

National Analytical Study on Racist Violence and Crime

RAXEN Focal Point for Denmark

Documentation and Advisory Centre
on Racial Discrimination
(DACoRD)

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EXECUTIVE SUMMARY

Giving a brief and distinct summary of the report, what can be said and concluded about discrimination in Denmark in the area of racist violence.

This report is commissioned by the European Monitoring Centre on Racism and Xenophobia (EUMC), being a part of the EUMC RAXEN 4 network. The report was written in autumn 2003 and covers information until the end of 2003.

The report's contents are based on the guidelines received from EUMC under the RAXEN 4 cooperation. It is an updated report submitted on the issue of discrimination in relation to racist violence and should consequently be read in conjunction with the report submitted in September 2002 (RAXEN 3).

NFP-Denmark is a consortium of organisations divided into core members and associate members, with the Documentation and Advisory Centre on Racial Discrimination (DACoRD) performing the task of coordinator. The core members are DACoRD, the Danish Institute for Human Rights, the Danish National Institute for Social Research (SFI), the Centre for Bilingualism and Intercultural education (UC2), the Umbrella Organisation of Ethnic Minorities (POEM), and the Council for Ethnic Minorities (REM). The core members' primary function is to contribute to the report writing and data collection and approve final reports before they are sent to EUMC. There are in addition a series of associate members that are directly informed about EUMC and NFP-Denmark's activities, and they are drawn upon in the data collection process.

This report is an overview and analysis of data coming from different sources.

The aim of the report is two-fold. Firstly to give a statistical overview of the incidence and nature of racially motivated crime and violence, including related issues such as the incidence of hate speech in Denmark in the year 2003 as well as 2001/02. The report's second objective is to offer some analytical explanations which may be able to contribute to the understanding of the underlying causes of racial violence in Denmark.

The report utilises a wide range of sources such as the international organs ECRI¹, ICERD² and CEDAW³, state bodies such as the Danish Security Intelligence Service (PET) and the Public Prosecutor, non-governmental organisations in Denmark such as DACoRD and DEMOS, researchers, and lastly religious community organisations such as the Jewish Community in Denmark, in order that all the various actors tackling racially motivated crime are included.

Incidents of actual racial violence and examples of incitement to violence provide the bulk of the data. The report reveals that racist crime and violence in Denmark has decreased in the period after 2001, however the level in 2002 as well as in 2003 is higher than the level before 2001.

¹ ECRI – European Commission against Racism and Intolerance.

² ICERD – International Convention on the Elimination of all forms of Racial Discrimination.

³ CEDAW – Committee on the Elimination of Discrimination against Women.

This report contains the following sections, which are based on the guidelines supplied by EUMC.

Section 1 introduces the report by describing the aim, motivation and organization of the report.

Section 2 broadly describes the political climate in Denmark by describing the situation of the present political parties and studies on people's attitudes in relation to ethnic minorities in Denmark.

Section 3 provides information on legislation and policies concerning racist violence and racist crimes. The Danish Penal Code only includes provisions targeting crimes with a racist, ethnic, religious or cultural motivation in the field of racist speech. The ordinary provisions in the Danish Penal Code have to cover crimes of racist violence, including violent attacks, arsons, murder etc.

Section 4 provides data on racist violence, hate speech etc. and these data are further analysed in section 5. It is stated that in 2003 the number of Court decisions on violations of the Penal Code Section 266b is thirteen. The Courts have ruled in favour of the prosecution in all cases except one. Compared to the fact that **the numbers of complaints** relating to the violation of section 266 b of the Danish Penal Code were very low in beginning of the 1980ties (less than ten) it is significant that **the numbers of sentenced** perpetrators are even higher today (seventeen in 2003), than the number of complaints in 1983/84!

Section 6 includes information on strategies and policies to combat racial discrimination, and section 7 includes a summary and conclusions of this report.

Finally annex 1-9 includes background information about the situation in Denmark in respect of number of migrants, numbers of complaints about racial discrimination etc.

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GLOSSARY AND DEFINITION OF TERMS AND CONCEPTS USED

OFFICIAL DEFINITIONS

The present definition made by the Ministry for Integration divides the population of Denmark into three categories: Immigrants (Indvandrere), Descendants (Efterkommere) and Danes (Danskere)⁴.

Immigrants: An immigrant is a person born abroad, whose parents (or just one, if there is no information concerning the other) are foreign citizens or born abroad. If there is no information on either parent, and the person was born abroad, the person is also regarded as an immigrant. (Translation from text).

Descendant: A descendant is a person born in Denmark to parents, where neither is a Danish citizen born in Denmark. If there is no information about the parents, and the person is a foreign citizen, then the person is regarded as a descendant. (Translation from text).

Dane: Everyone else living in Denmark is defined as Dane. That is to be defined as a Dane a person has to be born to a parent who is a Danish citizen born in Denmark. (Own summary of what is written in the text).

Asylum seekers (people who have applied and are waiting for a decision) do not feature in these figures. Those who have been denied asylum but have not left the country are also not included. Those who have been granted asylum are included in the figure for "Immigrants". The generic term "foreigners" is used to refer to both immigrants and descendants together.

On 1.1.02 there were 321,794 immigrants and 93,537 descendants in Denmark. Added together this equals 415,331 or 7.7% of the population in Denmark. On 1.1.02 there were 259,301 foreign citizens living in Denmark or 4.8% of the population. The Ministry, therefore, by an unfortunate use of terminology classifies 156,030 Danish citizens as "foreigners" or at best as not being "Danes". The Ministry further divides the categories "immigrants" and "descendants" according to whether they/their parents come from a Nordic, EU or North American country or a "third country". This gives the following result; of the 415,331 immigrants and descendants living in Denmark 75% or 311,369 were persons from "Third countries", which equals 5.8% of the population.

There is also data available which subcategorizes the generic group foreigners according to national origin. See annex 1.

⁴ Denmark, Ministry of Refugee Immigration and Integration Affairs (2002), Årbog om Udlændinge i Danmark.

OPERATIONAL DEFINITIONS

Several terms are used by the media and politicians when referring to the above mentioned groups - these include “ethnic minorities”, “people with an other ethnic background”, “new Danes”, “immigrants”, “immigrant youths”, “foreigners” – the interchangeable usage of these terms makes it on occasions impossible to know exactly who is being referred to. For example one politician may use the term “foreigner” to mean a non-Danish citizen, whereas another may use “foreigner” to mean a person with non-Danish background irrespective of citizenship.

CATEGORIES USED BY THE DANISH SECURITY INTELLIGENCE SERVICE (PET)

Section 6 describes how PET collects their data and compiles a list of racist motivated crime. The descriptions of the individual criminal incidents often describe the “victim” and the “assailant”.

In 2001 an administrative order was issued by the director of the central police unit in Denmark (Rigspolitichefen) which updated the procedure for the reporting of racist motivated crime to PET. The director wrote;

“The procedure for reporting includes every criminal incident with a possible racist/religious background. The procedure is, therefore, no longer limited to incidents directed at foreigners. This means that all relevant incidents shall be reported, no matter whether the criminal incident is directed at a person or concern of foreign or Danish background”.

We do not exactly know what is meant by the terms “foreigners” and “person with foreign background”.

In PET’s list for 2002, which is the first list produced after the above mentioned administrative order was issued, the following descriptions have been used to describe victims and assailants; “person of other ethnic origin than Danish” and “person of Danish origin”, “Danes with Jewish background”, “business owner with Jewish background”, “Asiatic looking youths”, “Norwegian woman”, “Muslims”, “Jews”, “Danes”.

Racist violence and racist crimes: Racist violence can mean many different things, such as harassment or ill treatment of persons because of their “race”, ethnicity, cultural identity, religion, foreign background etc. But racist violence does not only refer to physical acts. Racist verbal abuse and intimidation can for example also be perceived as acts of racist violence. The law does not always define these acts as criminal. It is important for RAXEN to collect data widely and, in addition to what is classified as racist criminal acts, go beyond and look for what is perceived as racist criminal behaviour. This study also includes acts of Anti-Semitism and acts of Islamophobia under racist acts.

1. INTRODUCTION

Racist violence in Denmark during the period 2001-2003 was very much influenced by what can be seen as a triangle of events between the general and local elections in Denmark; the terror attacks in USA ; and the conflict in the Middle East.

Data provided in this report will show that in 2003 the number of Court decisions on violations of the Penal Code Section 266 b (racist statements) is thirteen. The Courts have ruled in favour of the prosecution in all cases except one. Compared to the fact that **the numbers of complaints** relating to the violation of section 266 b of the Danish Penal Code were very low in beginning of the 1980s (less than ten) it is significant that **the numbers of sentenced** perpetrators are even higher today (seventeen in 2003), than the number of complaints in 1983/84. Most of these convictions during 2003 relates to statements/incidents that took place in 2001. Data in this report, however, will show that this increase during the last 20 years did not start in 2001, and the political climate before 2001 is also going to be a major source for explanation.

This was pointed out previously by ECRI in 2001, when this organisation published its second report on Denmark:

“ECRI is particularly concerned about the influence that these extreme right parties exercise upon mainstream political parties. <..>

ECRI stresses that all political parties and representatives have a responsibility to resist the temptation to approach issues relating to ethnic minorities, immigrants, refugees and asylum seekers in a negative fashion in order to gain votes.”⁵

The right wing parties, like the Progress Party, were, however, very actively campaigning for the general election to be held no later than by the end of 2001/beginning of 2002. The main focus of their election campaign was refugees and migrants in Denmark, especially Muslims. By way of example in April 2001 the Progress Party wanted Muslims to be located into “concentration camps”, and asked for the support of the Danish military against “Muslim terror”.⁶

After September 11 2001, this rhetoric was also used at the parties National Assembly Meeting forming part of the election campaign for the November 20th general election. The National Assembly Meeting of the Danish People’s Party was also used for campaigning against Muslims in Denmark at a time where the number of racist attacks was rapidly rising.

Shortly after September 11th the Prime Minister announced the date of the election, and consequently the issue of terrorism and Muslims in Denmark became a central issue of the election.

⁵ http://www.coe.int/T/E/human_rights/Ecri/1-ECRI/2-Country-by-country_approach/Denmark/PDF_CBC2%20Denmark-7.pdf Para. 39-40 (01.12.2003).

⁶ Hansen, N-E (2001) ForskelLighed no. 15.

A Liberal/Conservative coalition has since formed a new minority government receiving parliamentary support from the Danish People's Party. The new government has now introduced new rules constraining the right to asylum and to family reunification and reducing social benefits paid out during the first seven years of residency in Denmark to below the level of income support. Further more, a number of human rights institutions and NGO's have either had their funding shortened or totally removed.

In March 2002 the United Nations Committee on the Elimination of all forms of Racial Discrimination (CERD) concluded on Denmark that:

*"The Committee is concerned about reports of a considerable increase in reported cases of widespread harassment of people of Arab and Muslim backgrounds, since 11th September 2001. The Committee recommends that the State party monitor this situation carefully, take decisive action in protecting the rights of victims and in dealing with perpetrators, and report on this matter in its next periodic report."*⁷

Further more it was stated that:

*"The Committee is aware of reports of an increase of hate speech in Denmark. While it acknowledges the need for balance between freedom of expression and measures to eradicate racist abuse and stereotyping, the Committee recommends that the State party carefully monitor the possible violation of Articles 2 and 4 of the Convention. In this regard, the Committee invites the State party to take particular notice of paragraphs 85 and 115 of the Durban Declaration and Programme of Action which highlight the key role of politicians and political parties in combating racism, racial discrimination, xenophobia and related intolerance. Political parties are encouraged to take steps to promote solidarity, tolerance, respect and equality by developing voluntary codes of conduct so that their members refrain from such public statements."*⁸

Also the United Nations Committee on the Elimination of all forms of Discrimination Against Women (CEDAW) has on its twenty-seventh session (June 2002) considered the situation in Denmark. CEDAW regrets the introduction in new legislation of an increase in the age limit for spousal reunification from 18 years to 24 years and states this in the concluding comments. CEDAW was also concerned about amendments of the Aliens Act, concerning the right to asylum for women, and expresses concern about the situation of migrant, refugee and minority women in Denmark."⁹

⁷ CERD/ C/60/CO/5 (2002) Concluding observations: Denmark. 21/03/2002, UN. Para 16.

⁸ CERD/ C/60/CO/5 (2002) Concluding observations: Denmark. 21/03/2002, UN.,. Para 10.

⁹ CEDAW/C/2002/II/CPR.3/Add.3: Consideration of reports of States parties: Denmark, fourth and fifth periodic reports. United Nations.

2. THE POLITICAL CLIMATE IN DENMARK

The political climate- as is described in brief above in the introduction - is further described below in connection to the political parties and in the studies on people's attitudes.

Short overview of xenophobic/populist parties, racist parties, and right wing extremist organisations and their recent activities

Table 1: National political parties

Party	Election results 20.11 2001	No. of seats	21.7-1.8 2003	18-28.8 2003	16-25.9 2003	Estimated No. of seats
A - The Social Democratic Party	29.1	52	30.9	29.5	29.1	54
B - Det Radikale Venstre	5.2	9	6.9	7.4	7.8	14
C - Conservative Party	9.1	16	8.7	8.4	8.8	16
D - Centrum-Demokraterne	1.8	0	0.9	0.5	0.7	0
F - Socialistisk Folkeparti	6.4	12	7.3	8.3	7.7	14
O - Danish People's Party	12	22	9	10.2	11.3	21
Q - Kristeligt Folkeparti	2.3	4	1.6	1.8	1.9	0
V - Liberal Party	31.2	56	32.1	31.2	30.4	56
Z - Progressive Party	0.6	0	0.5	0.7	0.5	0
Ø - Enhedslisten	2.4	4	2	2.2	1.8	0
Other parties	0	0	0.1	0	0	0
Sum	100.1	175	100	100.2	100	175

Source: Gallup (http://www.gallup.dk/dynpages/Pol_Indeks.aspx, 01.12.2003)

The above table contains the election results of the November election in 2001 and shows the results of opinion polls taken between July and September 2003. The final column contains the estimated number of seats each party would have gained had a national election taken place in September 2003.

Of the above parties, two parties have either had party members or members of their youth organisations sentenced for violating section 266 of the penal code outlawing racist speech (see section 7). These are the Danish People's Party and the Progress Party. The current situation of these two parties will be described briefly in this section.

The Progress Party, historically, was the first party to go to the polls on a specific anti-immigration, anti-Islam agenda at the beginning of the 80s, successfully winning seats in the Danish Parliament. Today it is a practically invisible force in Danish politics, failing to exceed the 2% threshold at the last election.

The demise of the Progress Party is largely due to a party split in the mid 90s, which resulted in the formation of the Danish People's Party (DPP) under the leadership of Pia Kjaersgaard. As the Danish People's Party has increased its electoral base the reverse has been the case for the Progress Party. In 2001 The Danish People's Party increased its

number of seats to 22 making it the third biggest parliamentary party. The coalition Liberal/Conservative government signed an agreement with the Danish People's Party shortly after the election whereby the government promised to meet a list of DPP's demands regarding laws on asylum, family reunification, and citizenship, plus the restructuring of the Danish Centre for Human Rights, in return for DPP voting for the government's budget. Thus, DPP constitutes the government's parliamentary alliance.

In recent analyses certain scholars have analysed the political rhetoric of the Danish People's Party and have reached the conclusion that it can be described as being racist.

A recent Supreme Court decision acquitted a politician for saying that the leader of the Danish People's Party espoused racist views. Karen Sunds, a representative from the People's movement against the EU (Folkebevægelsen mod EU) had stated in a Radio News program that she could not identify herself with the *racist* viewpoints of Pia Kjærsgaard (Leader of the Danish People's Party). The representative explained that this was the reason for not making a joint campaign with the Danish People's Party against the introduction of the EURO. Pia Kjærsgaard sued Karen Sunds for defamation according to the Criminal Code Section 267.

The Supreme Court pointed out that there were three ways of using the word *racism* in a contemporary context according to the Danish Language Board (Dansk Sprognævn); firstly, the word racism or racist could be used in relation to the persecution of the Jews in Nazi ideology; secondly, the word could be used in relation to the promulgation of the superiority of one race; thirdly, the use of the word could aim at discrimination and oppression of, or dissociation from, a group of people who could be of the same race as the individual making the statement.

Karen Sunds stated that she had used the word in the third meaning, referring to the negative attitude of Pia Kjærsgaard and the Danish People's Party towards immigrants. The Danish population must have been aware of the negative attitude and furthermore it must have been known that there were no grounds to allege Pia Kjærsgaard and the Danish People's Party held racist viewpoints in line with the other two definitions. The Supreme Court found that Karen Sunds had used the word *racist* in the third meaning of the word.

Whether Karen Sunds statement "*racist* viewpoints" was a violation of the honour of Pia Kjærsgaard, the Supreme Court found it was a question of whether the statement in its form was improper, cf. the Criminal Code Section 267 § 1 and Section 270 § 1. The Court found that the statement had been put forward in relation to Pia Kjærsgaard's generalisations concerning Muslim immigrants in particular. Karen Sunds comment had been made in a politically relevant context and the Supreme Court found, after an overall assessment and in the context of the circumstances, that the statement of Karen Sunds was not a violation of the Criminal Code Section 267.

Furthermore, the Supreme Court found that a contrary result would be violating ECHR Article 10 concerning freedom of expression; the character of the comments was a *value judgment* in a political debate concerning important issues and, therefore, it did not overstep the boundaries of freedom of expression. The Supreme Court acquitted Karen Sunds from the accusation of defamation.

As a reaction to the Supreme Court's decision, Pia Kjærsgaard accused the Supreme Court of being politically driven in her weekly newsletter (July 2003). This accusation resulted in the Liberal Party's spokesperson on law and integration, Birthe Rønn Hornbech, expressing her concerns about such an accusation and calling for the Prime Minister (also from the Liberal Party) to condemn this attack on the neutrality of the judiciary. The Prime Minister refused to do so, stating that Pia Kjærsgaard is entitled to her opinions and is allowed to express them.

Measurements of the majority population's attitudes towards migrants and minorities

The following information is taken from "Integration Status 1999-2003" by Catinét Research, July 2003, page 33 "Danskernes syn på integrationsprocessen/Danes' views on integration".

Catinét asked the majority population (the Danes) two questions concerning immigrants and refugees in Denmark. The first question: "Do you believe that refugees and immigrants have been more or less integrated in Denmark over the last 5 years?", gave the following results.

Table 2: Danes views on integration, July 2003

Opinion	Per cent
Much more integrated	2
More integrated	35
Neither more or less	25
Less integrated	18
Much less integrated	3

(Catinet July 2003; 15% could not be categorised as any of these answers)

Whereas 37% believe that refugees and immigrants are more integrated today than they were 5 years ago, 25% believe that there is a status quo, and 21% believe that they are less integrated.

The second question: "I believe that it is enriching for Danish society that immigrants and refugees live in Denmark", gave the following results.

Table 3: Migrants enriching Denmark 2001 and 2003.

Opinion	Per cent 2001	Per cent 2003
Totally agree	30	28
Partially agree	35	32
Neither agree/disagree	9	14
Partially disagree	11	13
Totally disagree	12	11
Do not know	3	2

Catinet July 2003

Between 2001 and 2003 there is a small fall from 65% to 60% in those, who believe that the presence of immigrants and refugees enriches Danish society. The percentage who either partially or totally disagree with the statement is roughly the same at about 23% and 24%.

Professor Jørgen Goul Andersen has analysed the existing data on Danes' views on immigrants in Denmark¹⁰. Although, this publication is from 2002, it did not appear in the RAXEN 3 report, owing to its publication date. The following is an edited version of the conclusions. Andersen concludes that "the Danes" views on immigration, immigrants and related policies is a multi faceted phenomenon. Some of the popular interpretations cannot be proved. There is not a marginalised threatened Danish 'under class', which reacts against globalisation and everything new, including foreigners. It would be wrong to use the term xenophobia. If one should use a value based term then Andersen would use the term "provincial self-satisfaction" which is probably preferable to xenophobia. If feelings of marginalisation can be traced amongst the intolerant, then it is in terms of educational and cultural marginalisation, but marginalisation is probably a misleading term. The resentment present is not a reaction from people who are in a competition situation with immigrants, and it is difficult to say how an economical rational interpretation can be used to understand these attitudes.

Tolerance is a key variable in understanding variations on the individual level; the interplay between the media and party political competition is the key to understanding variations on the macro level. However, it appears difficult to reduce everything to a question of media and politics. Although immigration issues can get out of proportion, it appears, despite this, that it is an important social issue which it is natural to have an opinion about. In this sense then immigration issues are no different from other social issues in the modern "risk" society. It is just in this case people who are the "risk".

