

C.O.N.T.A.C.T.

Desktop research results

Denmark

Annex 1. Definitions and interpretations of hate crime (including hate speech)

a) In law

Country	Definitions	Provided by whom	What do they say
Denmark	The actual term hate crime is not used in Danish law	Danish Institute for Human Rights: Hadforbrydelser udredning nr. 8/2011. (Report on hate crimes)	The concept of hate crime is connected to paragraph § 81, no. 6 of the Danish Penal Code, whereby punishment for a criminal offence is increased if judged to be based on prejudice and hate regarding a person's race, ethnicity, sexual orientation etc.
Denmark	The actual term hate speech is not used in Danish law	Danish Institute for Human Rights: Hadforbrydelser udredning nr. 8/2011. (Report on hate crimes)	The concept of hate speech is connected to paragraph § 266 b of the Danish Penal Code). This criminalises expressions that publicly or with intent to disseminate to a wider circle, threaten, insult degrade a group of persons on the basis of race, skin colour, nationality, ethnicity, faith or sexual orientation.

b) In recommended police procedures

Country	Definitions	Provided by whom	What do they say
Denmark	Paragraph 266b (see section 2 above) to be interpreted in the light of article 10 of the European Human Rights Convention (freedom of speech)	Office of Public Prosecutions, knowledge base: RM 2-2011 – Hadforbrydelser (Hate crimes)	<p>Contexts covered by “<u>publicly or with intent to disseminate to a wider circle</u>”: public meetings, (but not closed meetings), press, radio and TV and online versions of these media; public debate fora, blogs as well as on social media, e.g. Facebook, but if a closed Facebook profile or forum, evidence needed re numbers who have access and re intention to disseminate to wider circle; individuals in public places (street, public transport etc.) but not private homes and gardens, examination rooms in hospitals, taxis)</p> <p>A “<u>group</u>” of people means a specific group with common characteristics.</p> <p>“<u>Threatened, insulted or degraded</u>”: does not include minor levels of abuse, scientific theories about racial, national, ethnic differences, or objective debate. Punishment relies on whether the expressions in the concrete situation can be seen as suited to cause fear or appear insulting/degrading. It does not depend on whether the group concerned has actually felt themselves threatened, insulted, degraded.</p> <p><u>Race</u> relates to genetic features, <u>ethnic origins</u> to cultural features, <u>national origins</u> to a person’s sense of belonging to a nation or origins in that nation, but not citizenship, <u>faith</u> refers to recognized faiths in Denmark, but could include others (e.g. witchcraft), <u>sexual orientation</u> refers to legal sexual behaviours and attitudes.</p> <p><u>Propaganda</u> is understood as the exercise of a certain systematic, intensive or persistent activity with the purpose of influencing opinions</p>
Denmark	Paragraph 81.6 (see section 2 above)	Office of Public Prosecutions, knowledge base: RM 2-2011 – Hadforbrydelser (Hate crimes)	<p>The paragraph shall be applied where the criminal motive can completely or partly be attributed to the victim’s ethnic origins, faith, sexual orientation and such like.</p> <p>The paragraph is not limited to specific types of crime or incidents where the perpetrator’s motive has been to threaten, insult, degrade a person or group of persons.</p> <p>The paragraph, depending on circumstances, can also be applied to, e.g. economic</p>

			crime that is committed to support a racist organization which the perpetrator is a member of. The interpretation of the words "ethnic origins, faith, sexual orientation and such like" is done on the basis of paragraph 266 b of the Penal Code
Denmark	Operative, Planning and Analysis (OPA) coding of words (as determined by National Investigation Centre under Danish National Police)	Danish Institute for Human Rights: Hadforbrydelser udredning nr. 8/2011. (Report on hate crimes)	List of 39 words (used in searching for possible hate crimes in police databases) that include words related to ethnicity, religion and sexual orientation, e.g. "racist", "Jew", "homo", "swastika", "hate crime." The list is continually added to if new words found that are relevant. Words not included in the list are e.g. "islam", "gypsy", "roma", "trans", "skullcap" (Jewish kipah) or "scarf". The list is thus not exhaustive.

c) Examples of interpretations of law used in acquittal of hate crime (including hate speech) and in giving aggravated sentences

Country	Source: Knowledge Base of the Office of Public Prosecutions: Race discrimination practice list, updated 04.07.2014	Provided by whom	What did they say
Denmark	Judgment no. 1.4.6 Not guilty	The District Court (Hillerød)	The offensive statements ("coloured people like you are not allowed in my parents apartment") were uttered in a nursing home, which was not defined as a public place
Denmark	Judgment no. 1.4.7 Not guilty	Supreme Court	The offensive statements (Muslims are criminal) were uttered as part of an interview in a private home and without intention to disseminate to a wider circle

Denmark	Judgment no. 1.4.8 Not guilty	Western High Court	The offensive statements (negroes are less intelligent than Europeans) were part of a political debate which was protected by freedom expression
Denmark	Judgment no. 1.4.9 Not guilty	Western High Court	The offensive statements (Muslim children were to be gassed) were uttered on a Facebook profile which is not defined as a wider circle
Denmark	Hate Crimes in Denmark Institute for human rights. Investigation No. 8, 2011 (hate motive found)	Eastern High Court	The offensive statements ("go home, homo pigs) had a sexual hate motive (para. 81.6)
Denmark	Politiken 24. 10.13 (reported in press that hate motive found)	The District Court (Copenhagen)	The violence (hitting with a bottle) was caused by the victims transsexuality (the man was in drag and taking part in a festival for LGBT) (para. 81.6)