. Faroese legislation ensures that all citizens of the Faeroe Islands are vested the same rights and the same responsibilities in all areas of society regardless of race, ethnicity, etc. Discrimination on the grounds of race etc. is punishable according to section 266 B of the Danish Criminal Code (see CERD/C/362/Add.1, paras. 377-378).

##### **Article 3**

5. The Danish Act No. 289 of 9 June 1971 on Prohibition against Discrimination on the Basis of Race applies to the Faroese Islands according to Royal Order No. 382 of 12 August 1972.

##### **Article 4**

6. The principles in the guidelines issued by the Director of Public Prosecutions in Instruction No. 9/2006 as described under article 4 above are followed by the Chief Constable of the Faroese Islands. Thus cases concerning violation of Section 266 B of the Danish Criminal Code and violation of the Act on the Prohibition of Discrimination based on Race will be submitted to the Director of Public Prosecutions. Information on such cases is not accessible.

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