Whether the massive focusing on immigrants and immigration is "wood on the bonfire", or allows for pent up frustrations to be expressed non-violently, (a "catharsis" effect), is difficult to say. The debate on the wearing of the "Hijab" is an example of the latter, however, it could be claimed that the massive focus helps maintain militant views amongst some groups. The most worrying aspect is how the media and political debate affects immigrants themselves.

Professor Andersen concludes that there is a need for a better interplay between quantitative and qualitative data, which will enable us to examine closer the apparent ambivalence. A goal is to decipher the more or less "rational" problems actually experienced from those based on pure prejudice.

Recently some publications have described and analysed the success of the Danish People's Party in Danish politics. The first "Danskerne først!" (Danes First) is a political analysis written by the editor of the newspaper "Information". The book was published in 2002¹¹, but was not included in last years report under RAXEN 3.

¹⁰ AMID Working Paper Series 17/2002 – Danes attitudes towards migrants/Danskernes holdninger til indvandrere. Jørgen Goul Andersen, Institut for Økonomi, Politik og Forvaltning, Aalborg Universitet.

¹¹ "Danskerne først: en historie om Dansk Folkeparti" Trads, David, 2002, Gyldendal, 87-02-00432-1

The second “Success; Historien om Pia Kjærsgaard” (Success: The Pia Kjærsgaard Story) is a biography¹² of the Danish People’s Party’s leader and front figure, Pia Kjærsgaard, which she cooperated in writing. The book describes her life and also her reasons for engaging in politics and focusing on immigration as a main policy area.

Thirdly, “Forklædt som Dansker” (Disguised as a Dane) is written by Allan Nagel who over a two year period participated incognito in regional party meetings of the Danish People’s Party in order to document their views and activities.¹³ He concludes that the local members of the Danish People’s Party are not particularly interested in questions related to “foreigners”, but rather in local issues like transportation, care for the elderly etc. He concludes that the anti-immigration policy is somewhat constructed by the few members of the party forming the leadership. This is very much the same conclusion as Professor Andersen mentioned above, that there is not a marginalised threatened “under class” in Denmark, which reacts against globalisation and everything new including foreigners by voting for the Danish People’s Party. But when politicians and the media construct a picture of immigration as a major threat against the Danish society, some voters respond to this in a positive way, even though they never face any problems themselves.

3. LEGISLATION AND POLICIES CONCERNING RACIST VIOLENCE AND RACIST CRIMES

The Danish Penal Code only includes provisions targeting crimes with a racist, ethnic, religious or cultural motivation in the field of racist speech. Racist violence, including violent attacks, arsons, murder etc. are covered by the ordinary provisions in the Danish Penal Code. It can, however, be considered an aggravating circumstance if the crime was committed on the basis of a racist motive, refer below [para 6.1.2](#).

There follows a presentation on the Danish Penal Code’s provisions regarding racist speech/hate speech and the ordinary provisions relevant to racist violence.

3.1. RACIST SPEECH & HATE SPEECH

The provision prohibiting racist speech dates back to 1939, where section 266 b was introduced in the Danish Penal Code in order to protect society from anti-Semitic statements and counterattack the increasing of anti-Semitic views throughout Europe. In 1971 section 266 b was amended to fulfil the requirements of the international Convention on the Elimination of All Forms of Racial Discrimination. It has moreover been amended in 1987 (inclusion to prohibit discrimination on the basis of sexual

¹² “Success: Historien om Pia Kjærsgaard” Sommer, Nikolaj and Aagaard, Sune, 2003, Lindhardt og Ringhof, 87-595-2096-

¹³ “Forklædt som dansker”, Nagel, Allan, 2003, Hansen & Hansen, 87-989738-0-0

orientation), 1995 (aggravating circumstance if the dissemination can be conceived as propaganda) and 2002 (inclusion of the possibility of punishing legal entities).

Section 266 b prohibits the dissemination of expressions of racial prejudice, and has the following wording:

“(1) Any person who publicly or with the intention of dissemination to a wide circle of people makes a statement or imparts other information threatening, insulting or degrading to a group of persons on account of their race, colour, national or ethnic origin, belief or sexual orientation, shall be liable to a fine or imprisonment for a term not exceeding two years.

(2) When handing down punishment, it is to be considered as an aggravating circumstance that the statement is in the nature of propaganda.”

Section 266 b only criminalises statements that are disseminated publicly or to a wide circle of people. Private statements where no intention to disseminate to a wide circle of people exists, are not covered by the provision. It is debateable how large this circle of people has to be. In a decision from the district court of Herning, dated 19 June 2003, a member of the Progressive Party had distributed an email to 44 people where different degrading and insulting statements were made about, *inter alia*, Muslims. The court found that this distribution fulfilled the requirement of dissemination to a wider circle of people.¹⁴ Moreover the International Committee on the Elimination of All Forms of Racial Discrimination in a recent communication concerning Denmark invited "the State Party to reconsider its legislation, since the restrictive condition of "broad publicity" or "wider dissemination" required by article 266 b of the Danish Criminal Code for the criminalization of racial insults does not appear to be fully in conformity with the requirements of articles 4 and 6 of the Convention."¹⁵

The terms "statement or other information" should be interpreted broadly. They cover both oral and written expressions, pictures, caricatures and also symbolic acts or objects. Case law shows, for example, that burning crosses are covered by the provision.

Regarding *Nazi- or neo-Nazi symbols* case law shows that the courts have mainly dealt with the use of the swastika as a violation of section 266 b. However any symbol expressing a threat, an insult or degradation targeted towards a specific group would be considered a violation. A specific connection between the symbol and a group has to be present, i.e. the swastika and Jews. Under Danish law it is not considered a violation of the provision to publicly display, use or wear, the swastika or other Nazi symbol, as the symbols in themselves are not considered to implicitly express a threat, an insult, or degradation towards Jews.

In a recent case from the District Court in Næstved, dated 2 September 2003, it was held that painting 3 swastikas on the wall of a store owned by a person with non-Danish ethnic background did constitute a violation of section 266 b.¹⁶ The use of Nazi symbols is a violation of the provision where a clear threat, insult or degradation is expressed through

¹⁴ See further information on the District Court decision in section 7.3. of this report.

¹⁵ Communication No. 25/2002.

¹⁶ See further description of this case in section 7.3.

the symbol, and it is targeted directly towards a specific group either through explicit text or through its use on the group's or person's property or the like.

3.2. RACIST VIOLENCE & CRIMES WITH A RACIST MOTIVATION

The ordinary provisions in the Danish Penal Code cover crimes that are motivated by a racist view. The elements of crime regarding violent attacks (section 244-246), murder (section 235 and 236), arson (section 180-181) or vandalism (section 291) do not include any reference to a racist, ethnic, cultural or religious motivation.

When Denmark came to consider the ratification of the ICERD, the Ministry of Justice established a Commission of Experts. The Commission stated in a report from 1969 that conformity of standards existed in connection to racist violence given the above mentioned sections of the Danish Penal Code. Consequently, no specific ban on racist motivated violence was introduced into Danish legislation.

However, during the last couple of years individual cases illustrate that the racist character of violence has in some Court cases been considered as an aggravating circumstance when sentencing.¹⁷ The basis for this is section 80 (1) of the Danish Penal Code, which has the following wording:

“(1) In determining the penalty, account shall be taken of the gravity of the offence, and of information concerning the offender’s character, including his general personal and social circumstances, his conduct before and after the offence and his motive in committing it.”

The Metropolitan Police Force in Copenhagen has consequently issued an instruction, that in all cases of violence with a possible racist motive, the prosecutor must ask the court to consider this as an aggravating circumstance.

The Danish Security Intelligence Service (PET) produces the official statistics for the incidence of racial violence in Denmark. It follows from PET's instruction dated 18 December 2001 that racist violence is registered when the incident 1) is considered a criminal offence, 2) and the offence is motivated by race, colour, national or ethnic origin, or religious beliefs. Refer [to chapter 7](#) for more information.

3.3. RACIAL HARASSMENT

There is no direct prohibition of harassment on account of race, ethnic origin or religion in Danish legislation in the Danish Penal Code.

Section 2 of the Act on Prohibition of Differential Treatment in the Labour Market etc. inter alia prohibits the employer from discriminating in regard to labour conditions. Interpreted in accordance with section 4 of the Act on Equal Treatment of Men and

¹⁷ City Court of Copenhagen, case no. 23882/1996, dated December 3, 1996.

Women, this provision may include a protection against harassment on account of race, ethnic origin or religion in employment.

More specifically, “The Danish Act on Prohibition against Discrimination on the basis of Race, etc. (lov om forbud mod forskelsbehandling på grund af race mv.) prohibits discrimination in connection with commercial or non-profit businesses on the basis of a person’s race, colour, national or ethnic origin, religion or sexual orientation. The Act was adopted in connection with Denmark’s ratification of the International Convention on the Elimination of All Forms of Racial Discrimination, cf. Consolidated Act No. 626 of 29 September 1987.

Pursuant to the Act on Prohibition against Discrimination on the basis of Race, etc., it is a criminal offence within commercial or non-profit businesses to refuse to serve a person on the same terms as others because of his or her race, colour, national or ethnic origin, religion or sexual orientation. It is also an offence to refuse admittance to the person on the same terms as others to a place, performance, exhibition, meeting or the like that is open to the public (cf. Consolidated Act No. 626 of 29 September 1987).”

3.4. POLICIES AND INITIATIVES

In its recent policy paper “The Government’s vision and strategies for better integration”, a governmental working group formulated in a 98 page report 114 proposals for “better integration”. Under the section on “differential treatment and racism”, reasons for such actions were described as follows,¹⁸

“Research has shown that differential treatment based on racial or ethnic origin and experienced discrimination is a real problem in the integration process, although the extent of the problem is difficult to fully uncover. No matter the extent it cannot be accepted, if differential treatment occurs based on skin colour or ethnic background. Society expects that people make an effort, so they should of course be treated with equal respect and be given a fair chance. We all have responsibility for this.

There can be many reasons for differential treatment. Sometimes it occurs unconsciously, for example as a result of a “doing as we always have” mentality in businesses, when they recruit new workers. Other times it can occur because of open and direct resentment. A resentment maybe caused by a failed immigration and integration policy, but that is nevertheless unacceptable”.

There are two accompanying initiatives; six and seven. The first refers to the transposition of the EU Equal Treatment directives, and the second to a plan of action on “diversity, equality and tolerance” in Danish society, which is a follow up document to the UN World Conference on racism, 2001, the previous government had obliged Denmark to write.

The Ministry for Refugees, Immigrants and Integration mentions the above points, plus three other initiatives. The first is the publication of material containing correct

¹⁸ Denmark, The Ministry of Refugee Immigration and Integration Affairs (2003), Regeringens vision og strategier for bedre integration, p.14

information on foreigners in Denmark, the second is the existence of the Council of Ethnic Minorities, which is an advisory committee consisting of representatives from an ethnic minority background, and the third is the reference to the existence of rules and laws prohibiting racism and differential treatment.

3.5. MONITORING SYSTEMS

The official monitoring regarding racist violence and racist crimes is carried out by the Danish Police. All violations of the Danish Penal Code are registered in the police's central Crime Report Database. This database does not include specific categories for racist violence or racist crimes, furthermore it does not include any information on the specific cases in question.

In 1992 the Chief Superintendent of PET, sent a circular to all police districts in Denmark stating that all criminal incidents with a suspected racist motive must be reported to PET.

It is important to note that the local police need only suspect a racist motive to warrant PET's notification and do not necessarily have to be able to prove it. The circular stated that this suspicion could for example stem from (i) the victim's, the perpetrator's or witnesses' statements, (ii) from the presence of racist or xenophobic symbols or graffiti, (iii) whether the victim and perpetrator knew each other, or (iv) whether the crime was a planned action. The circular also stated that the incident should be reported to PET as soon as the individual police district noted the incident. This practice has produced the following figures.

In December 2001 the Chief Superintendent of PET, sent out an updated circular concerning the reporting of criminal incidents with a racist or religious motivation: only criminal incidents with a suspected racist or religious motive should be reported, a contact-person should be established in each district, and finally, the reports from the districts would be published in a yearly report by PET.

These changes entered into force on February 1, 2002.

In cases regarding section 266 b of the Danish Penal Code all complaints have been recorded since 1995 by the Director of Public Prosecution. The number of initiated court cases and convictions is not published.

The Director of Public Prosecution is, based on his Instruction no.4/1995, notified of all complaints regarding section 266 b. Moreover the question of prosecution is decided by the Director of Public Prosecution. This practise has been established in order to ensure uniform prosecution in cases regarding section 266 b.

4. DESCRIPTION AND ANALYSIS OF EXISTING DATA AND SOURCES

The following information relates to the period of 2002 and 2003 to the extent the information was available at the time of submission of the report; it includes data on racist violence and racist crimes from both official and non-official records. Where relevant, data from 1992-2001 are presented.

4.1. DATA ON RACIST VIOLENCE

Official records on racist crimes by governmental authorities (a)

Records on hate speech

The Danish Police provides statistics on the number of complaints according to section 266 b of the penal code: Hate speech in the form of threats or insults due to race, colour etc.

Figure 4: (The Danish Police's Database of filed complaints)

RACE DISCRIMINATION (HATE SPEECH) Section 266 b-c of the Penal Code						
Year	1. quarter	2. quarter	3. quarter	4. quarter	1. half	Whole year
1996	9	3	6	2	13	24
1997	13	11	6	33	24	63
1998	10	5	5	6	15	26
1999	8	4	5	15	12	33
2000	14	10	3	10	24	37
2001	11	16	15	22	27	65
2002	11	9	6	7	20	36
2003	8	6	5	8	15	28

Please note that annex seven includes a list of the numbers of complaints on an annually basis since 1983. It should also be noted that the numbers provided above for incidents relating to the crime of hate speech should also have been reported to the PET. The records provided by the PET presented below do however disclose that this is far from the case.

The numbers of complaints relating to the violation of section 266 b of the Danish Penal Code show that incidents of hate speech were very low in beginning of the 1980s (less than 10)¹⁹ but then increases during the 80s and the 90s with 1997 as the highest with 63 complaints. The majority of these complaints were filed in the second half of 1997, and were also followed by a relative high number of complaints in the first quarter of 1998.

¹⁹ See Annex 7.

After a decrease in three following years the next peak is in 2001 with 65 complaints, again followed with a relatively high number of complaints in the beginning of 2002.

What will be analysed further in section 8 is the significant increase of complaints in the years of elections: 1997 (local election in the fall of 1997 and general election in January 1998) and 2001 (both local and general election by the fall of this year).

Whether the increasing amounts of complaints in 1997 and 2001 relates to statements made in connection to the election campaigns of politicians is analysed further in section five below, as well as the question of whether these complaints filed with the police may be considered a form of harassment of political opponents (as stated by members of the Danish People's Party), or whether the politicians accused of making racist statements are actually being sentenced according to the Danish Penal Code section 266 b (and thus proving that it was not harassment).

The police statistics only include the number of complaints, not the numbers of charges and convictions according to section 266 b. Since 1995, however, the Director of Public Prosecution (Rigsadvokaten) keeps records on these figures, based on his Instruction no.4/1995, to be notified of all complaints regarding section 266 b. Moreover the question of whether prosecution may take place, is decided by the Director of Public Prosecution. In a recent answer to the Danish Parliaments committee on Justice, the number of charges and convictions between 1995 and September 2003 were as following²⁰:

September 1995 – September 2003:	188 cases	
Cases/Complaints rejected by police:	110 cases	
Cases forwarded for prosecution:	78 cases	104 persons (involved in the 78 cases)
Charges:		52 persons
Convicted:		35 persons
Acquitted:		7 persons
Pending:		8 persons
One case transferred to Sweden:		2 persons

These figures shows that the majority of complaints are being rejected by the prosecution. This may happen directly by the police (110 cases/complaints), or by the Director of Public Prosecution who has received 78 cases from the police (in which the local police found reasons for pressing charges), however, only about half of these cases were taken to court (52 persons out of a total of 104 persons).

A total of 35 persons were convicted in the period from 1995 until September 2003 compared with a total of 188 complaints/cases in the same period. On the one hand this may tell us that at least some of the complaints are made even though the statements were not in violation of section 266 b of the Danish Penal Code. This may support the idea that some complaints were made in order to stop opponents from making statements about "foreigners", "Muslims" etc. in Denmark, which the complainants found offensive.

On the other hand it is not possible from these figures to assess whether any of the 188 cases relate to Danish politicians, and thus whether any politicians are amongst those who

²⁰ DK Parliament 2003, answer 447 as of September 2. 2003 (see annex 6).

were convicted and/or acquitted (or amongst the cases that the prosecutors refused to prosecute at all). In order to make an up-to-date assessment we thus need a closer look at the individual cases especially in the years of 1997 and 2001, as well as the present Court cases in 2003.

By way of example according to the identified thirteen judgments concerning section 266b of the penal code passed in 2003 - described below in section 4.3 – the majority concerns politicians. According to the judgments, five members of the Progressive party were convicted and also five members of the Danish People’s Party, as well as one member of the so-called “Faelleslisten”. Further one member of the organisation Hizb-ut-Tahrir was convicted for violating section 266b of the penal code. There were five judgements in 2003 related to persons not members of any political party/organisation. In other words, this small sample shows that the majority of the present judgments in 2003 relate to racist statements made by members of the Progressive or the Danish People’s Party. It should also be noted, that a sixth member of the People’s Party was acquitted in this period, and finally one member of that party could not be taken on trial, because of his status as a member of the European Parliament.

Records on racist violence

The following tables show the number of racially motivated incidents reported to PET in the period 1992-2003 (See annex 5).

Figure 5: (PET records 1992-2003)

Year	Number of Incidents
1992-1998	620
1999	16
2000	28 (18#)
2001	116
2002	68
2003	52

Please notice that figures provided in previous years by PET (by the end of year, marked with #) have now been updated due to new reports from the local police forces that may arrive with the central police service after the end of that year. By way of example the numbers for 2000 have been updated from 18 till 28 incidents.

The following figures show the number of incidents reported to the PET in 2002 and 2003 by category and police district. In general the records provided by the PET show an increasing number of incidents of racial motivated crimes after 2000.

The records from January 1st to December 31st, 2002 and January 1st to December 31st 2003 have not been categorised by PET, the categorisation has however been manually done following the categories used by PET in their earlier records. It should be noted that some of the “nature of incidents” overlap, i.e. vandalism and harassment. The “main” nature of the incident has in these cases been used for categorisation.

Figure 6: (PET record: January 1st – December 31st, 2002)

Nature of Incident	Number of Incidents
Arson	4
Harassment	20
Vandalism	19
Propaganda	8
Threats	8
Unrest	1
Physical attacks	8
Total	68

Figure 7: (PET record: January 1st – December 31st, 2003)

Nature of Incident	Number of Incidents
Arson	4
Harassment	14
Vandalism	9
Propaganda	12
Threats	9
Unrest	0
Physical attacks	4
Total	52

Figure 8 show the geographical dispersion over the country of all incidents.

Figure 8: (PET record: January 1st – December 31st, 2002)

Part of country	Number of Incidents
Copenhagen and suburbs	36
Sjælland	8
Fyn	3
Jylland	20
Other	1
Total	68

Figure 9: (PET record: January 1st – December 31st, 2003)

Part of country	Number of Incidents
Copenhagen and suburbs	23
Sjælland	8
Fyn	1
Bornholm	1
Jylland	17
Other	52

Figure 10 shows the number of reports in 2002 made by each police district. It should be noted that there are 54 police districts in Denmark (excluding the Faroe Islands and Greenland). Of these 54 police districts, PET records show that 18 districts actually reported incidents in 2002 and 16 in 2003.

Figure 10: (PET record: January 1st – December 31st, 2002)

Police district	Number of incidents
Copenhagen	34
Glostrup	2
Helsingør	3
Hillerød	1
Ringsted	2
Slagelse	2
Vordingborg	1
Odense	3
Århus	5
Grenå	2
Randers	1
Viborg	2
Ålborg	1
Herning	3
Haderslev	2
Tønder	1
Gråsten	2
Nykøbing Falster	1
Total	68

The next table shows the numbers spread over police districts for the period covering January - December, 2003.

Figure 11: (PET record: January 1st – September 31st, 2003)

Police district	Number of incidents
Copenhagen	18
Gladsaxe	1
Hvidovre	1
Glostrup	3
Helsingør	1
Hillerød	2
Roskilde	1
Slagelse	3
Vordingborg	1
Bornholm	1
Odense	1
Gråsten	1
Haderslev	2
Esbjerg	2
Århus	11
Thisted	1
Serious Organised Crime Agency (SOCA) (in Danish NEC)	1
Undisclosed police district	1
Total	52

When looking at the geographical dispersion of reported incidents of racist crimes a significant small number of reports originate from areas outside the metropolitan area. This could be explained by the fact that the majority of minorities are situated in this area. The newest statistics from the Ministry of Refugees, Immigrants and Integration however show that the Municipalities with the largest share of immigrants and descendants are Ishøj (Glostrup police district), Brøndby (Glostrup police district), Albertslund (Glostrup police district), Copenhagen (Copenhagen police district), Karlebo (Helsingør police district), and Høje-Taastrup (Glostrup police district)²¹ On this basis the police district with the largest amount of immigrants and descendants is Glostrup. However the district has only filed two reports in 2002 and three reports in 2003.

The records provided by the PET do not categorise the crimes into Islamophobia or Anti-Semitism. As the record however does provide information on each specific event, the crimes can with some uncertainty, as the information at times is sparse, be placed under the categories of Islamophobia, Anti-Semitism, Xenophobia (covering crimes where no information on the victims' religious belief is given), and crimes targeting the majority (mainly crimes targeting ethnic Danes, where the perpetrator is of non-Danish ethnic origin). It should be noted that some of the crimes fall into more than one of the categories.

²¹ DK/ The Ministry of Refugee, Immigration and Integration Affairs, Årbog om udlændinge i Danmark 2003 (Yearbook on Foreigners in Denmark 2003), Copenhagen, October 2003.

Table 12: (PET record: January 1st – December 31st, 2002)

Type of crime	Number of Incidents
Islamophobia	12
Anti-Semitism	25
Xenophobia	24
Targeting the majority	9

Table 13: (PET record: January 1st – December 31st, 2003)

Type of crime	Number of Incidents
Islamophobia	13
Anti-Semitism	12
Xenophobia	32
Targeting the majority	5

4.2. UNOFFICIAL RECORDS OF RACIST CRIMES

As stated in the methodological considerations the data collected from other sources is accompanied by a problem of validity. Many of the incidents have been registered based on newspaper articles or word of mouth. However, we believe that despite the lack of 100% validity it is important that the incidents are included in the report as it is an attempt to document the incidents either not reported to the Police, or not further reported to PET.

Two unofficial records monitoring hate speech and racist violence exist besides the official records. One is produced by the Documentation and Advisory Centre on Racial Discrimination (DACoRD) and one by the Jewish Community (Det Mosaiske Trossamfund), specifically aimed at anti-Semitism.

It should be noted that these records in general overlap with the official records produced by the Danish authorities, and on this basis the numbers that follow represent only incidents not recorded in the official records. This is, however, not the case for incidents related to the crime of hate speech, as the official record does not provide any information on the specific incidents. It is therefore impossible to compare the incidents on a qualitative basis.

Records on hate speech by DACoRD

Complaints

The table below show the incidents of hate speech registered by the Documentation and Advisory Centre on Racial Discrimination (DACoRD) in 2002 and 2003.

Table 10: (DACoRD record on hate speech (266 b), 2002 and 2003)

Year	Number of Incidents
2002	17
2003	24

Convictions

According to the registration by the DACoRD the number of convictions from January to December 2003 was thirteen.²² In all thirteen cases the courts found violations of section 266 b and sentenced the perpetrators (seventeen perpetrators were convicted). In one case – including two persons – however, the court sentenced one member of the Danish People’s Party but, in the judgement, acquitted another member of the People’s Party. The court held the opinion that the statements about young 2nd generation immigrants did not refer to all young 2nd generation immigrants, but only to a specific criminal group.

Records on racist violence by DACoRD

The record by DACoRD does not list any incidents in 2002 not listed in the official PET record relating to racist violence.

In 2003 two incidents were recorded that were not included in the official record.

Records on hate speech by the Jewish Community

The Jewish Community’s (Det Mosaiske Trossamfund) records, monitoring and collecting data on anti-Semitic attacks and activities in Denmark, shows 12 incidents in 2002 and 10 incidents in 2003 (as of December 17, 2003) that could be categorised as hate speech under section 266 b of the Danish Penal Code.

Records on racist violence by the Jewish Community

The Jewish Community’s record includes a range of incidents among these incidents where no complaint has been filed to the police. These incidents therefore naturally do not appear in the official record by PET. It should be noted that all of these incidents are characterised by the Jewish Community as anti-Semitism. It appears that there have been a total of 50 incidents recorded in 2002.

Of the 50 incidents in 2002 a total number of 5 incidents overlap with the official PET record of 2002.

The following incidents have been categorised using the categories provided by the PET.

²² Please find further information on each court case in section 7.3.

Table 11: (Jewish Community record January-November 2002)

Nature of Incidents	Number of Incidents
Arson	0
Harassment	21
Vandalism	8
Propaganda	3
Threats	9
Unrest	0
Physical attacks	9
Total	50

Cases given publicity in the Media (c)

A very clear example of a case that was described in almost all the Danish media was a racist attack on an open air Muslim gathering on the town hall square in Copenhagen on 4 April 2003. The night before the gathering a group of unknown(still) perpetrators threw pig shit on the square in order to stop the gathering on the following day. Even though almost all newspapers and other media in Denmark reported this incident, no police report was ever filed, and thus it was never registered with the local police or the PET.

4.3. COURT CASES

This chapter will provide information on court cases from 2003 related to section 266 b of the Danish Penal code (*straffeloven*) and racist violence in general.

The Director of Public Prosecutions is notified of all complaints regarding section 266 b of the Danish Penal Code, cf. Instruction no. 4/1995. The question of prosecution is furthermore decided by the Director of Public Prosecutions in order to ensure uniform prosecution in cases regarding section 266 b.

From 1 January 2001 to 31 December 2003 the Danish courts have considered 23 cases concerning violation of section 266 b of the Danish Criminal Code which prohibits the dissemination of racist statements and racist propaganda.

In some of the cases more than one person was indicted. In one case the court acquitted the person indicted and in another case the court acquitted one of the two persons indicted. In the remaining 21 cases the courts convicted all the persons indicted.

As to the manner in which the statements/propaganda were disseminated, four cases concerned private persons yelling at someone in a public place like the street, a shop or a bus, seven cases concerned statements published on the Internet, two cases concerned statements published as advertisements, and two cases concerned statements expressed at political party conferences. In three cases the statements were given to the press during interviews or sent to the press as a press release and in another three cases the statements were sent by e-mail or by ordinary mail to a number of politicians.

As to the persons expressing these statements, 10 cases concerned statements/propaganda from politicians (one of which was acquitted) and one case concerned a spokesperson for a religious movement, whereas the majority of the rest concerned statements expressed by private persons.

As to the level of sanctions, in five cases the persons convicted were sentenced to suspended imprisonment (the number of days differing from 14 to 40 days) – though in one of these cases two out of six persons convicted were given day-fines and the rest a suspended prison sentence. In the other 17 cases resulting in convictions, the sentence was day-fines the number and size differing according to the nature of the crime, the motive, the personal circumstances of the persons convicted and their financial situation (usually 10 to 20 day fines).

Finally, the Director of Public Prosecutions decided to withdraw charges for violation of section 266 b of the Criminal Code in six cases in 2001, seven cases in 2002 and six cases in 2003 pursuant to section 721 of the Danish Administration of Justice Act (retsplejeloven), inter alia because of lack of evidence.

The statistics concerning violations of section 266 b may be summarized as follows:

Table 12:

Year	Number of cases prosecuted	Number of persons indicted in the cases prosecuted	Number of cases where charges were withdrawn
2001	7	6	6
2002	10	17	7
2003	6	7	6

It should be emphasized that the relevant year of the decision to prosecute made by the Director of Public Prosecutions is decisive for the classification in table [XX], whether or not the accused is indicted the same year and whether or not a judgment pronounced by a court of first instance is appealed.

The 6 cases where the decision to prosecute was made in 2003 are as follows: Judgment of the District Court of Soroe of 18 June 2003, judgment of the District Court of Herning of 19 June 2003 (this judgment is mentioned on page 35 of the report), judgment of the District Court of Copenhagen of 4 August 2003, judgment of the District Court Naestved of 2 September 2003 (this judgment is mentioned on page 35 of the report), judgment of the District Court of Grindsted of 26 November 2003 and judgment of the District Court of Copenhagen of 4 December 2003

In 2003 thirteen court rulings regarding violations of section 266b of the Danish Penal code have been identified. In eight of the thirteen cases the statements were expressed by politicians or members of political organisations

Court cases regarding hate speech

Abstracts of nine of the thirteen judgments from 2003. Four judgments are not described due to inadequate information. It has however been possible to establish that two politicians were convicted in one of the four cases not further described.²³

By judgment of the Eastern High Court of 24 February 2003 an editor of a home page on the Internet was found guilty of violating section 266 b (1) and (2) for having – in December 1999 – published an article named “Behind Islam. The article included several degrading statements about Muslims such as *“The Mohammedans’ efficient and brutal way of extirpating families, races and nations of others makes it very difficult to retrieve the special characteristic of one’s own family, race and nation afterwards”* and other similar citations. The considerations in regard to a broad interpretation of the right to freedom of expression for politicians talking about controversial subjects could not result in acquittal. The expressions made on the website were recited by the electronic media and as part of A’s political profile. The Court found, therefore, that the remarks were covered by Section 266 b para. 1. It furthermore held that the publication of the article over the internet meant that the act could be seen as propaganda making it also a violation of Section 266 b, para. 2.²⁴ The person was sentenced to 20 day-fines of DKK 300.

By judgement of the Eastern High Court of 11 March 2003 a former member of the Progressive Party was found guilty of violating section 266 b (1) and (2). for having – in 1998 and 1999 – in various television and radio broadcasts inter alia stated the following about Muslims: “[...] *it is only to exterminate and kill the Danes that they come here*” and “[...] *it is not a religion – it is a global destruction movement, and it has nothing to do with religion*”. He also stated that if they did not leave voluntarily within a fixed period, they were to be captured and offered by tender to those who would pay the most for them. He was sentenced to 20 days in prison for these and other degrading statements and threats.²⁵

In a **judgement of 14 March 2003 the Eastern High Court** a spokesperson of the Danish branch of the organization Hizb-ut-Tahrir was sentenced for the dissemination of a handbill containing degrading, insulting and threatening remarks about Jews. Furthermore the remarks were published on the website of the organization Hizb-ut-Tahrir.²⁶ He was sentenced for having stated on a home page on the Internet and in a leaflet that was handed out: *“Kill them wherever you find them and drive them away from the place that they drove you away from. The Jews are a slanderous group of people, and they betray and violate obligations and pacts, and they invent lies...”* and *“cowardice Jews...”* and other similar statements.

Considerations in regard to the interpretation of the right to freedom of expression could not result in acquittal. The accused had violated the Penal Code Section 266 b, para. 2 cf. Para. 1 and Section 23 (complicity) and was therefore sentenced to 60 days of imprisonment (suspended sentence).

²³ Judgment of the District Court of Grinsted of 26 November 2003. Two politicians from the Progressive Party were convicted for violating section 266b of the Danish Penal Code.

²⁴ Danish Weekly Law Journal 2003 page 751, U.2003.751/2Ø.

²⁵ Danish Weekly Law Journal 2003, page 1411. UfR 2003.1411Ø.

²⁶ Op.cit 2003 page 1428, UfR .2003.1428Ø.

By judgment of the District Court of Hvidovre of 11 October 2002 four members of the Danish People's Youth Party's were sentenced to 7 days' suspended imprisonment for having placed an advertisement on the Internet and in several technical periodicals stating: "Mass rape, serious assault, insecurity, forced marriages, suppression of women, gang crime; This is what a multiethnic society has to offer." The advertisement showed two pictures, one of three blond girls and the text "Denmark today" and one of a young Muslim man carrying the Koran and covered with fake blood with the text "Denmark in 10 years" (the picture originated from the Middle-East). The District Court did not consider the advertisement to be a statement of a propaganda-like character. Two editors who had printed the advertisement in their periodicals were sentenced to 5 day-fines of DKK 500 each. By judgement of the Eastern High Court of 9 May 2003 the publication in a newspaper with an issue number of 40,000 and on the internet was characterized as propaganda and thus violated section 266 b (2) and the High Court increased the sentence of the four young politicians to 14 days' suspended imprisonment – the two editors did not appeal their judgment.²⁷

By judgement of the Western High Court of 19 August 2003 a member of the Danish People's Party was found guilty of violating section 266 b (1), for – at a political party's annual national meeting in September 2001 – having stated: "*Islam is not a religion traditionally speaking. It is a terror organization which tries to obtain world dominion by violence*" and other similar statements. The Court found that this statement included an illegal degradation of the followers of Islam and the fine was 10 X 500 D.kr..

The Court did however in the same judgement acquit another member of the People's Party for *inter alia* – at the same meeting – having stated: "*The fact is that most of these young Arabs are criminals who – by their glorification of violence and intense hatred – have continued the traditions given to them by their paterfamilias*" and other similar statements. The court did not find that the statements made by the politician were of such coarseness that the statements constituted a violation of section 266 b (1).

These two court cases were much discussed (but had different results) because both statements were made at the Danish Peoples Party Annual meeting in 2001.

A third member of that party was also charged for violation of section 266 b in the same case, however due to his status as a member of the European Parliament, the Danish Director of Public Prosecutions had to give up the case, as the Parliament did not give permission to press charges against him.

By judgment of the District Court of Herning of 19 June 2003 a member of the Progressive Party had distributed an email to 44 people where different degrading and insulting statements were made about, inter alia, Muslims. The court found that this distribution fulfilled the requirement of dissemination to a wider circle of people, and the accused was found guilty of violating section 266b. The convicted had pleaded not guilty, and said that the email had a political purpose. He stated that the email was his contribution to the political debate.

²⁷ A summary of this judgment has been published in the Danish Weekly Law Journal 2003, page 1947, UfR.2003.1947 Ø

The judgment follows a Supreme Court judgment of 23 August 2000 where it was stated that “the substance of the prohibition in 266b must be determined in relation to the freedom of expression. A debate on the political goals of an accused is not precluded by a criminalisation of expressions of such a character, as the accused have made in their email. The special wide freedom of expression on controversial public matters can therefore give no reason for impunity for the accused.

By judgment of the District Court of Næstved of 2 September 2003 a person was sentenced to 10 day-fines of DKK 250 for having painted swastikas on the front of a shop owned by a person of non-Danish ethnic background.

By judgment of the Western High Court of 11 September 2003 a person was sentenced to 5 day-fines of DKK 200 for having published a song text on a home page on the Internet which included insulting or degrading views on Jews and Turks.²⁸

By judgment of the Supreme Court of 3 December 2003 a member of the Progressive Party was sentenced to twenty days’ suspended imprisonment for having stated on a home page on the Internet: “*The solution is a three stage plan: 1) Capture all Muslims in Denmark (for this purpose approximately 10,000 additional policemen are needed). 2) Gathering of the Muslims in concentration camps (one concentration camp in each county). 3) Deportation to a destination of choice (the living standard in the camps must be gradually reduced for each month that the deadline for leaving the country is overrun)*” and other similar statements. The City Court of Copenhagen had found that the statements did not have a propaganda-like character and only fined the politician 6 day-fines of DKK 500. The Eastern High Court, however, characterized the statements as propaganda and increased the fines to 20 day-fines of DKK 500. The Supreme Court also characterized the statements as propaganda and ordered the above mentioned twenty days’ suspended imprisonment instead of day-fines.²⁹

Other Court cases

Judgement of 17 June 2003 by the Supreme Court.³⁰

A spokesperson for the People’s movement against the EU (Folkebevægelsen mod EU) had stated in a Radio News program that she could not identify herself with the *racist* viewpoints of a leading member of the Danish People’s Party. The representative explained that this was the reason for not making a joint campaign with the Danish People’s Party against the introduction of the EURO. The member of the Danish People’s Party sued her for defamation according to the Criminal Code Section 267.

²⁸ A summary of this judgment has been published in the Danish Weekly Law Journal 2003, page 2559, UfR.2003.1947 Ø.

²⁹ A summary of this judgment has been published in the Danish Weekly Law Journal 2004, page 734, UfR.2004.734 H

³⁰ Supreme Court Judgment Case 377/2002, passed 17.06.2003 available at: <http://www.hoejesteret.dk/shownewslstnews.asp?id=335&sortfield335=&direction335=asc&doshow335=1&searchword335=377/2002&category335=42&newsid335=413> (18.08.2003).

The Supreme Court pointed out that there were three ways of using the word *racism* in a temporary context according to The Danish Language Board (Dansk Sprognævn); firstly, the word racism or racist could be used in relation to the prosecution of the Jews and the Nazis ideology; secondly, the word could be used in relation to the superiority of one race; thirdly, the use of the word could aim at discrimination and oppression of, or dissociation from, a group of people who could be of the same race as the individual making the statement. The accused stated that she had used the word in the third meaning, referring to the negative attitude of the member of the Danish People's Party towards immigrants. The Supreme Court found that the word *racist* was used in the third meaning of the word. The Supreme Court found, after an overall assessment, and in the context of the circumstances, that the statement was not a violation of the Criminal Code Section 267.

Furthermore, the Supreme Court found that a contrary result would be violating ECHR Article 10 concerning freedom of expression; the character of the comments was a *value judgment* in a political debate concerning important issues and therefore, it did not overstep the boundaries of freedom of expression.

International Decisions

CERD: Communication No. 27/2002

In 2001, at the annual meeting of the Progressive Party several degrading and insulting statements were made about foreigners and Muslims. A member of the Danish Parliament for the Socialist Peoples Party filed a complaint to the police stating that the members of the Progressive Party's executive board should be held liable for the statements made at their annual meeting as the statements amounted to a violation of section 266 b of the Penal Code. The case was however rejected by the Police and the Public Prosecutor. A complaint was filed to CERD arguing that Denmark had breached Article 4 and 6 by not initiating an investigation.

The Committee found the complaint admissible, but held that there was no breach of Article 4 and 6, as it could not be ruled out that effective remedies were present as individual complaints had been filed targeting the specific speakers at the meeting. However the Committee stated **that it wished: "to remain apprised to the results of the criminal complaints lodged against the speakers at the party political conference in view of the racist nature of their remarks."** (our underlining)

It should be noted that six of the speakers at the conference of the Progressive Party were reported to the police. Two of the speakers at the conference, (A) and (B), were actually prosecuted for their statements on 26 November 2003 before the District Court of Grindsted. However, the investigation was discontinued pursuant to section 749(2) of the Administration of Justice Act as concerns a drawing allegedly distributed by (B), and charges were withdrawn pursuant to section 721 of the Administration of Justice Act as concerns (C), (D), (E) and (F).

As the drawing concerns, the decision of the Director of Public Prosecutions was based on the fact that it was impossible to provide the requisite proof for conviction because no copy of the drawing could be procured.

(C) was not prosecuted since the resources required for conviction would not be commensurate with the punishment to be expected for (C)'s statements at the conference. (C) was sentenced by the District Court of Haderslev on 20 November 2001 to 20 day fines of DKK 300 for violation of section 266 b(1) of the Criminal Code. According to section 89 of the Criminal Code an additional sentence should only be imposed if simultaneous adjudication would have resulted in a more severe sentence. Against that background the Director of Public Prosecutions estimated that the sentence would not have been much more severe if the current violation had been included in that case. In this connection, please also note that the statements at the conference were in the nature of a summary of the trial concerning violation of section 266 b(1) of the Criminal Code for which (C) was convicted by the District Court of Haderslev shortly after the conference.

(D) was not prosecuted based on the expectation that further prosecution would not lead to (D) being convicted and sentenced, cf. section 721(1)(ii) of the Administration of Justice Act. The reason for the decision of the Director of Public Prosecutions was that it was impossible to prove the context in which (D)'s statement had been made.

(E) and (F) were not prosecuted based on the expectation that further prosecution would not lead to their being convicted and sentenced, cf. section 721(1)(ii) of the Administration of Justice Act. The reason for the decision of the Director of Public Prosecutions was that the statements did not concern a group of persons. The Director of Public Prosecutions thus found that the actus reus requirement of section 266 b of the Criminal Code was not satisfied.

The applicant appealed the decisions of the Director of Public Prosecutions concerning (E) to the Ministry of Justice, which on 13 October 2003 found that the applicant was not entitled to appeal the decision since he did not have an essential, direct and individual interest in the case.

On this basis initial steps have been taken by the member of parliament who originally filed the complaint to the Committee to file a new complaint to CERD holding that the Ministry of Justice's decision dated October 13, 2003 not to initiate prosecution of one of the speakers constitutes a breach of ICERD Article 4 and 6.

Survey of potential "victims"

The private research institute "Catinet" interviewed a sample of 1000 people with ethnic minority background about their experiences of discrimination since 11.09.2001.

Two different questions have given two different answers.

The first question "Do you experience more or less discrimination than you believe people with a Danish ethnic background experience?", revealed that about a third of the respondents believe that they indeed do - however this figure is roughly the same as the figure produced by the same question before 11.9.01.

The second question: “have the terror attacks in USA lead to your experiencing more or less discrimination?” resulted again in roughly one third believing that they have experienced more discrimination since 11.09.2001.

Therefore, the two results seem to contradict each other. Catinet concludes that, “the first question can be answered based on one’s own personal situation (and reflects therefore the more structural situation in society, i.e. social and economic relations). The second question refers to a public occurrence, and the respondents could have chosen an answer which incorporates the political context and oneself as belonging to a national/ethnic/religious group/category. That relatively more men feel more discriminated against, can be seen in the light of men’s relatively larger political engagement.”

These answers are extremely interesting indicating that one’s feeling changes dramatically when placed into a national/ethnic political context.

Data on perpetrators of racist violence and racist crimes

In the period under review no surveys were carried out to interview the possible perpetrators about their offences.

4.4. GAP ANALYSES

As mentioned earlier statistics on incidences of racial violence in Denmark are produced by the Danish Security Intelligence Service (PET). Racial violence is understood here as being a number of different crimes (violence, vandalism, arson etc.) which have a racist motive. In 1992 the Chief Superintendent of PET sent a circular to all police districts in Denmark stating that all criminal incidents with a suspected racist motive must be reported to PET. It is important here to note that the police have only to suspect a racist motive to warrant PET’s notification and not necessarily be able to prove it. The circular stated that this suspicion could for example stem from (i) the victim’s, the perpetrator’s or witnesses’ statements, (ii) from the presence of racist or xenophobic symbols or graffiti, (iii) whether the victim and perpetrator knew each other, or (iv) whether the crime was a planned action. The circular also stated that the incident should be reported to PET as soon as the individual police district noted the incident.

PET state that the majority of the incidents that occurred between 1992-1998 can be described as racist propaganda, i.e. flyers, graffiti, harassment, threatening letters and telephone calls etc. Of the 620 there were 30 incidents of arson (15 of which were attempted arson), and 30 incidents involving violence or fighting. Similarly, with regards the figures for 1999 and 2000, PET report that the majority of incidents involved the distribution of racist propaganda or vandalism.

When comparing the PET figures for 1999, 2000 and 2001 it would suggest that the number of incidents dramatically increased from approximately 20 for both 1999 and 2000 to 100 in 2001. That the number of attacks increased is true, however, the low figures for 1999 and 2000 could also be due to a lesser degree of awareness within the Police districts that all crime suspected of being racially motivated should be reported to PET.

For example, in a response (s1525) from the ministry for justice (20.03.2001) concerning a row of arson attacks in Albertslund (near Copenhagen) it reads that; “as there does not exist information that identifies the perpetrator’s motive, the incidents were not reported to PET”, and therefore do not appear in the 1998 figures. Several people had, however, expressed a concern that the incident was racially motivated. A similar story applies to incidents involving a Turkish social club in Esbjerg, a greengrocers in Slagelse, and a restaurant in Hobro, despite the fact that “Dø svin”(“Die you bastards”) and a “swastika” had been painted on the walls of respectively the greengrocers and the restaurant.

It may be concluded, that whether an incident is reported to PET or not, has very much depended on which police district the incident happened in and this pattern seems to continue. Since 11.09.01 there has been a series of both verbal and physical attacks on ethnic minorities and their businesses. After being informed of these attacks the Documentation and Advisory Centre on Racial Discrimination contacted the respective police districts and asked whether the incidents had been reported to PET. The answers varied significantly from one police district to another. Some districts had indeed reported the incident to PET, some had not, and had no intention of doing so; some said they had not yet reported the incident but would if they could prove a racist motive; one answered that they had never heard of the circular and had therefore not reported the incident to PET; and others said that whether they had or not is confidential.

At the end of 2001 PET issued a new circular³¹ to the local police forces on the issue of reporting racist motivated crimes. Two important changes have been made. Firstly, each police district must appoint an officer to have the overall responsibility for reporting racist crime to PET and, secondly, the circular now instructs police districts to report **all** racist crime to PET and not just racist crime directed towards racial and religious minority groups and individuals. This initiative may reveal in the future whether the local police forces have become more aware of the need for reporting.

³¹ ”Indberetning af kriminelle forhold med mulig racistisk eller religiøse baggrund” 2001-010-135 af den 18. december 2001.

5. ANALYSIS

According to the data provided in chapter 4 there is no doubt that compared to the peak in 2001 the level of racist incidents have decreased in 2002 and in 2003. On the other hand there is no doubt that the level of racist incidents in 2002 and 2003 is higher compared to the level in the years before 2001.

With 116 recorded incidents in 2001 compared to approximately 20 in 1999 and 2000 one may ask what lessons the Danish authorities have learnt from this. Is the Danish society prepared for the situation that another terror attack may create hostility amongst the majority population against the innocent minority population that some connect with terrorism, due to their national or ethnic origin?

Some of the racist attackers have of course been prosecuted and sentenced by the Danish courts. Due to problems of detecting the perpetrators of e.g. vandalism, violence and other form of racist attacks, the police and consequently the prosecution have only limited possibilities for bringing charges in such cases. In the case of hate speech, however, the “attack” is made in public and very easy to detect, which is also reflected in the high number of complaints in 2001 followed by a high number of cases taken to court especially in the period under review.

In 2003 thirteen court decisions regarding section 266b of the Danish Penal code have been identified. The Courts have ruled in favour of the prosecution in all cases except one. Compared with the fact that **the numbers of complaints** relating to the violation of section 266 b of the Danish Penal Code was very low in beginning of the 1980's (less than ten) it is significant that **the numbers of sentenced** perpetrators are even higher today (seventeen in 2003), than the number of complaints in 1983/84!

There has been a steady increase of complaints about hate speech during the 80s and the 90s with 1997 as the highest with 63 complaints. The majority of these complaints were filed in the second half of 1997, also followed by a relative high number of complaints in the first quarter of 1998. After a decrease in the three following years the next peak is in 2001 with 65 complaints, again followed with a relatively high number of complaints in the beginning of 2002.

The significant increase of complaints in the years of elections 1997 (local election in the fall of 1997 and general election in January 1998), and 2001 (both local and general election by the fall of this year) will be analysed further.

This may give rise to two questions, firstly whether the complaints are related to politicians' statements or not? And secondly – if many complaints relate to politicians - whether the complaints were totally unjustified and only serve as a form of “politically harassment” from political opponents, as is the opinion of the Danish People's Party, or do the complaints actually result in convictions because the legislation has been violated?

The first question is difficult to answer because no official statistics show whether those convicted of violating the Penal code section 266 b are politicians. This form of data, however, may be found in the periodic Danish reports to the UN Committee on the Elimination of all forms of Racial Discrimination (CERD). In connection with

information on article 4 of the Convention, the periodic reports include data on the numbers of cases and a short resume of those cases.

By way of example the official thirteenth periodic report of Denmark covering the period from 1995 till 1997 describes four cases that went to Court during this period. In one case, according to the resume, the court convicted the two accused for distribution of flyers making insulting statements about Jews. A second case related to the burning of a cross outside the house of a Turkish family (considered a “statement” violating section 2666 b). The third case related to a person who placed a sign saying: “I have nothing against Pakis, Turks and Blacks as long as they stay in the trees” and the final case also related to an ordinary citizen who was convicted for making statements about “Jewish swine” etc.

None of these cases relates to politicians making racist statements, but data from the next periodic report in 1999 shows a different pattern.

The official fourteenth Danish report to the UN Committee on the elimination of all forms of racial discrimination in 1999 states that:

“By judgment of the Copenhagen City Court of 23 March 1998 the founder of a political party (the Progressive Party) was sentenced to seven days' suspended imprisonment for having said in a television programme that Muslims will expose the Danish population to invasion, castration and homicide and for having characterized Muslims as world criminals in a television programme. The sentence, which was suspended because of the founder's age, has been appealed to the High Court.

By judgment of the Criminal Court in Silkeborg of 5 May 1998 a candidate at the local election for the right-wing political party the Danish People's Party (Dansk Folkeparti) was sentenced to 20 "day fines" of DKK 200 for having, in a newspaper interview, made the following remarks on immigrants, refugees and persons of another national or ethnic origin: "The blacks are spreading everywhere -just like cancer", "crime is inherent in the foreigners' genes" and "they are bolder than brass". The sentence has been appealed to the High Court.”³²

Out of a total of 9 convictions described in this periodic report (1997-1999) 2 relates to politicians, one member from the Progressive Party and one from the Danish People's Party. This tendency is followed by even more politicians being sentenced in the next period 1999-2001

The following Fifteenth periodic report in 2001 states amongst other that:

“Since the Danish Government prepared Denmark's fourteenth report convictions have been obtained in six cases of violation of section 266 b of the Criminal Code:

- *By judgement of the Western High Court of 17 November 1998, a candidate at the local election for the right-wing political party the Danish People's Party (Dansk Folkeparti) was sentenced to 20 day-fines of DKK 200 for having, in a newspaper interview, uttered the following statement: “The*

³² See annex 9

blacks are spreading everywhere, just like cancer” and “Crime is inherent in the foreigners’ genes”. On an overall assessment, the High Court found that the statement “They are bolder than brass” was not of such gravity that the statement fell within section 266 b of the Criminal Code. It should be noted that this judgement was pronounced before Denmark submitted its fourteenth report on 8 January 1999. The judgement of the District Court is mentioned in Denmark’s fourteenth report (para. 140, cf. judgement of the Criminal Court in Silkeborg of 5 May 1998).

- *By judgement of the Eastern High Court of 22 March 1999, a 53-year-old man was sentenced to 20 day-fines of DKK 100 for having, on a home page on the Internet, made allegations against religious/ethnic groups of extremely serious crimes. The High Court found that the fact that the statements had been made over the Internet did not in itself mean that section 266 b (2) of the Criminal Code on propaganda activities could be applied. The judgement of the Copenhagen City Court in the case is mentioned in Denmark’s fourteenth report (para. 140, cf. judgement of the Copenhagen City Court of 15 June 1998).*
- *By the judgement of the Western High Court of 18 May 1999, a 57-year-old member of the Danish People’s Party was sentenced to 10 day-fines of DKK 200 for having stated during an election meeting: “... the main occupation in Poland is prostitution, pardon the expression; they say that 80 per cent of the women in Poland are whores”.*
- *By judgement of the Criminal Court in Hillerød of 15 June 2000, a 20-year-old man was sentenced to 10 day-fines of DKK 200 for having, on a home page on the Internet, made a series of highly insulting and threatening statements aimed at people from former Yugoslavia. The statements of the accused included the following: “As I mentioned earlier, I have no scruples whatsoever about these individuals. I think that we should send each and every one of those that we have here home, even if it is to certain death, so much the better ...”, “... that kind of people I simply cannot tolerate, and I don’t mind being the one who destroys each and every one of them!!!! ...”; the subsequently convicted man later also used expressions like “a thoroughly primitive people” and “a degenerate people”. The court found that the statements of the accused on the home page were not part of such systematic, intense and persistent efforts to affect public opinion that section 266 b (2) of the Criminal Code on propaganda activities could be applied. The public prosecutor’s claim for a custodial penalty was not allowed.*
- *By judgement of the Supreme Court of 23 August 2000, a 74-year-old man, the founder of a political party, was sentenced to seven days’ suspended imprisonment for violation of section 266 b (1) of the Criminal Code, having, in a television broadcast, characterized Muslims as world criminals and for having stated that Muslims would expose the Danish population to invasion, castration and homicide. The judgement was suspended owing to the age of the accused. The judgement of the Copenhagen City Court is mentioned in Denmark’s fourteenth report (para. 140, cf. the judgement of the Copenhagen City Court of 23 March 1998).*

- *By judgement of the District Court in Odense of 28 September 2000, the 74-year-old man mentioned above was sentenced to 20 days' suspended lenient imprisonment for violation of section 266 b of the Criminal Code, having made a number of statements that were insulting or degrading to persons of the Muslim faith on several occasions in television and radio broadcasts, the accused having stated as follows about Muslims: "... it is only to exterminate and kill the Danes that they come here" and "... it is not a religion - it is a global destruction movement, and it has nothing to do with religion"; the subsequently convicted man stated that if they did not leave voluntarily within a fixed period, they were to be captured and offered by tender to those who would pay the most for them. The sentence, which was meted out as a sentence concurrent with the sentence passed by the Supreme Court on 23 August 2000, was suspended owing to the offender's age. The judgement has been appealed.*

*In one case the accused was acquitted. By judgement of the Western High Court of 18 May 1999, in which a 64-year-old Dane was accused of having, **in extension of an election meeting** (our underlining) at an inn, made the following statements to a journalist who passed them on to the newspaper: "They are bred like pigs and think like pigs. They just have to stay down in Seweristan where they belong." The High Court found that the statements fell within section 266 b of the Criminal Code, but acquitted the accused on the ground that it had not been proved that he had intended to disseminate the statements. The High Court thus found it non-proven that the accused was aware that he was talking with a journalist who would pass on the statements." ³³*

In the period between 1999-2001 six cases ended with convictions, most of them relating to politicians from the Progressive Party and the Danish People's Party. One member of that party, however, who made the statements: "*They are bred like pigs and think like pigs. They just have to stay down in Seweristan where they belong.*" was acquitted because he did not intend the statement to be disseminated in public.

The data for this report in section 4 shows that in 2003 thirteen court cases were decided, and seventeen persons were sentenced for violation of the Penal Code section 266b. By far the majority are members of the Danish People's Party or the Progressive Party.

According to the figures provided by the Director of Public Prosecution, during the period from September 1995 till September 2003 as many as 52 persons were charged; 35 persons convicted; seven persons acquitted; and cases related to eight persons were still pending³⁴. Given the data from the periodic reports to the CERD covering the period from 1995 till 2001, as well as the updated information about recent court cases, it is fair to conclude that a growing number of the 35 persons convicted are politicians, who as part of their attempt to be elected in 1997 or in 2001 have made highly offensive statements, especially targeting refugees and migrants originating from the Middle East and who are Muslims.

³³ See Annex 8.

³⁴ See Annex 6.

The next question to be answered is whether those complaints that did not lead to a court case were totally unjustified and only serve as a form of “politically harassment” from political opponents.

In order to make an assessment of this one may have to look into some of the complaints that were rejected by the public prosecutors during this period.

These may be illustrated by cases from the Annual Meeting of the Progressive Party, 2001. At the meeting from the 20th to the 22nd of October 2001 several of the speakers presented the following views from the podium. These speeches were broadcast on Danish television, due to the fact that Danish television’s public-service channels (DR1 or DR2) have a duty to broadcast from the annual meetings of parties running for parliament.

The presented views were *inter alia* the following:

Margit Guul, member of the party (referring to a judgement by the Danish Courts where she was found guilty of violating the Danish penal code section 266 b): *”I’m glad to be a racist. We shall free Denmark of Mohammedans”, ”the black breed like rats”, ”they shall have a hand cut off if they steal”*

Bo Warming, member of the party: *”The only difference between Mohammedans and rats is that rats do not receive social benefits”*

Mogens Glistrup, former leader of the party: *”Mohammedans are going to exterminate the populations in those countries they have forced themselves into”*

Peter Rindal, member of the party: *”Regarding Muslim graveyards, that is a brilliant idea, and preferably of such size that they all fit in them, and preferably all at once”*

Erik Hammer Sørensen, member of the party (commenting on immigration in Denmark): *”5th columnists are walking around among us. The ones we have received commit violence, murder and rape”*

Vagn Andersen, member of the party: *”The State has given these foreigners/strangers jobs. They work in our slaughterhouses, where they can easily poison our food, and endanger our agricultural exports. Another form of terrorism is to break into our water supply facilities and poison the water”*

After having witnessed the Progressive Party’s annual meeting of 2001 the complainant, Mr. Kamal H. Qureshi, contacted the Documentation and Advisory Centre on Racial Discrimination, and asked the centre to file a complaint to the police on his behalf against the Progress Party for violation of section 266 b in the Danish penal code. The centre held the view that the speeches from the parties annual meeting, combined with the above documented press releases, advertisements etc. amounted to what could only be seen as massive racist propoganda from the party. Finally DACoRD referred to the fact that the Progressive Party had set up courses teaching members how to avoid violations of section 266 b in the penal code. These courses focused on how members should express themselves in public. Among the advice given was that in order to avoid a violation, members should not say ”they breed like rats”, when referring to immigrants or

foreigners, but instead "they breed like rabbits". Parts of this course were broadcast on Danish Television in a news-flash.

DACoRD was thereafter informed by the police that a political party as such can not be reported in relation to §266b. Therefore DACoRD, again on behalf of Mr. Kamal Qureshi, reported the individual members of the executive board of the Progress Party in connection with §266b.

However, the police in Odense informed the centre by letter on January 7, 2002, that the complaint about racist propaganda filed by Mr. Kamal Qureshi had been rejected. The Chief Constable of Odense decided pursuant to section 749(1) of the Administration of Justice Act not to initiate any investigation. The main criteria for this decision was as follows: "In my decision I have emphasised in particular that I find that membership of the executive committee of a political party does not in itself involve criminal participation in any criminal statements made by other party members from the rostrum during a party conference. As there is no other information on the allegation that (G) has encouraged others to make criminal statements, I find no basis for initiating any investigation."

By letter of 22 January 2002 the Documentation and Advisory Centre on Racial Discrimination (Dokumentations- og Rådgivningscenteret om Racediskrimination) (the DRC) appealed the Chief Constable's decision of 7 January 2002 to the Regional Public Prosecutor for Funen, etc. On 11 March 2002 this appeal was dismissed as the Regional Public Prosecutor for Funen, etc., found that the DRC was not entitled to appeal as the DRC as an NGO had no material, direct, individual and legal interest in the case. An NGO could exercise the rights of a party to a case, including to appeal a decision, if the organisation acts on behalf of the said party. The Regional Public Prosecutor for Funen, etc., had no information to support the claim that Mr Qureshi had any material, individual and legal interest in the decision. Mr Qureshi could therefore not be considered a party to the case.

Following this decision the Documentation and Advisory Centre (DACoRD) has, on behalf of Mr. Kamal Qureshi, filed a complaint to ICERD. In the complaint DACoRD has made the following analytical comments.

"Alleged cases of discrimination must be taken seriously and must be investigated thoroughly by the national authorities.

In the present case the police in Odense, did not initiate an investigation on the grounds that there was no information to support that a member of the executive board of the Progressive Party could have incited one or more of the speakers at the annual meeting to make unlawful statements in public.

The Committee found the complaint admissible, but held that there was no breach of Article 4 and 6, as it could not be ruled out that effective remedies were present as individual complaints had been filed targeting the specific speakers at the meeting.

The decisions on whether or not to take out charges against these five members of the Progressive Party for their statements at the annual meeting in 2001 may be discussed. Given the nature of the statements, however, it seems quite clear that the complaints

against the statements of these politicians were highly justified, and can in no way be characterised as a form of “politically harassment” from political opponents.

5.1. INCITEMENT TO RACIAL HATRED

The next question to be considered is whether this kind of hate speech may be considered incitement to racial hatred and provocation of racist attacks.

Firstly, some argue that if people are prosecuted for calling a “spade a spade” then this will result in repressing free discussion, which in turn will result in frustration and the creation of more militant groups who would then look to get their message across by the means of violence. Evidence is drawn from neighbouring countries such as Sweden, Germany, Holland, and Britain which do not have such an aggressive tone towards minorities in political debate but at the same time seem to have a higher incidence of racial violence than in Denmark. At this point, we must remember that it is more likely that the figures produced in these countries are more accurate than the Danish figures as they have developed institutions for monitoring and collecting this data. However, the argument still exists, as it tries to explain that by using very hateful statements, such people do not use physical violence but only words as their political manifestations.

This notion that one can purge one’s emotions by expressing them verbally has been labelled the *catharsis hypothesis*. Freudian psychologists, of course, applaud this idea. They assume that when people shout at someone who annoys them or view a violent film, they are letting off steam. According to this “pressure-cooker” theory, they should be *less* angry and aggressive than before.

In 1979, Thomas Scheff proposed an updated version of the hypothesis, arguing that catharsis is a therapeutic process for two reasons: (a) repressed emotions such as fear and anger are discharged by laughing and crying; mood is improved and tension is reduced; and (b) in psychotherapy and drama, people gain a sense of clarity. Freud’s perspective dominated therapeutic practice in the 1960s. Couples were encouraged to smack each other with foam baseball bats, to give a “primal scream,” and to beat on pillows in the expectation that angry feelings so powerfully expressed would spend themselves and disappear.

The answer, however, as to whether catharsis works is - Not really! The evidence makes it clear that the situation is more complex than Freudian psychologists had hoped (Tavris, 1982). Angry people have a dual problem—first, they have to deal with their own emotions and then deal with whatever problems they are facing. When people are enraged and feel dangerously out of control, at first it may seem to help them to cry and pound on pillows until they are exhausted. In that sense, some merit can be attached to the claim that “violent emotional expressions” may have some benefits.

But there are more difficulties for the catharsis hypothesis than simply that it has limitations. Other research warns that when people express their angry, aggressive feelings, they other get themselves so worked up that the situation becomes worse than it was before. For example, Robert Arms and his colleagues report that Canadian and American football, wrestling, and hockey fans exhibit more hostility after viewing sporting events than before (Arms, Russell, & Sandelands, 1979; Goldstein & Arms,

1971). Not even a war seems to purge people's aggressive feelings: after a war, a nation's murder rate tends to climb (Archer & Gartner, 1976).

As well as the question of the increased violence of the speaker, there is also the question as to whether racist statements may incite other people to commit violent attacks. Some people argue that "saying it as it is" is not the same as encouraging people to attack the individuals and groups in question. Further more the issue of freedom of speech and the example of the Jersild case concerning the freedom of speech for journalists, also raises the question of whether politicians must have an extended freedom of speech in order to allow them to openly discuss problems in a democratic society.

In 2001 ECRI stated its concern that the influence of the extreme right parties and their success would put pressure on the mainstream political parties to adopt such a policy. ECRI also stressed that all political parties and representatives have a responsibility to resist the temptation to approach issues relating to ethnic minorities, immigrants, refugees and asylum seekers in a negative fashion in order to gain votes."³⁵

The right wing parties, like the Progressive Party, were using an extreme rhetoric in campaigning before the general election. The election was to be held no later than the end of 2001/beginning of 2002. After September 11, 2001, this rhetoric was also used at the Party's National Assembly Meeting forming part of the election campaign for the November 20th general election. Also the National Assembly Meeting of the Danish Peoples Party was used for campaigning against Muslims in Denmark at a time where the numbers of racist attacks were rapidly rising.

These arguments cannot be rejected and all contain some degree of truth and plausibility. However, when looking at the Danish context one can not ignore the fact that the incidence of attacks on Muslims appears to correlate with the number of reports to the Police in connection with §266b.

Compounding factors exist in the shape of the 11th September, which had the effect of sharpening the rhetoric even more and providing the "proof in the pudding" of what previously had been said.

The comments above apply, though, first and foremost to the attacks on the Muslim community. However, as we have seen individuals from the Jewish community in Denmark have also been susceptible to racist attacks over the last two years. The question is can the same analysis be applied to these incidents? Both yes and no.

Since 11.09.2001 and the escalation of the conflict in Israel, there have been increased attacks on the Jewish community in Denmark. However, these attacks were already taking place before 11.9. The victims have consistently described the perpetrators as being young males with a Palestinian/Arab/Muslim background, though girls were identified in a few incidents. However, Neo-Nazis were suggested as the possible perpetrators in the vandalized cemetery incident. The attacks are isolated and tend to occur when the opportunity arises as opposed to the youths actively looking for them. In

³⁵ http://www.coe.int/T/E/human_rights/Ecri/1-ECRI/2-Country-by-country_approach/Denmark/PDF_CBC2%20Denmark-7.pdf Para. 39-40.

that sense the attacks resemble many of the attacks on Muslims after 11.09.2001. The reason for this hostility seems to be a mixture of reactions to the political situation in Israel, which is then further fuelled by certain fundamental Islamic groups' anti-Semitic literature and rhetoric here in Denmark, which legitimizes the attacks. The youths' own marginalized position in Danish society, which reflects the marginalized position of Palestinians vis-à-vis Israel, may also contribute to the build up of frustrations that lead to these attacks.

The above analytical comments can only be treated as tentative theories at best and as pure speculation at worst. They should be treated as open questions or rather suggestions to possible connections that need to be researched into in order to reach any certain conclusions. It is time that the authorities in Denmark begin to take this issue more seriously and introduced better systematic monitoring together with research units that can analyse the findings.

5.2. VICTIMS OF RACIAL HATRED AND VIOLENCE IN DENMARK TODAY.

The final question to be asked is who are the victims of racist attacks in Denmark today.

Individuals particularly susceptible to racist attacks are Muslims and those suspected of being Muslims. It must be noted, though, that all Muslims are seen in the light of being a "recently" arrived group. It is clear that after 11.09.2001 people were attacked solely because they were Muslims. Before that the motivation could also be a mixture of the individual being regarded as both a Muslim and an immigrant (even though the individual is maybe third generation). Members of the Jewish community in Denmark have also been subject to attacks in 2001.

Both PET and DACoRD conclude that there is no evidence to suggest that the incidents were carried out by organized groups, such as Neo-Nazis. The perpetrators seem mostly to be opportunists, although arson and vandalism cases suggest a minimum of planning. According to the organization "DEMOS" newsletter, which monitors the major activities of right wing extremist organizations and parties, 2001 has been a relatively quite year for these groups in Denmark.

Both PET and DACoRD conclude that there was a significant increase of both verbal and physical attacks after 11.09.2001, and that the nature of the incidents was more violent after 11.09.2001. For example, the amount of arson attacks greatly exceeded the norm. The high level of activity lasted for about eight weeks, after which both PET and DACoRD report that activity appears to have returned to its original levels. The incidents occurred in all regions of Denmark.

When looking to explain the attacks against Muslims and the Muslim community in Denmark, the hardened rhetoric that appeared after 11.09.2001 and during the election campaign did little to ease an already tense atmosphere. This will be further explored in the following sections.

6. STRATEGIES, POLICY AND GOOD PRACTICE

6.1. PUBLIC SECTOR

Traditionally, racist violence in Denmark was regarded as ordinary unprovoked crimes of violence. When Denmark came to consider the ratification of the UN Convention on the Elimination of Racial Discrimination, a Commission of Experts stated in a report from 1969, that conformity of standards existed with regard to racist violence, given that Danish Penal Code sections 244 and 245 did already provide the necessary protection.³⁶ Consequently, no specific ban on racist motivated violence or other crimes was introduced into Danish legislation.

During the last couple of years, however, individual cases illustrate that the racist character of violence has in some court cases been considered as an aggravating circumstance when sentencing.³⁷

The Metropolitan Police Force in Copenhagen has consequently issued an instruction that, in all cases of violence with a possible racist motive, the prosecutor must ask the court to consider this as an aggravating circumstance, according to section 80 of the Penal Code.³⁸ The same procedure may also be invoked in cases concerning racially motivated vandalism, arson etc.

Statistics of incidences of racial violence/racist attacks in Denmark, have been produced by the Danish Security Intelligence Service (PET) since 1992. Racial violence/attacks is understood here as being crimes which can be assumed to have a racist motive, including violence, vandalism, arson, threats etc.³⁹

The above mentioned court cases may illustrate the use of section 80 of the Penal Code in connection to section 244 or 245 (violence) as the core of the cases registered by PET. The registration, however, also includes cases of vandalism, arson, and threats with a racist motive.

Racist speech as such is not recorded by PET – this is done by the local police according to section 266 b. Sometimes the registration may overlap. By way of example, racist graffiti painted on a wall may be registered by PET as a "racist threat" and/or "vandalism". It may, however, also be registered as an expression of racist statements covered by section 266 b.

Another example may be the burning of a cross, which according to case law is considered to be a violation of section 266 b (by *making a threatening statement or*

³⁶ Report 553/1969, page 13.

³⁷ Utrykt afgørelse fra Lyngby ret den 22. december 1998, BS 3-1211/97. Afgørelsen blev stadfæstet af Østre Landsret den 27. september 1999. Decision from the Court of Lyngby from December 22, 1998. The decision was upheld by the Eastern High Court on September 27, 1999 Utrykt afgørelse fra Østre Landsret af 21. oktober 1998, B-2732-97. Unwritten decision from the Eastern High Court of October 21, 1998.

³⁸ Hansen, N-E (2000), Chapter 3, in B. Christensen, m.fl., Udlændingeret, Cph, DJØF, p. 64.

³⁹ Hansen, N-E (2001) Forskellighed no 14.

imparting threatening information). These incidents may also be recorded as a racist attack by PET, if the burning of the cross, by way of example, was directed against asylum seekers living in a refugee centre.

The use of Nazi-symbols is not a violation of section 266 b, but if e.g. a swastika is painted as graffiti on a wall, it may be recorded by PET as vandalism with a racist motive. During 2002 the PET recorded 63 incidents, which included amongst others 11 incidents of graffiti with Nazi-symbols.

Official record keeping institutions

As mentioned above PET has recorded racist attacks since 1992 in Denmark. This is supplemented by police statistics on complaints concerning violations of section 266 b (racist speech).

Good practice

On 18th December 2001 PET issued an update of the previous paper on the reporting of racially motivated crime, to be implemented in 2002. The aim of the update was to strengthen the system, firstly, by reminding the police districts around the country of its existence and, secondly, by making several organisational changes in order to strengthen, widen and specify the system.

Numbers of recorded crimes

The huge increase in the amount of incidents reported after 11th September 2001 undoubtedly represented an increase in the amount of racially motivated incidents during this period, especially incidents directed at members of the Muslim community in Denmark. After the end of 2001 the numbers of incidents dropped. In 2002 PET registered 64 incidents This compares with a total of 112 in 2001. The decline may be understood by the fact that the great majority of cases in 2001 were reported from September to December 2001.

In 2002 the police⁴⁰ received 36 complaints in connection with the Danish Criminal Code section §266 b on racist speech. This compares with 65 the year before. The figures relating to the actual numbers charged and sentenced are generally not made public by the Public Prosecutor.

When looking at the geographical dispersion of reported incidents of racist crimes a significant small number of reports originate from areas outside the metropolitan area. This could be explained by the fact that the majority of minorities are situated in this area. The newest statistics from the Ministry of Refugees, Immigrants and Integration, however, show that the Municipalities with the largest share of immigrants and descendants are Ishøj (Glostrup police district), Brøndby (Glostrup police district),

⁴⁰ www.politi.dk (Se annex 4).

Albertslund (Glostrup police district), Copenhagen (Copenhagen police district), Karlebo (Helsingør police district), and Høje-Taastrup (Glostrup police district).⁴¹ On this basis the police district with the largest amount of immigrants and descendants is Glostrup. However the district has only filed two reports in 2002 and three reports in 2003.

Court Cases

Many of the racist incidents reported in 2001 and 2002 have so far not been brought to trial. DACoRD continues to contact the local police in order to receive information on any progress in the investigation of each individual case.

6.2. PRIVATE SECTOR (NGO)

NGO's like the Documentation and Advisory Centre on Racial Discrimination (DACoRD/DRC in Danish) map out racist incidents. In March 2002 the Centre forwarded a report to the UN Committee on the Elimination of all forms of Racial Discrimination (CERD)⁴² including data on racist incidents recorded in Denmark after 11 September 2001.

Also the Jewish Community in Denmark (Det Mosaiske Troessamfund) records data on incidents of anti-Semitism in Denmark. Anti-Semitism here is defined as attacks on individuals and institutions identified as belonging to the Jewish community. In 2002 they recorded 65 incidents.⁴³

⁴¹ DK/ The Ministry of Refugee, Immigration and Integration Affairs, Årbog om udlændinge i Danmark 2003 (Yearbook on Foreigners in Denmark 2003), Copenhagen, October 2003.

⁴² www.drcenter.dk

⁴³ www.mosaiske.dk

7. SUMMARY AND CONCLUSIONS

It can be concluded that due to major problems related to the registration of racist violence in Denmark by public authorities or Non Governmental Organisations etc. it is very difficult to say anything accurate about the numbers and different kinds of violent acts that have taken place in Denmark during the period 2001-2002. Also the lack of research – referring to what has been carried out previously – amongst victim groups or potential groups of perpetrators, makes it even more problematic to even try to estimate the size of underreporting of racist incidences to police, NGO's or others, and the contributing factors that led to attacks.

THE DANISH SECURITY INTELLIGENCE SERVICE

A new reporting system introduced by the Danish Security Intelligence Service (PET) in 2002 may solve some of these problems but the system still depends on two things. Firstly, that victims file complaints about racist violence to the police, and this is not always the case. And secondly, that the local police identify those incidents of racist violence that are reported, and actually forward information to PET.

The system is still fragile, compared to police reporting of the numbers of complaints in other areas. Under the normal system the local police register complaints according to each section of the Danish Criminal Code, including, by way of example, the police statistics on hate speech according to section 266 b. As racist violence, harassment etc. are not provided for specifically in the Penal Code such police registration is not possible.

The Metropolitan Police of Copenhagen, however, have introduced a general instruction to their public prosecutors to consider the possible racist motives of a crime as an aggravating factor in court cases. In several cases the Courts have consequently used a racist motive as an aggravating factor, according to section 80 of the Criminal code. No statistics exist, however, on how often this provision has been used in cases concerning racist violence. Especially in the aftermath of 11 September 2001 (See annex 1 and 2,) it is very important that cases are identified as possibly racially motivated and consequently brought to trial as such. A court decision that approves or rejects a possible racist motive is the only way to have a final assessment on whether an incident was actually racist violence or “just” ordinary violence.

If the police and prosecutors can not on their own – like the police in Copenhagen – develop such a countrywide framework/procedure, it is the responsibility of the politicians to introduce new rules or instructions on this issue.

It has been observed that politicians may choose to interpret racist violence against “foreigners”, Jews and Muslims, as a symptom of widespread public resentment against current immigration policy, and use such events as an occasion to make the admission policy more restrictive. One common argument is that there is a “natural threshold” as to

how many immigrants the native population is able to tolerate, and the emergence of racism and violence indicates that the threshold has been exceeded.⁴⁴

In 2001 ECRI stated its concern that the influence of the extreme right parties and their success, would put pressure on the mainstream political parties to adopt such a policy. ECRI also stressed that all political parties and representatives have a responsibility to resist the temptation to approach issues relating to ethnic minorities, immigrants, refugees and asylum seekers in a negative fashion in order to gain votes.”⁴⁵

The right wing parties, like the Peoples Progress Party, were using an extreme rhetoric in campaigning before the general election which was to be held no later than the end of 2001/beginning of 2002. After 11 September 2001, this rhetoric was also used at the parties’ National Assembly Meetings forming part of the election campaign for the November 20th general election. The National Assembly Meeting of the Danish Peoples Party was used for campaigning against Muslims in Denmark at a time where the numbers of racist attacks were rapidly rising.

The date of the election was announced by the Prime Minister shortly after September 11th, and consequently the issue of terrorism and Muslims in Denmark became a central issue of that election. A Liberal/Conservative Government took over after the election with the support of the Danish Peoples Party. The new government has since introduced new rules constraining the right to asylum and to family reunification, plus reducing benefit levels for the first seven years of residence in Denmark to below that of income support etc. Further more a number of human rights institutions and NGO’s had their funding shortened or totally removed.

Consequently, in March 2002 the CERD, and in June 2002 the CEDAW, expressed concern about the situation of ethnic minorities in Denmark, in terms of the level of hate speech and racist violence. Concern was also raised about the introduction in new legislation of an increase in the age limit for spousal reunification from 18 years to 24 years of age, and other amendments of the Aliens Act, concerning the right to asylum for women; and the situation of migrant, refugee and minority women in Denmark.

From the perspective of the international community, it is concluded that Denmark tends to follow a policy that is based on the belief that racist violence is an expression of widespread public resentment against current immigration policy. Consequently the new Danish government has used this occasion to make its admission policy more restrictive. The argument of the “natural threshold”, as to how many immigrants the native population is able to tolerate, prevails in Denmark.

As more and more political parties take over the “threshold-argument”, possible perpetrators may get the idea that society supports them in committing violent acts against refugees and migrants in Denmark. In order to change this situation, one may recall the recommendation of the ECRI, that political parties in Denmark sign the Charter of European Political Parties for a Non-Racist Society.

⁴⁴ Bjørgø, T. (1997) Racist and rightwing violence in Scandinavia, Oslo, Tano Aschehoug p.324.

⁴⁵ http://www.coe.int/T/E/human_rights/Ecri/1-ECRI/2-Country-by-country_approach/Denmark/PDF_CBC2%20Denmark-7.pdf Para. 39-40.

Anti-Semitism

When it comes to anti-Semitism the adoption of the EU Framework Directive on hate speech – and, when adopted, changed Danish legislation in order to make it a criminal offence to distribute material on the “Holocaust Denial”- is a very important issue. With the present political situation Denmark is not going to change its anti-discrimination policy for the better, unless it happens as part of a EU initiative.

The monitoring of hate speech and violence with a linkage to Neo Nazi organisations in Denmark is also a very important issue. In this context it is important that the police and prosecutors introduce the use of section 80 of the Criminal code as an aggravating factor. Only when a certain number of court cases have established that members of such organisations have committed violence with a racist motive, may it be possible to start a process of dissolving such organisations.

This is the case with Neo Nazi-organisations as well as with other organisations like the Hizb-ut-Tahrir, which is presently being investigated by the police and public prosecution. This situation also points to the fact that in the period under review, the range of possible perpetrators of anti-Semitic violence has broadened. The new situation of harassment of people of Jewish background, seems only to underline the need for better protection of the rights of victims i.e. that perpetrators are prosecuted not only as those who have committed violence, but also as those who have committed the act with a racist motive.

Islamophobia

The dramatic rise in the numbers of reported incidences of racial violence against people of Arab and Muslim background in the aftermath of 11 September 2001, must give rise to great concern. Even though the level has decreased again, we very much need to consider what could be done next time a major terrorist attack takes place. Whether or not such an attack may or may not be carried out by fundamentalists, it may very well be seen as being another “Muslim terrorist act”. Consequently, this may again lead to people feeling that they should seek “revenge” against people of Arabic origin in Denmark.

And whether or not people are going to commit such criminal acts of “revenge”, the Arab group in Denmark is going to fear such hostility.

8. ANNEX 1: DESCRIPTION OF SIZE AND COMPOSITION OF THE CURRENT IMMIGRANT/MINORITY POPULATIONS (USING POPULATION STATISTICS, CENSUS DATA ETC)

POPULATION STATISTICS

Table 1.1: Amount of immigrants and descendants in Denmark according to citizenship status 1.1.03

	Total	Immigrants	Descendants	Other
Foreign citizens	265,424	221,850	35,859	7,715
Foreign citizens not born in Denmark	224,736	221,850	-	2,886
Danish citizens	220,595	109,656	63,324	47,615
Danish citizens not born in Denmark	157,271	109,656	-	47,615
Total with a foreign background	486,019	331,506	99,183	55,330
Amount people with foreign background not born in Denmark	382,007	331,506	-	50,501

Source: Danmarks Statistik 2003:5

Note: Other represents the amount of people born to parents, where one has Danish and the other foreign citizenship. Commonly know as children of “mixed marriages”.

Table 1.2: Number of immigrants and descendants in Denmark according to country of origin as a per cent of the whole population 1980-2002 (900=9%)

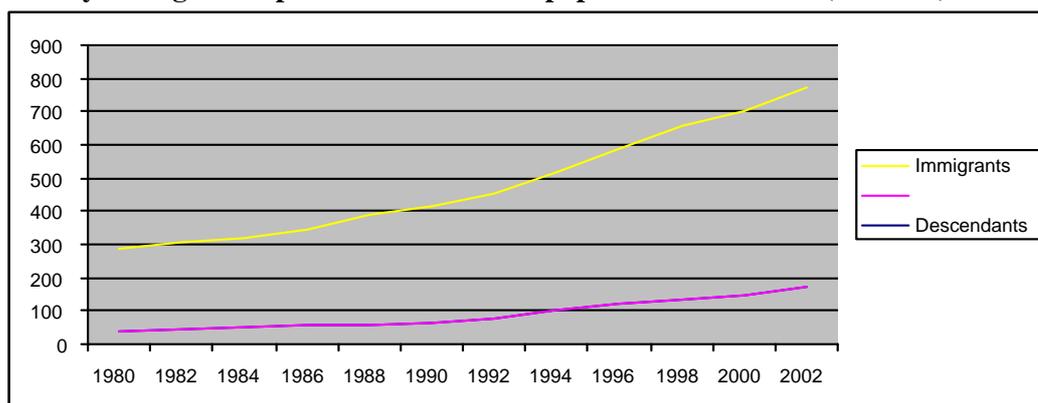


Table 1.3: Immigrants and descendants 1st January 1993-2003 according to country of origin

Oprindelsesland	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
I alt	253 372	266 069	278 459	308 723	330 292	347 033	363 422	378 162	395 947	415 331	430 689
EU-lande	64 520	65 726	67 319	68 531	70 428	72 090	73 619	73 868	74 254	74 672	74 775
Finland	3 793	3 789	3 922	3 916	3 916	3 907	3 889	3 915	3 843	3 827	3 812
Frankrig	2 662	2 700	2 829	2 939	3 126	3 344	3 586	3 607	3 679	3 606	3 600
Holland	2 778	3 028	3 346	3 715	3 987	4 262	4 500	4 685	4 955	5 185	5 355
Italien	2 332	2 418	2 521	2 645	2 796	2 916	2 961	3 003	3 110	3 198	3 236
Spanien	1 468	1 586	1 703	1 764	1 921	1 997	2 132	2 141	2 221	2 377	2 497
Storbritannien	9 958	10 384	10 834	11 030	11 377	11 591	11 750	11 608	11 670	11 798	11 776
Sverige	13 594	13 629	13 594	13 659	13 859	14 230	14 494	14 604	14 568	14 455	14 297
Tyskland	23 658	23 869	24 154	24 333	24 795	25 038	25 382	25 448	25 319	25 289	25 213
EU-lande i øvrigt	4 277	4 323	4 416	4 530	4 651	4 805	4 925	4 857	4 889	4 937	4 989
Øvrige Europa	84 765	88 016	91 321	112 181	121 617	127 233	131 737	136 238	141 195	146 410	150 904
Bosnien-Hercegovina	25	69	119	15 714	17 740	19 130	19 480	19 727	19 987	20 328	20 618
Island	3 310	3 476	4 007	5 091	5 883	6 113	6 094	6 011	6 082	6 206	6 764
Jugoslavien (ex.)	12 450	12 776	13 006	14 029	16 367	16 612	16 963	17 176	17 420	17 602	17 696
Jugoslavien, Forb.rep.	-	-	-	-	59	96	216	570	1 077	1 718	2 097
Litauen	93	139	184	249	394	588	764	926	1 274	1 554	1 707
Makedonien	-	9	142	410	622	914	1 232	1 646	1 941	2 217	2 454
Norge	13 223	13 237	13 447	13 605	13 929	14 177	14 405	14 647	14 915	14 999	15 241
Polen	10 798	11 079	11 263	11 464	11 694	11 888	12 106	12 290	12 385	12 624	12 805
Rumænien	1 286	1 372	1 453	1 532	1 622	1 714	1 794	1 934	2 067	2 223	2 381
Rusland	238	532	765	932	1 224	1 413	1 603	1 959	2 300	2 722	3 009
Sovjetunionen (ex.)	2 071	2 028	1 983	1 918	1 868	1 816	1 775	1 731	1 684	1 625	1 580
Tyrkiet	36 256	37 901	39 222	40 936	43 087	45 008	46 994	48 773	50 470	52 159	53 465
Ukraine	70	121	180	258	323	414	569	719	948	1 253	1 521
Ungarn	1 582	1 596	1 628	1 613	1 675	1 630	1 631	1 673	1 637	1 653	1 635
Øvrige Europa i øvrigt	3 363	3 681	3 922	4 430	5 130	5 720	6 111	6 456	7 008	7 527	7 931
Afrika	15 511	17 939	20 430	23 200	27 308	30 665	33 350	35 895	38 448	40 783	42 386
Egypten	1 376	1 434	1 454	1 480	1 531	1 597	1 621	1 641	1 682	1 733	1 798
Marokko	5 464	5 685	5 955	6 230	6 645	6 983	7 422	7 813	8 104	8 404	8 644
Somalia	2 237	3 789	5 280	7 091	9 885	12 113	13 535	14 856	16 209	17 299	17 849
Afrika i øvrigt	6 434	7 031	7 741	8 399	9 247	9 972	10 772	11 585	12 453	13 347	14 095
Nordamerika	7 312	7 465	7 519	7 732	7 756	7 862	7 945	8 047	8 012	8 085	8 205
Canada	1 584	1 559	1 619	1 654	1 674	1 703	1 752	1 774	1 786	1 796	1 854
USA	5 728	5 906	5 900	6 078	6 082	6 159	6 193	6 273	6 226	6 289	6 351
Syd- og Mellemamerika	4 950	5 107	5 257	5 379	5 617	5 892	6 202	6 509	6 853	7 187	7 567
Asien	74 006	79 449	84 147	89 183	95 001	100 730	107 883	114 659	123 850	134 530	142 552
Afghanistan	768	957	1 183	1 470	1 841	2 195	2 664	3 275	4 834	7 901	9 360
Filippinerne	2 674	2 848	3 008	3 135	3 366	3 592	3 745	3 935	4 120	4 323	4 508
Indien	2 478	2 581	2 634	2 715	2 789	2 881	3 001	3 157	3 283	3 397	3 515
Irak	4 570	5 585	6 415	7 521	8 816	10 327	12 751	14 902	18 097	21 555	24 025
Iran	10 525	10 908	11 157	11 358	11 874	12 264	12 712	12 980	13 391	13 625	13 945
Israel	1 130	1 203	1 227	1 266	1 303	1 273	1 318	1 339	1 392	1 451	1 458
Jordan	1 228	1 279	1 322	1 351	1 412	1 487	1 565	1 638	1 687	1 748	1 799
Kina	2 053	2 217	2 359	2 517	2 738	2 958	3 235	3 610	4 040	4 550	5 457
Kuwait	335	424	495	572	651	776	947	1 083	1 217	1 381	1 486
Libanon	13 074	14 205	15 110	15 957	16 857	17 634	18 368	19 011	19 839	20 566	21 202
Pakistan	13 806	14 237	14 692	15 229	15 827	16 353	16 969	17 509	18 143	18 623	19 049
Sri Lanka	6 131	6 620	7 162	7 804	8 301	8 790	9 189	9 515	9 788	9 997	10 168
Syrien	1 176	1 342	1 493	1 648	1 782	1 916	2 109	2 284	2 463	2 646	2 813
Thailand	2 444	2 703	3 015	3 296	3 615	3 986	4 398	4 884	5 403	5 985	6 394
Vietnam	8 213	8 758	9 155	9 428	9 854	10 242	10 652	11 051	11 466	11 834	12 164
Asien i øvrigt	3 401	3 582	3 720	3 916	3 975	4 056	4 260	4 486	4 687	4 948	5 209
Oceanien	1 031	1 066	1 138	1 189	1 217	1 213	1 300	1 384	1 443	1 485	1 583
Statsløse	587	596	564	547	569	549	533	493	476	477	441
Uoplyst	690	705	764	781	779	799	853	1 069	1 416	1 702	2 276

Table 1.4: Immigrants and descendants 1st January 2003 according to age and country of origin

Oprindelsesland	0-4 år	5-9 år	10-14 år	15-19 år	20-24 år	25-29 år	30-34 år	35-39 år	40-49 år	50-59 år	60 år og dero.	I alt
I alt	34 314	33 655	30 799	27 836	35 964	40 357	41 822	41 221	61 838	40 913	41 970	430 689
EU-lande	1 804	1 666	1 555	1 649	4 396	5 413	6 546	7 498	12 847	13 999	17 402	74 775
Finland	76	58	60	68	185	310	230	319	555	724	1 227	3 812
Frankrig	86	63	75	89	445	442	470	404	585	470	471	3 600
Holland	393	375	292	219	253	361	638	678	974	583	589	5 355
Italien	47	48	60	64	308	376	398	407	599	477	452	3 236
Spanien	40	24	24	22	489	486	269	224	315	328	276	2 497
Storbritannien	308	294	261	223	415	721	1 300	1 548	2 569	2 301	1 836	11 776
Sverige	268	232	226	251	874	1 132	1 036	1 066	2 284	3 699	3 229	14 297
Tyskland	485	482	492	603	1 045	1 151	1 668	2 321	4 022	4 530	8 414	25 213
EU-lande i øvrigt	101	90	65	110	382	434	537	531	944	887	908	4 989
Øvrige Europa	10 392	11 269	11 875	10 627	15 554	16 120	14 238	12 853	20 407	13 842	13 727	150 904
Bosnien-Hercegovina	1 325	1 572	1 756	1 820	1 658	1 461	1 572	1 920	3 773	1 822	1 939	20 618
Island	509	515	433	319	738	926	735	610	948	630	401	6 764
Jugoslavien (ex.)	1 322	1 395	1 602	1 272	1 375	1 541	1 800	1 674	2 376	1 881	1 458	17 696
Jugoslavien, Forb.rep.	321	262	220	162	179	229	219	186	187	74	58	2 097
Litauen	50	42	31	112	621	482	198	57	73	16	25	1 707
Makedonien	383	267	151	134	276	382	264	193	196	133	75	2 454
Norge	199	220	272	288	1 516	1 621	1 166	1 075	2 455	2 614	3 815	15 241
Polen	346	499	672	730	1 258	1 176	913	922	2 512	2 123	1 654	12 805
Rumænien	119	105	113	127	300	384	296	178	381	215	163	2 381
Rusland	142	171	235	246	330	410	404	386	469	132	84	3 009
Sovjetunionen (ex.)	27	49	49	63	65	71	117	151	275	224	489	1 580
Tyrkiet	5 221	5 758	5 882	4 832	5 611	5 827	5 420	4 602	5 383	2 846	2 083	53 465
Ukraine	59	67	71	90	426	320	162	106	146	40	34	1 521
Ungarn	14	18	35	42	149	147	118	119	242	227	524	1 635
Øvrige Europa i øvrigt	355	329	353	390	1 052	1 143	854	674	991	865	925	7 931
Afrika	6 307	4 735	3 527	3 079	2 921	3 886	5 167	4 304	4 896	2 217	1 347	42 386
Egypten	130	117	106	98	109	138	142	151	335	326	146	1 798
Marokko	1 056	914	783	606	712	850	808	858	1 060	572	425	8 644
Somalia	3 910	2 616	1 624	1 399	1 135	1 374	2 395	1 522	1 227	341	306	17 849
Afrika i øvrigt	1 211	1 088	1 014	976	965	1 524	1 822	1 773	2 274	978	470	14 095
Nordamerika	192	152	159	305	868	600	729	767	1 540	1 132	1 761	8 205
Canada	39	33	45	88	163	159	162	173	367	183	442	1 854
USA	153	119	114	217	705	441	567	594	1 173	949	1 319	6 351
Syd- og Mellemamerika	269	252	269	464	577	928	987	862	1 284	913	762	7 567
Asien	15 144	15 252	13 186	11 395	11 279	12 938	13 608	14 444	20 273	8 466	6 567	142 552
Afghanistan	1 037	1 325	1 519	1 094	600	800	797	751	879	313	245	9 360
Filippinerne	219	236	205	205	332	428	547	649	981	470	236	4 508
Indien	280	190	201	181	281	434	328	289	450	472	409	3 515
Irak	3 175	2 925	2 588	2 029	1 404	1 941	2 488	2 399	3 394	1 041	641	24 025
Iran	915	932	897	1 068	1 016	835	998	1 895	3 750	839	800	13 945
Israel	79	69	39	32	69	160	201	182	256	188	183	1 458
Jordan	197	178	180	170	182	196	163	126	166	166	75	1 799
Kina	338	257	269	484	758	649	639	583	810	268	402	5 457
Kuwait	288	215	147	120	104	145	171	157	126	12	1	1 486
Libanon	3 151	3 622	2 672	1 809	1 538	1 444	1 849	2 078	1 993	593	453	21 202
Pakistan	1 794	1 752	1 788	1 672	2 149	2 450	1 656	1 294	1 816	1 769	909	19 049
Sri Lanka	1 236	1 303	875	760	658	670	826	1 289	1 602	558	391	10 168
Syrien	513	503	293	219	199	236	206	227	245	101	71	2 813
Thailand	213	285	403	437	524	691	908	1 016	1 341	425	151	6 394
Vietnam	1 305	1 176	896	823	1 080	1 283	1 270	1 056	1 759	630	886	12 164
Asien i øvrigt	404	284	214	292	385	576	561	453	705	621	714	5 209
Oceanien	32	32	20	110	163	243	264	196	245	155	123	1 583
Statsløse	38	55	24	34	50	58	37	22	39	22	62	441
Uoplyst	136	242	184	173	156	171	246	275	307	167	219	2 276

9. ANNEX 2: SHORT OVERVIEW OF SPECIAL LEGISLATION OR POLICIES

The Government's strategy in 2003 is a continuation of the new integration strategy as launched in 2002, which regards immigration and integration strategies as two sides of the same coin. In January 2002, shortly after its election, the new Government published its new "policy on foreigners"⁴⁶ followed by its new "policy on integration" in March 2002⁴⁷. With the parliamentary support of the Danish People's Party⁴⁸, this new policy led to a wide range of legislative amendments in 2002 in immigration and asylum laws, social benefit laws, citizenship laws and in the Act on Integration. The Government's policy on foreigners is based on three principle considerations⁴⁹:

- Denmark's obligations in relation to international conventions etc. shall be respected
- The amount of foreigners who come to Denmark shall be limited and there must be sharper demands to self-sufficiency.
- The refugees and immigrants who live in Denmark must be integrated better and come quicker in employment. Encouragement to seek work oneself must therefore be strengthened.

The Government's strategy "Towards a new integration strategy" formulated 29 actual initiatives within four strategic areas, the aim being "*to integrate new citizens so that they can take part in working and social life on an equal footing with the rest of the population.*" The four areas are; 1) short-cut to the labour market, 2) effective Danish courses, 3) better utilisation of qualifications, and 4) integration – a common concern.

In May 2002 the Government published a contractual agreement with the social partners and KL⁵⁰ concerning the integration of refugees and immigrants in the labour market based on the Government's strategy from March 2002. The paper emphasised that "integration can only be achieved together" and that:

- The individual refugee or immigrant carries from the beginning a large responsibility for that integration in the labour market succeeds.
- Public authorities have the responsibility to ensure the basic preconditions which enable a refugee or immigrant to participate in the Danish labour

⁴⁶ Denmark, Ministry of Refugee Immigration and Integration Affairs (2002), A new policy on foreigners.

⁴⁷ Denmark, Ministry of Refugee Immigration and Integration Affairs (2002), Towards a New Integration Policy.

⁴⁸ The "partnership" between the coalition government and The Danish People's Party on these issues is based on a contractual agreement published 7.5.02 whereby the coming legislative initiatives were stipulated. It was also stipulated in the agreement that the Government on the request of The Danish People's Party shall account for the effects of the agreed upon strategies and that the Government and The Danish People's Party evaluate the effects of the legislative changes in the autumn 2003.

⁴⁹ Denmark, Ministry of Refugee Immigration and Integration Affairs (2002), A new policy on foreigners.

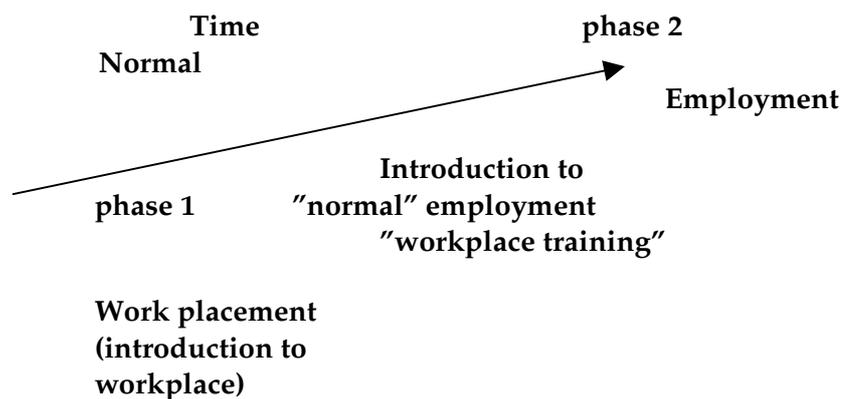
⁵⁰ Kommunernes Landsforening (The National Association of Municipalities).

market, to facilitate contact between the individual and the labour market, plus ensure an effective and flexible framework for the overall integration effort.

- The social partners have a joint responsibility to “open” work places for refugees and immigrants. This applies to both private and public work places.

A “step by step” model (see figure 1) for ensuring integration in the labour market was discussed in the paper, and this model has since been formalised in The Ministry of Employment’s “More in Employment”⁵¹ programme launched in September 2002. In order to achieve these goals, three elements are introduced. The first element encompasses language courses and preparation for the labour market under the title “an active start.” The second element “stepwise upgrading of qualifications” introduces a mentor structure ensuring that immigrants and refugees are supported on a day-to-day basis when entering the labour market. As a third element, principles of permanent positions on ordinary conditions are set up as guiding for the introduction of immigrants and refugees to the labour market.

Figure 1:



AN ACTIVE START

Source: Denmark, The Ministry of Refugee Immigration and Integration Affairs, May 2002, “Fælles konklusionspapir”, and The Ministry of Employment, September 2002, “Flere i arbejde”.

The Government has recently published a status report summarising what has been achieved and what is on its way⁵². The legislative changes and other initiatives implemented over the last 18 months fall within phase one of the policy implementation. Further legislative amendments and initiatives that are now being proposed mark the beginning of phase two.⁵³

⁵¹ Denmark, The Ministry of Employment (2002), Flere i arbejde.

⁵² Denmark, Ministry of Refugee Immigration and Integration Affairs (2003), Integration: status og udvikling.

⁵³ Integration of immigrants and descendants was also a central theme in the Government’s “National Action Plan for Employment 2002” (EU National Employment Strategy) .

The Government's diversity strategy involves legislative amendments in Denmark's anti-discrimination laws in connection with the implementation of the Article 13 equal treatment directives, a series of reports and conferences focusing on best practice on employing ethnic minorities, including the "Everyone is needed" (Brug for Alle) campaign and the intention in 2003 to publish a plan of action on the improvement of "diversity, tolerance and equal treatment"⁵⁴.

LEGAL BASIS FOR EMPLOYMENT AND SELF-EMPLOYMENT OF MIGRANTS AND MINORITIES (CATEGORIES, TITLES, WORK PERMITS)

As a result of the sudden rise in unemployment in Denmark due to the oil crisis in the Western Europe in the beginning of the seventies, a total ban on work immigration was introduced in November 1973. Since then work permits in relation to employment and self-employment are generally only granted to Nordic or EU-citizens.

Due to the rule concerning "specialists" very limited possibilities of obtaining work permits exist for third country nationals e.g. as professors at the Universities in Denmark. In 2002, however, the Government stated that it will introduce a Green Card-like scheme making it easier to obtain a residence permit for people who have obtained work in fields short of qualified labour. It was also stated that asylum seekers (waiting for a decision in their case) may be allowed to receive work permits. In 2003, however, the possibility for asylum seekers to work in Denmark is still limited to work in the asylum centres.

SHORT OVERVIEW OF ANTI-DISCRIMINATION POLICY, GENERAL AND SPECIFICALLY RELATED TO ARTICLE 13 AND TO THE ACTION PROGRAM(S)

In the preamble to "En ny udlændningepolitik", (A new policy on foreigners) in January 2002, the Government underlines that its policies are based on respect for Denmark's obligations towards international conventions⁵⁵

As stated above, as part of the general efforts to combat racism and discrimination a follow-up initiative to the World Conference on Racism in Durban in 2001 was taken by the Ministry of Refugee Immigration and Integration Affairs in September 2002. Thus, the preparations for a national plan of action on the improvement of diversity, tolerance and equal treatment were started.

At the time of writing there had been no changes in the Danish anti-discrimination legislation vis-à-vis the employment sector, with regards the transposition of the Article 13 equal treatment directives (see section 8.1).

⁵⁴ This plan of action is the Danish Government's follow-up to the United Nations World Conference on combating racism, discrimination and xenophobia, Durban, (2001).

⁵⁵ Denmark, Ministry of Refugee Immigration and Integration Affairs (2002), A New Policy on Foreigners, p. 1.

DESCRIPTION OF MONITORING SYSTEM(S) (SUCH AS OMBUDSMAN ETC)

Since 1st January 2003 there has been no real state financed specialised monitoring system/organisation specifically concerned with "discrimination, unequal treatment, differential treatment" in the employment sector. Up until this point The Board for Ethnic Equality, an independent body established by law in 1997, had functioned as a specialised body monitoring and analysing ethnic equality in all societal spheres in Denmark, however, it did not have the power to deal with individual complaints of racial discrimination. In practice it could receive individual complaints but it could not commence investigations and make conclusions. However, The Board had a statutory right to make general statements and could thus issue recommendations, publish reports and give opinions on general issues of racial discrimination.

Between 1995–2001 a non-profit organisation, The Documentation and Advisory Centre on Racial Discrimination⁵⁶ (DACoRD) received a ministerial grant of approximately DKK 1.8 million a year in connection with its provision of free legal services for victims of discrimination. During this period DACoRD has dealt with many labour market cases (see section 7 and 8.1). The Board for Ethnic Equality was closed 1.1.03, and funding to DACoRD was removed 1.3.02.

In the spring of 2002, however, the Government and the Peoples Party reached an agreement leading to the Act No 411, on the establishment of The Danish Centre for International Studies and Human Rights. This Act states that the Race Directive Article 13 activities are to be placed under the new Institute for Human Rights. The Institute for Human Rights has thus been provided with the mandate to promote the equal treatment of all persons without discrimination on the grounds of racial or ethnic origin, by providing independent assistance to victims of discrimination in pursuing their complaints about discrimination without prejudice to the right of victims and of associations, organizations or other legal entities, by conducting independent surveys concerning discrimination, by publishing independent reports and by making recommendations on any issue relating to such discrimination.

In January 2003 the Government presented its proposal for the new body in the Bill on Ethnic Equality (L155). Although the Bill will allow the new body to process individual complaints, cases relating to the employment sector are exempt. A budget of DKK 6 million has been proposed, which is less than the combined amount of DKK 7.8 million previously allocated to The Board for Ethnic Equality and DACoRD. On 20th May 2003 a majority of members in the Danish Parliament voted for the adoption of Bill No. 155 on equal treatment irrespective of ethnic origin. The adoption of the new Act is intended to secure the transposition of the areas covered by subparagraphs (e) to (h) of Article 3(1) of the Race Directive before the deadline in July 2003. The minutes of the Parliament's meeting have not yet been made public.

⁵⁶ The Board for Ethnic Equality and The Documentation and Advisory Centre on Racial Discrimination were identified in the EU commissioned report as the two specialist bodies in Denmark dealing with discrimination issues, PLS Rambøll (2002), Specialised bodies to promote equality and/or combat discrimination.

The new Act on equal treatment irrespective of race and ethnic origin as of 20th May 2003, however, does not include protection against unequal treatment in the labour market as required by subparagraphs (a) to (d) of Article 3(1) of the Race Directive.

This part of the Race Directive was intended to be transposed by Bill no.152 amending the Act on the prohibition against discrimination in the labour market. Amongst other amendments, was a ban against victimisation according to the new Section 7, subparagraph 2 in the Act on the Prohibition of Differential Treatment on the Labour Market, as well as a new Section 7 amending the provision on the distribution of the burden of proof. On 20th May, however, a majority in Parliament voted against Bill No. 152. Consequently, the Danish government is forced to present a new proposal for amendments of the Act on the prohibition against discrimination in the labour market.

Notwithstanding, the EU Race Directive was implemented partly by Act No. 374 of 28 May 2003 on Ethnic Equality of Treatment, which entered into force on 1 July 2003.

10. ANNEX 3: AN OVERVIEW OF DANISH INTEGRATION, IMMIGRATION AND DISCRIMINATION POLICY

AN OVERVIEW OF DANISH INTEGRATION, IMMIGRATION AND DISCRIMINATION POLICY

The overview of the Danish integration, immigration, and discrimination policy concerns the period from 1 January 2003 to 1 August 2003.

Since the last elections to *Folketing* (Parliament) on 20 November 2001, the Prime Minister has been Mr. Anders Fogh Rasmussen who is the head of the *Venstre* (Liberal Party). The Liberals, together with *Konservativt Folkeparti* (Conservative People's Party) run – as a two-party coalition - minority Government with the support of *Dansk Folkeparti* (Danish People's Party), a nationalistic, right wing party. As mentioned in *RAXEN 3*⁵⁷ one of the main aims for the centre-right coalition is to tighten the rules on immigration, and to limit the influx of immigrants to Denmark in order to ensure that those already in the country find employment and improve their integration into the Danish society.

During 2002 the Danish Government launched a number of initiatives in the field of integration and immigration. The focal point for the initiatives was to ensure access to working and social life as the main integration strategy. The policies were presented in January 2002 under the headline *A new Policy for Foreigners* and in March 2002 under the headline *Towards a new integration policy*.

The policy and legislative initiatives put forward from 1 January 2003 to 1 September 2003 should, partly, be seen as follow-up measures to the main policy papers from 2002, and partly as responses to specific needs and issues that have been raised in Parliament and the media during the period.

Moreover, the obligation to implement the EU Directive implementing the principle of equal treatment between persons irrespective of racial or ethnic origin,⁵⁸ and the EU Directive on establishing a general Framework for equal treatment in employment and occupation,⁵⁹ has led to the passing of Bills and adoption of an Act during the period covered by this report. Said legislative measures have given rise to major discussions in Parliament, but have not been supplemented by policy statements or plans of action.

The central policy paper for the current period is *The Gouvernement's Vision and Strategies for Improved Integration* from June 2003, creating a new policy agenda. According to this policy paper, "integration efforts must be improved and the link between immigration policy and integration policy must be enhanced". Also, the

⁵⁷ EUMC/RAXEN Report on Legislation in Denmark on Integration, Immigration and Discrimination 2000-2002.

⁵⁸ 2000/43/EC.

⁵⁹ 2000/78/EC.

importance of improving “the fundamental values of society, including freedom, obligations, rights and equality for everyone regardless of sex, colour and belief” is stressed in the introduction to the report. The report presents 114 concrete initiatives, some of which will later be formulated and proposed as Bills and others as Administrative Orders.

Another policy paper, which will influence the political agenda during the autumn of 2003, was launched by the Government on 27 August under the title *Vækst, Velfærd, Fornyelse II* (Growth, Welfare and Renewal).⁶⁰ The policy paper stresses, among other things, the need for better integration and points at self-maintenance and individual responsibility as key factors in the process.

The central ministries for the policy papers appearing in this report are the Ministry of Refugee, Immigration and Integration Affairs⁶¹, the Ministry of Social Affairs⁶² and to some extent the Ministry of Employment⁶³, and the Ministry of Justice⁶⁴. But as mentioned above Integration and Immigration issues are given a high priority on the Government’s agenda and the policy papers are often presented as the Government’s action plans.

IMMIGRATION POLICY

The Government has not launched any new immigration policies in 2003, but has reiterated the goals of a new Policy for Foreigners from 2002 in the report the Government’s Vision and Strategies for Improved Integration – Status 2003.⁶⁵

In the introduction, the report elaborates on the key strategies, encompassing a consequent and fair immigration policy, which enjoys the support and understanding of the Danish citizens and, thereby, provides for the basis of a successful integration of foreigners. As a second element, the limitation in the number of foreigners coming to Denmark is mentioned. This is achieved by measures ensuring an effective procedure for persons being expelled from the country – and the ability to apply force in such situations. Moreover, the Government stresses that foreigners should qualify for or make special efforts to deserve Danish citizenship. These strategies should be implemented with due respect to the international obligations of the Country, including especially The European Convention of Human Rights and the UN Convention on Refugees.

The key strategy on restricting the number of foreigners in Denmark has resulted in a decreasing number of persons applying for asylum in Denmark.⁶⁶ Thus, the number of

⁶⁰ Available on <http://www.stm.dk/imageUpload/dokument/Regeringsgrundlag%20II.pdf> (29.08.03), In Danish only.

⁶¹ Minister of Refugee, Immigration and Integration Affairs: Bertel Haarder (The Liberals).

⁶² Minister of Social affairs and equality: Henriette Kjaer (Conservative People's Party).

⁶³ Minister of Employment: Claus Hjort Frederiksen (The Liberals).

⁶⁴ Minister of Justice: Lene Espersen (Conservative People's Party).

⁶⁵ Regeringen (2003) Ministergruppen om bedre integration ”*Regeringens vision og strategier for bedre integration*”, available at: http://www.inm.dk/publikationer/engelske_publicationer/integration_policy/index.htm (04.08.2003).

applicants has fallen from 12,512 in 2001, to 6,068 in 2002 and to 2,185 in the first and second quarter of 2003.

The number of persons granted refugee status is 1,243 in the first half-year of 2003, compared to 4,069 in 2002 and 6,263 in 2001.

During the first 6 months of 2003, 2,607 persons out of 3,129 have been granted family reunification. The decrease in the number of reunited families is significant compared to 2001 and 2002, when 13,187 and 12,040 applications, respectively, were accepted.

The number of unaccompanied children, until the time of reporting, applying for asylum in Denmark is probably unchanged as the current number for 2003 is 70 compared to 137 in 2002.

IMMIGRATION LEGISLATION

As a consequence of the key strategies in the Government's policy for foreigners, amendments have been adopted to the Alien Act in the spring of 2003.

Ministry of Refugee, Immigration and Integration Affairs

Act on unaccompanied children seeking asylum⁶⁷

The act on unaccompanied children was adopted as an amendment to the Alien Act and the Integration Act and codifies the practice of the Danish Immigration Service.⁶⁸ In general unaccompanied children will only go through an asylum case examination if they are mature enough to do so. If the Danish Immigration Service assesses that a child is not sufficiently mature, the child will be granted a residence permit without examination of his or her asylum application. Children below the age of 12 and some between the age of 12 and 15 are normally considered not to possess maturity enough to go through an examination of his or her asylum application. An asylum case examination will however always be carried out, should it be requested by the child's guardian or the child's assessor.

An unaccompanied child who is considered to be sufficiently mature to have his or her application examined will have the application examined by the Immigration Service. If a rejection is delivered, the child may, in certain cases, receive a residence permit anyway. This may be the result, for example, if the child would have inordinate difficulty surviving in his or her country of origin due to the lack of an adequate support network in the form of family, other adults, public assistance, etc. Information on the child's health and need for particular care or support will also be taken into consideration. Finally, the general situation in the child's country of origin, as for example, conditions of war, will be taken into account.

⁶⁶ Danish Immigration Service, Statistical Overview, www.udlst.dk/english/statistics/default.htm (16.08.2003).

⁶⁷ Denmark, Act No. 60 (29.01.2003), now Consolidated Act No. 316 (28.04.2003).

⁶⁸ Details available at: http://www.udlst.dk/english/Asylum/unaccompanied_children.htm (07.08.2003).

Furthermore, the amendment introduces the appointment of a personal representative to observe and secure the child's interests, for all unaccompanied children registered as asylum seekers. If an unaccompanied child receives a residence permit, a person (typically the representative) will be given temporary custody of the child in accordance with relevant legislation. If a child's asylum case is decided according to the manifestly unfounded procedure, the Danish Immigration Service will appoint an attorney to represent the child. With the consent of the child or the consent of the representative, the Danish Immigration Service will launch an investigation of the child's parents.

Act on tightening the measures of expulsion etc.⁶⁹

The Act tightens the sanctions and the procedure to encourage the departure of the rejected applicant. A final rejection means that an applicant does not have any more avenues available to appeal the decision. Rejections delivered by the Refugee Board or by the Immigration Service in so-called 'manifestly unfounded' cases are regarded as final. If a rejected asylum seeker will not leave Denmark voluntarily, it is the responsibility of the police to ensure the applicant's departure.

When an applicant receives a final rejection of asylum in Denmark, he or she must leave the country immediately, but will be granted adequate time to prepare for the departure from the country. Special circumstances, such as acute illness and the like will be taken into consideration.

The sanctions will intensify over a period of time – from giving information of the obligations of the rejected asylum seeker to leave the country, to motivation in form of an amount of 3000 DKR (400 €) for an adult and 1.500 DKR (200 €) for each child intended to help the re-establishment of their existence in their country of origin provided that they leave immediately. If the rejected asylum seeker still refuses to leave, subsidies will be denied and they will be put on a *madkasseordningen* (lunch pack scheme) under which they will receive a box every 14th day, containing food and other basic necessities. The rejected applicant will thereafter be transferred to *Centre Sandholm* – a refugee centre, enclosed with a fence and control of entrance. The police can furthermore detain a rejected asylum seeker to motivate the departure from the country. Aliens expelled by verdict will be instructed to take residence in *Centre Sandholm* with a systematic duty to report each day to the staff of the centre.

The Ministry of Refugee, Immigration, and Integration Affairs has the authority to grant a temporary residence permit on humanitarian grounds to an asylum seeker who has received a rejection of his or her application for asylum. The act makes more difficult the possibility of applying for a temporary residence permit on humanitarian grounds to avoid some applicants using it for an automatic postponement of the order to leave the country immediately.

⁶⁹ Denmark, Act amending the Alien Act No 291 (30.04.2003), now Consolidated Act No. 685 (24.07.2003).

Act reforming the efforts of activation and education in relation to adult asylum seekers etc. and of the system concerning payment of benefits to asylum seekers.⁷⁰

The purpose of the amendment is part of the implementation of the plan “*Towards a new integration policy*” and concerns the part dealing with activation of adult asylum seekers, so the waiting time for the application to be considered - according to the Minister of Integration - can be used constructively.

The amendments introduce basic working responsibilities and obligations for the asylum seeker at the refugee centres and furthermore introduce the means for motivation to take part in “activation” and education. The asylum seeker signs a contract where he/she commits him/herself to certain obligations.

In the first three months, the asylum seeker signs a standard contract including the duty participate in an introductory programme and ordinary practical duties at the accommodation location.

After three months from the application for asylum being filed, the asylum seeker must take part in courses in the Danish language, Danish culture and Danish society. The contract can be supplemented by further activation and other education initiatives.

Asylum seekers who are about to be sent out of the country cannot participate in the education programme and can only, to a limited extend, participate in the activation programme.

The cash benefits for asylum seeker are split in basic benefits and supplementary benefits. Asylum seekers with maintenance obligations for children younger than 18 years of age are paid extra benefits. The basic benefits and the maintenance obligation benefits are always paid, but the supplementary benefits are conditional and to be paid only if the asylum seeker observes the contract. Asylum seekers who are not registered yet, or who are in the so-called expulsion phase, will receive significant lower supplementary benefits than an asylum seeker whose application has not yet been dealt with.

⁷⁰ Denmark, Act amending the Aliens Act No 292 (30.04.2003), now Consolidated Act No 685 (24.07.2003).

11. ANNEX 4

The Danish Police provides statistics on the number of complaints according to section 266 b of the penal code: Hate speech in the form of threats or insults due to race, colour etc.

Table 1: (The Danish Police's Database of filed complaints)

RACE DISCRIMINATION (HATE SPEECH) Section 266 b-c of the Penal Code						
Year	1. quarter	2. quarter	3. quarter	4. quarter	1. half	Whole year
1996	9	3	6	2	13	24
1997	13	11	6	33	24	63
1998	10	5	5	6	15	26
1999	8	4	5	15	12	33
2000	14	10	3	10	24	37
2001	11	16	15	22	27	65
2002	11	9	6	7	20	36
2003	8	6	5	8	15	28

12. ANNEX 5: DATA ON RACIAL CRIME 1992- 2003

RESULTS PRODUCED BY THE DANISH CIVIL SECURITY SERVICE (PET)

For comparative purposes The Danish Civil Security Service (PET) figures for 1992 - 2000 are given below.

Table 2:

Year	No. of incidents
1992-1998	620
1999	16
2000	18 (updated 28)

PET states that the majority of the incidents that occurred between 1992-1998 can be described as racist propaganda, i.e. flyers, graffiti, harassment, threatening letters and telephone calls etc. Of the 620 there were 30 incidents of arson (15 of which were attempted arson), and 30 incidents involving violence or fighting.

Similarly, with regards the figures for 1999 and 2000, PET report that the majority of incidents involved the distribution of racist propaganda or vandalism. The following table is the number of racially motivated incidents reported to PET in the first nine months of 2001.

Table 3:

Nature of Incident	Number of incidents
1. Arson	6
2. Chicane	7
3. Vandalism	13
4. Propaganda	7
5. Threats	9
6. Unrest	2
7. Physical attack	4
Total	48

The next table is a complete list of racially motivated incidents reported to PET between 11.9.01 and up to 31.11.01. The list is chronologically ordered. The incidents have also been categorized using the categories used by PET in the above table.

Figure 12a: (Key: EM = Ethnic minority person)

Date	Description	Place	C
12.9.01	A threatening note is placed in an EM's post box.	Copenhagen	2
13.9.01 - 22.11.01	7 incidents of graffiti vandalism on buildings and houses occupied by Muslims.	Roskilde	3
14.9.01	Burning paper put through the post box of an EM's apartment, and burning paper left on the doormat.	Århus	1
15.9.01	Racist emails	Fredericia	2
16.9.01	Youths appear at a refugee centre looking to fight with asylum seekers	Århus	5
16.9.01	Windows are smashed at a pizza restaurant	Tårnby	3
16.9.01	A row of cars are set on fire. The report suggests that the incident might have been directed at a local politician who is vocal in the debate about ethnic minorities	Helsingør	1
16.9.01	An EM is violently assaulted	Ribe	7
17.9.01	A dog attacks an EM on its owners orders	Horsens	7
18.9.01	Racism on the internet	Frederiksberg	4
18.9.01	A molotov cocktail is thrown at a social club frequented by EMs. And in a nearby stairwell of a housing block is offensive graffiti about Muslims.	Gråsten	1
19.9.01	A burning glass filled with inflammable liquid is thrown into a Pizzeria	Holbæk	1
20.9.01	Offensive graffiti about Muslims on a post-box and shed	Køge	3
20.09.01	Fire was set to a house under construction for a refugee family. The roof burned down.	Helsingør	1
22.9.01	2 Majority Danish men, who were in the company of an EM woman are attacked	Odder	7
22.9.01	Newspapers which are stuck into the post box of a kiosk owned by an EM are set on fire	København	1
23.9.01	Windows are smashed, bins set on fire, and threats written in the gravel at a house owned by an EM	Gråsten	3
24.9.01	Windows are broken in a Cafe owned by an EM	Helsingør	3
25.9.01	Grffiti vandalism with offensive comments about Islam	Roskilde	3
26.9.01	2 incidents of arson in housing block stairways where there is also written threatening graffiti	Gråsten	1
27.9.01	Rumours about a gang fight between Majority Danes and EMs	Esbjerg	6
29.9.01	An Arabic school is broken into and offensive graffiti is written on the walls	Frederiksberg	2
30.9.01	A firecracker explodes a bus stop window. The offender left an emergency flash light with a note saying, "Danish - Denmark now!" The suburb is inhabited by a large proportion of ethnic minorities	Århus	3

Figure 12b: (Key: EM = Ethnic minority person)

Date	Description	Place	C
2.10.01 - 3.10.01	Approx. 100 posters with offensive remarks about EM and Muslims are put up close to a Muslim school	Århus	4
3.10.01	Arson attack on a greengrocers owned by an EM	København	1
5.10.01	Newspapers in an apartment letterbox of an EM are set alight	Helsingør	1
6.10.01	Danish National Socialist Movement (DNSB) dispersed flyers saying, "Denmark for the Danes" (Danmark for danskerne) in letter boxes and on the wind shields of cars	Tønder	4
7.10.01	Arson attack on a solarium owned by an EM	København	1
8.10.01	Graffiti vandalism with racist contents	Roskilde	3
10.10.01	A spoof bomb is placed next to a synagogue	København	2
12.10.01	Report of differential treatment of an EM in a restaurant	Århus	2
12.10.01	Graffiti vandalism close to a governmental office dealing with EM in Denmark	København	3
12.10.01	A car owned by an EM is set alight	Glostrup	1
14.10.01	A Swastika is drawn close to a Refugee Centre	Silkeborg	2
16.10.01	A powerful firecracker is thrown at a car being driven by an EM	Svendborg	1
19.10.01	A bottle with inflammable liquid is thrown at a social club frequented by EM	København	1
19.10.01- 22.10.01	Graffiti vandalism with racist content written on a house	Nyborg	3
29.10.01	Arson attack on a solarium owned by an EM	København	1
30.10.01	An EM is verbally assaulted in the street	Nykøbing Falster	5
2.11.01	An EM is verbally assaulted in the street	Ålborg	5
3.11.01	An EM is attacked when putting up campaign posters for the parliamentary election	København	7
12.11.01	Arson attack on a car owned by an EM	Glostrup	1
25.11.01	Burning paper on the doormat of an EM's apartment	Gladsaxe	1
20.12.01	An EM is verbally assaulted in the street	Odense	5
	In addition CPIS report that a contingency of foreigners and a Jewish congregation received both verbal threats and their property was vandalised	København	5 + 3

The above list can therefore be broken down into categories, as with the incidents from before 11.9.

Table 4:

Categories	Number of incidents
1. Arson	16
2. Chicane	6
3. Vandalism	17
4. Propaganda	3
5. Threats	5
6. Unrest	1
7. Physical attack	4
Total	52

The incidents registered by PET show a high degree of arson attacks and vandalism. They are geographically dispersed in the whole country and not just concentrated in one region, town, etc.

RESULTS PRODUCED BY THE DOCUMENTATION AND ADVISORY CENTER ON RACIAL DISCRIMINATION (DACORD)

The following list is the complete list of incidents registered by The Documentation and Advisory Center on Racial Discrimination. The incidents listed in the above results produced by PET have been removed from the list below. Therefore, the list should be read as containing additional incidents that for various reasons were not reported to either the local Police or to PET.

It should be noted that the list below is accompanied by a problem of validity. Many of the incidents have been registered based on newspaper articles or word of mouth. However, we believe that despite the lack of 100% validity it is important that the incidents are included in the report as it is an attempt to document the incidents either not reported to the Police, or not further reported to PET.

The sources are: DACoRD, the media, The Center for Multicultural Housing Work (CTB), Mellempfolkeligt Samvirke (MS) and Local Integration Advisory Boards

Figure 13a:

Date	Incident	Place	C	Source
11.09.2001	The amusement park Tivoli received a bomb threat over the phone. The threat was linked to a concert with Outlandish - a Latin/Middle Eastern hip-hop band.	København	5	Newspaper Politiken 15.09.01
After 11.09.2001	A taxi-driver is assaulted verbally and threatened by a man on a bicycle.	København (?)	5	Several newspapers
After 11.09.01	A young Muslim girl wearing a headscarf was thrown out of a taxi after being accused of being responsible for the bombings.	??	5	MS
After 11.09.2001	The Parliament stylist - a Muslim woman - several times experienced a person gesticulating that he was shooting her	København	5	Newspaper B.T. 23.09.2001
After 11.09.01	A woman cyclist had eggs thrown at her by a group of young men driving by in a car whilst they accused her of being a Muslim. The woman is of Indonesian descent and a Christian	København	7	MS
After 11.09.01	A Muslim man known to the Danish organisation MS was verbally assaulted in the street of a Copenhagen neighbourhood.	København	5	MS

Figure 13b:

Date	Incident	Place	C	Source
After 11.09.01	The former national telephone company, Teledanmark notes an increase in the amount of hate speech-SMS received at www.dingelink.dk. The web-site is an exchange service for customers leaving "funny" messages or pictures on the site so that others can download them to their cell-phones. Teledanmark removes racist and other offensive SMS several times a day.	København	2	
After 11.09.2001	A publicly known Muslim living in Copenhagen has been subjected to telephone harassment late at night.	København	5	DRC
After 11.9.01	An Iraqi refugee driving a three-wheeled moped was held at gunpoint one evening by a group of young men driving by in a car. They threatened to kill terrorists like him. The incident took place in one of the wealthiest municipalities in Denmark.	Lyngby	5	DRC
After 11.9.01	The Islamic web-site www.islam.dk received numerous death threats. One signed by 27 Iranians, Iraqis, Danes and Serbs aged 19-24 said, "We are full of hatred and aggression. We have only experienced negative things from you Muslims. As the Danes don't dare doing anything we must - we will haunt you down one by one, set fire to your homes, stone your children and rape your wives and sisters. ISLAM IS DEAD!"	Internet	5	DRC
12.9.01	A Pakistani restaurant in Copenhagen had the windows smashed to pieces with cobblestones.	København	3	DRC
13.9.01	Death threats are made to a local TV station during a programme with ethnic minorities debating the attacks on the USA.	København	5	Newspapers Morgenavisen Jyllandsposten 20.09.01 and B.T. 23.09.2001
13.9.01	On their web-site, the president of the ultra-rightwing organisation, Dansk Forum (Danish Forum) urges people to boycott the local greengrocers that are by and large owned by ethnic minorities.	Internet	4	Newspaper B.T. 23.09.2001
14.9.01	At Asylum Centre Roenne a poster with the words "Holy war on Islam" was stuck to the wall of a house next to the centre. Both the manager of the centre and the police see it as a boyish prank since the poster was full of spelling mistakes and stuck to the wrong building	Rønne	5	Danish Red Cross
14.9.01	The imam, Abdul Wahid Pedersen received a note with a death threat saying "Fuck Islam! Revenge beckons - wait and see! It will hurt."	København	5	Newspaper Morgenavisen Jyllandsposten 20.09.01

Figure 13c:

Date	Incident	Place	C	Source
14.9.01	A 28-year-old man got drunk and declared to his drinking companions, "I wanna do USA a favour now!" He went down to a petrol station and bought a 2-litre bottle of petrol and headed towards a Mosque belonging to Det Islamiske Trossamfund (the Islamic Community). Here he intended to set fire to the Mosque but was stopped by members of the community who discovered him making molotov-cocktails.	København	3	Newspaper B.T. 17.09.2001
14.9.01	A man of Pakistani descent was passed by a man in the street who in a gesture showed that he was shooting him.	København	5	DRC
15.09.01	A Muslim girl wearing a headscarf was assaulted by a man in the street. He tore off her scarf and spat in her face.	København	7	DRC
15.09.01	On their web-site, www.danskforum.dk, a member of Dansk Forum encourages people to leave a blob of snot on the windscreen of a car belonging to a Muslim who had supported what was happening in USA on national television. He also encouraged spitting on the man.	Internet	4	Newspaper B.T. 23.09.2001
18.09.01	At Asylum Centre Broens empty bottles were thrown at the buildings	Broens	3	Danish Red Cross
19.09.01	At Asylum Centre Brovst the driver of a blue Ford Sierra twice attempted to hit an asylum-seeker walking on the side walk. The attempts took place at 2 and 5 p.m.	Brovst	5	Danish Red Cross
28.09.01	A cycle-proficiency project for immigrant/refugee women has to be called off. It was not safe to proceed because the women - especially the Somali women - were being harassed in traffic.	København	2	DRC
8.10.01	- Imam threatened by his neighbour with dog - 3 EM experience a car driving towards them on the footpath, then turn off at the last second - An EM mother is hit on the head with a newspaper while waiting in a doctor's waiting room with her child - 8 EM boys 12-15 years old threatened by 4 young men in the mid twenties.	Svendborg	5 5 7 5	CTB
9.10.01	3 EM sisters 16-21 years old, the one very pregnant, are verbally assaulted and pushed in the back in the street	Sønderborg	7	CTB
Approx. 12.10.01	A pizzeria is vandalised by unknown offenders	Birkerød	3	TV2-Lorry (the local news programme for greater Copenhagen and surrounding areas)
17.10.01	A 14-year-old Muslim girl had her headscarf torn off while shopping in a supermarket.	Odense	7	The news (Profilen) on DR1 (public service channel)

Figure 13d:

Date	Incident	Place	C	Source
17.10.01	A woman of Palestinian origin was assaulted at a bus stop by an ethnic Danish woman. The woman spat on her and shouted, " Are you Muslims happy now?"		7	The news Profilen on DR1 (public service channel)
17.10.01	An elderly Muslim woman of Albanian origin was assaulted by a woman in a department store who shouted to her face, "We will butcher you!" while indicating with her hand that she was cutting her throat.	?	5	DRC

Table 5:

Categories	Number of incidents
1 Arson	N/A
2 Chicane	2
3 Vandalism	4
4 Propaganda	2
5 Threats	17
6 Unrest	N/A
7 Physical attack	6
Total	32

The results show that there was a dramatic increase in the first 7-8 weeks after 11th September. It appears that the level has now fallen back to its original position. For example, PET informs that the present statistics for 2002 are as follows:

7 cases of racist crime have been reported to PET from individual police districts, of which 2 were attempted arson attacks with Molotov cocktails, 3 are characterized as vandalism, 1 was a threatening letter and the last is a case of racism on the Internet. Please refer to the note on racial violence submitted by NFP, Denmark under RAXEN 2 for the procedure for registering racial crime to PET in Denmark and the changes that are now being made to this registering system. These changes will in our opinion improve the data collection.

13. ANNEX 6: NUMBER OF CHARGES AND CONVICTED 1995-2003

September 1995 – September 2003:	188 cases	
Cases/Complaints rejected by police:	110 cases	
Cases forwarded for prosecution:	78 cases	104 persons (involved in the 78 cases)
Charges:		52 persons
Convicted:		35 persons
Acquitted:		7 persons
Pending:		8 persons
One case transferred to Sweden:		2 persons

Source: DK Parliament 2003, answer from the Director of Public Prosecution on question no. 447 from the Committee on Justice as of September 2. 2003

14. ANNEX 7: COMPLAINTS ACCORDING TO PENAL CODE SECTION 266 B.

1. Annual number of complaints

Year	Complaints
1983	5
1984	4
1985	25
1986	8
1987	24
1988	29
1989	10
1990	11
1991	12
1992	22
1993	22
1994	36
1995	21
1996	24
1997	63
1998	26
1999	33
2000	37
2001	65
2002	36
2003	28

15. ANNEX 8

Fifteenth periodic reports of States parties due in 2001 : Denmark. 21/05/2001. CERD/C/408/Add.1. (State Party Report)

Source:

[http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/2b99750007002298c1256b13004e2e91?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/2b99750007002298c1256b13004e2e91?Opendocument)

RE ARTICLE 4 (A)

Criminal cases concerning racist statements

30. Section 266 b of the Danish Criminal Code (**straffeloven**) prohibits the dissemination of racist statements and racist propaganda. The provision and its associated case law are described in, **inter alia**, Denmark's fourteenth report (paras. 135-143).

31. Since the Danish Government prepared Denmark's fourteenth report convictions have been obtained in six cases of violation of section 266 b of the Criminal Code:

- By judgement of the Western High Court of 17 November 1998, a candidate at the local election for the right-wing political party the Danish People's Party (**Dansk Folkeparti**) was sentenced to 20 day-fines of DKK 200 for having, in a newspaper interview, uttered the following statement: "The blacks are spreading everywhere, just like cancer" and "Crime is inherent in the foreigners' genes". On an overall assessment, the High Court found that the statement "They are bolder than brass" was not of such gravity that the statement fell within section 266 b of the Criminal Code. It should be noted that this judgement was pronounced before Denmark submitted its fourteenth report on 8 January 1999. The judgement of the District Court is mentioned in Denmark's fourteenth report (para. 140, cf. judgement of the Criminal Court in Silkeborg of 5 May 1998).
- By judgement of the Eastern High Court of 22 March 1999, a 53-year-old man was sentenced to 20 day-fines of DKK 100 for having, on a home page on the Internet, made allegations against religious/ethnic groups of extremely serious crimes. The High Court found that the fact that the statements had been made over the Internet did not in itself mean that section 266 b (2) of the Criminal Code on propaganda activities could be applied. The judgement of the Copenhagen City Court in the case is mentioned in Denmark's fourteenth report (para. 140, cf. judgement of the Copenhagen City Court of 15 June 1998).
- By the judgement of the Western High Court of 18 May 1999, a 57-year-old member of the Danish People's Party was sentenced to 10 day-fines of DKK 200 for having stated during an election meeting: "... the main occupation in Poland is prostitution, pardon the expression; they say that 80 per cent of the women in Poland are whores".

- By judgement of the Criminal Court in Hillerød of 15 June 2000, a 20-year-old man was sentenced to 10 day-fines of DKK 200 for having, on a home page on the Internet, made a series of highly insulting and threatening statements aimed at people from former Yugoslavia. The statements of the accused included the following: “As I mentioned earlier, I have no scruples whatsoever about these individuals. I think that we should send each and every one of those that we have here home, even if it is to certain death, so much the better ...”, “... that kind of people I simply cannot tolerate, and I don’t mind being the one who destroys each and every one of them!!!! ...”; the subsequently convicted man later also used expressions like “a thoroughly primitive people” and “a degenerate people”. The court found that the statements of the accused on the home page were not part of such systematic, intense and persistent efforts to affect public opinion that section 266 b (2) of the Criminal Code on propaganda activities could be applied. The public prosecutor’s claim for a custodial penalty was not allowed.
- By judgement of the Supreme Court of 23 August 2000, a 74-year-old man, the founder of a political party, was sentenced to seven days’ suspended lenient imprisonment for violation of section 266 b (1) of the Criminal Code, having, in a television broadcast, characterized Muslims as world criminals and for having stated that Muslims would expose the Danish population to invasion, castration and homicide. The judgement was made suspended owing to the age of the accused. The judgement of the Copenhagen City Court is mentioned in Denmark’s fourteenth report (para. 140, cf. the judgement of the Copenhagen City Court of 23 March 1998).
- By judgement of the District Court in Odense of 28 September 2000, the 74-year-old man mentioned above was sentenced to 20 days’ suspended lenient imprisonment for violation of section 266 b of the Criminal Code, having made a number of statements that were insulting or degrading to persons of the Muslim faith on several occasions in television and radio broadcasts, the accused having stated as follows about Muslims: “... it is only to exterminate and kill the Danes that they come here” and “... it is not a religion - it is a global destruction movement, and it has nothing to do with religion”; the subsequently convicted man stated that if they did not leave voluntarily within a fixed period, they were to be captured and offered by tender to those who would pay the most for them. The sentence, which was meted out as a sentence concurrent with the sentence passed by the Supreme Court on 23 August 2000, was made suspended owing to the offender’s age. The judgement has been appealed.

32. In one case the accused was acquitted. By judgement of the Western High Court of 18 May 1999, in which a 64-year-old Dane was accused of having, in extension of an election meeting at an inn, made the following statements to a journalist who passed them on to the newspaper: “They are bred like pigs and think like pigs. They just have to stay down in Seweristan where they belong.” The High Court found that the statements fell within section 266 b of the Criminal Code, but acquitted the accused on the ground that it had not been proved that he had intended to disseminate the statements. The High Court thus found it non-proven that the accused was aware that he was talking with a journalist who would pass on the statements.

33. Furthermore, prosecution has been initiated in five cases not yet decided by the courts, one of which has been transferred for prosecution in Sweden. This case concerns two Swedish nationals who, at a demonstration arranged by the Danish neo-Nazis, wore T-shirts bearing the inscription “kill them all big and small” on the front and “smash the Jews” on the back.

34. Finally, it has been decided to withdraw charges for violation of section 266 b of the Criminal Code in four cases. In two of these, the accused have instead been charged with violation of the police regulations concerning insulting conduct and with section 266 of the Criminal Code on threats.

35. Since 14 October 1998, the Chief Constables have rejected a total of 22 notifications on violation of the provision, two of which however concerned statements about homosexuals.

16. ANNEX 9

Fourteenth periodic report of States parties due in 1999 : Denmark. 12/07/99.

CERD/C/362/Add.1. (State Party Report)

Source:

[http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/dac70aa0a999b5da80256872003a96a0?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/dac70aa0a999b5da80256872003a96a0?Opendocument)

ARTICLE 4 (A)

Criminal cases concerning racist statements

135. Section 266 b of the Criminal Code (straffeloven) prohibits the dissemination of racist statements and racist propaganda.

136. The provision was inserted in the Criminal Code in 1971 in connection with Denmark's ratification of the International Convention on the Elimination of All Forms of Racial Discrimination, to ensure full compliance with article 4. It is stated in the history of the provision that, when applying the provision, due consideration for the freedom of expression must be shown.

137. The maximum penalty for violation of section 266 b was increased by Act No. 309 of 17 May 1995 by the addition of subsection (2) of the provision, according to which it is an aggravating circumstance when the offence is in the nature of propaganda activities. The amendment was extensively commented upon in Denmark's thirteenth periodic report (CERD/C/319/Add.1, paras. 24-27). The purpose of the amendment was to extend the enforcement of the provision to prevent Denmark from becoming a sanctuary for the dissemination of Nazi and racist propaganda.

138. Under the present legal practice concerning dissemination of racist statements, the courts assess the consideration of freedom of expression and freedom of the press as opposed to the consideration of protection against racist statements when weighing up whether an offence has been committed. Particularly in criminal cases against journalists and editors, the courts have thus made a specific assessment of the purpose of reproducing the racist statements, including whether the protection of the persons who are exposed to gross contempt by the statements reproduced is stronger than the need for conveying the statements to the public. The courts have made a similar concrete assessment of the consideration of privacy and the consideration of news communication in criminal cases against journalists for violation of penal provisions on privacy.

139. To ensure a uniform indictment practice, the Director of Public Prosecutions determined by notice of 6 September 1995 that the indictment issue should be brought before the Director of Public Prosecutions in all cases concerning violation of section 266 b of the Criminal Code in which a provisional charge has been brought, and that the

Director of Public Prosecutions should be notified of all information provided to the police that is rejected without a provisional charge having been brought.

140. Since the preparation of the thirteenth report, there have been nine convictions for violation of section 266 b of the Criminal Code:

- By judgment of the District Court in Gråsten of 8 November 1996 a man was sentenced to prison for 20 days for violating section 266 b of the Criminal Code by saying to a Korean "Such a dirty pig should shut up and go home" at a restaurant and for violation of section 244 of the Criminal Code by immediately afterwards having nussed another guest and hit him in his face.
- By judgment of the District Court in Randers of 28 November 1998 a man was sentenced to 30 "day fines" / A "day fine" is a fine proportionate to the offender's daily income. of DKr 100 for having, at the post office in Randers, uttered statements of a scornful and degrading nature to two 13-year-old girls of Turkish origin and two Africans, and for having threatened the two girls to leave the post office.
- By judgment of the Criminal Court in Sønderborg of 10 April 1997 a 63-year-old man was sentenced to 10 "day fines" of DKr 100 for having written the following on young immigrants in a letter to the editor: "Today, the culture that these young people bring is theft and homicide when they do not have it their way, or rape".
- By judgment of the District Court in Rudkøbing of 11 December 1997 the author of a crossword puzzle in the Danish tabloid **Ekstra Bladet** was sentenced to ten "day fines" of DKr 300 for having asked the question: "What is the most essential contribution made by Somalis to the Danish culture?", the answer to the question in the puzzle being: "Drug peddling".
- By judgment of the Copenhagen City Court of 23 March 1998 the founder of a political party was sentenced to seven days' suspended imprisonment for having said in a television programme that Muslims will expose the Danish population to invasion, castration and homicide and for having characterized Muslims as world criminals in a television programme. The sentence, which was suspended because of the founder's age, has been appealed to the High Court.
- By judgment of the District Court in Grenå of 18 May 1998 a 19-year-old high school student was sentenced to two "day fines" of DKr 200 for having said "Shut up you dirty Islamic pig" to a dark-skinned person after a party.
- By judgment of the Criminal Court in Silkeborg of 5 May 1998 a candidate at the local election for the right-wing political party the Danish People's Party (Dansk Folkeparti) was sentenced to 20 "day fines" of DKK 200 for having, in a newspaper interview, made the following remarks on immigrants, refugees and persons of another national or ethnic origin: "The blacks are spreading everywhere -just like cancer", "crime is inherent in the foreigners' genes" and "they are bolder than brass". The sentence has been appealed to the High Court.
- By judgment of the Copenhagen City Court of 15 June 1998 a 52-year-old person was sentenced to 20 "day fines" of DKr 100 for having made statements on Muslims and immigrants on the Internet, particularly various allegations concerning serious crime. The Public Prosecutor has appealed the sentence to the High Court on the grounds that it was too lenient.

- By judgment of the District Court in Ribe of 21 August 1998 a 50-year-old woman was sentenced to 10 "day fines" of DKr 200 for having written in a letter to the editor that "the Muslims are ravaging, stealing and murdering. Their nature consists of nothing else. They secretly obtain rights through power and terrorism, not through lawful elections and rightful positions. That is why they must be oppressed".

141. In one case in the Western High Court a 30-year-old Dane was acquitted by judgment of 12 May 1998, for lack of proof, of having made some statements in connection with an incident of violence which also involved two persons of Turkish origin. The Dane and one of the two Turks were both found guilty of violence.

142. Finally, charges have been brought in two cases that have not yet been decided by the courts. Also, some minor information on violation of section 266 b of the Criminal Code is being investigated by the police. For example, a member of the Danish People's Party has been charged with having stated that "the principal industry in Poland is prostitution; excuse the expression, they say that 80 per cent of Polish women are whores".

143. Since the Director of Public Prosecutions issued the notice of 6 September 1995 and until September 1998, the Public Prosecution has been presented with a total of 29 cases in which to make a decision whether to bring a charge or not. Charges have been brought in 13 of these cases and were withdrawn in the remaining 16 cases. During the same period, the chief constables and the Commissioner of the Copenhagen, Police have rejected a total of 28 complaints to the police of violation of the provision.