

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

Desktop research results

Denmark

Annex 2.a) Relevant International Legal Provisions in Danish context

Country	Law	Ratified	Exceptions, declarations
Denmark	International Covenant on Civil and Political Rights (ICCPR): articles 19 and 20	Ratified	Reservation is further made to Article 20, paragraph 1. This reservation is in accordance with the vote cast by Denmark in the XVI General Assembly of the United Nations in 1961 when the Danish Delegation, referring to the preceding article concerning freedom of expression, voted against the prohibition against propaganda for war." 19 April 1983
Denmark	International Convention on the Elimination of All Forms of Racial Discrimination (ICERD): article 4	Ratified	Declaration: Denmark recognizes the competence of the Committee on the Elimination of Racial Discrimination to receive and consider communications from individuals or groups of individuals within Danish jurisdiction claiming to be victims of a violation by Denmark of any of the rights set forth in the Convention, with the reservation that the Committee shall not consider any communications unless it has ascertained that the same matter has not been, and is not being, examined under another procedure of international investigation or settlement.
Denmark	Additional Protocol to the	Ratified but	Reservations in relation to Articles 3(1), 5(1) and 6(1) where

	Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (Council of Europe): articles 2-6	not for Greenland or the Faroe Islands	Denmark reserves the right to fully or to partially refrain from criminalising acts covered by these articles
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2.b) Relevant Legal Provisions in the Danish Penal Code

Country	Paragraph	
Denmark	Paragraph § 81.6	In determining the penalty it shall, as a rule, be considered as an aggravating circumstance that the offence stems from the other party's ethnic origins, religious beliefs, sexual orientation or similar
Denmark	Paragraph § 266b (so-called racism paragraph)	(1) Any person "who, publicly or with the intention of wider dissemination, makes a statement or imparts other information by which a group of people are threatened, insulted or degraded on account of their race, colour, national or ethnic origin, religion, or sexual inclination shall be liable to a fine or to imprisonment for any term not exceeding two years. (2) In determining the punishment it shall be considered a particularly aggravating circumstance if the conduct is of a propagandistic nature.

2.c) Most recent recommendations from CERD, NGOs and responses and reports to CERD and other bodies in relation to the Danish state's position re international legislation (Note there are no ENAR shadow reports for DK)

Country	CERD Recommendation (re article 4)	Other
Denmark Report to CERD 2013 http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CERD%2FC%2FDNK%2F20-21	Recommendation to limit the powers of the Director of Public Prosecutions (re stopping investigations, withdrawing charges etc.) and to establish an independent and multicultural oversight body to assess and oversee the decisions taken by the Director of Public Prosecutions	This recommendation not followed as against principles of Danish criminal procedures. But stated that no intention to repeal the relevant paragraphs about hate crime and speech in the Danish penal code
CERD concluding observations on Danish report to CERD 2013 (advance, unedited version) http://menneskeret.dk/files/media/dokumenter/monitorering/cerd_2015.pdf	<p>Under section enforcement of provisions on racial discrimination</p> <p>The Committee indicates that the provisions of Article 4 of the Convention are of a mandatory character. States parties have not only to enact appropriate legislation but also to ensure that it is effectively enforced. As set forth in General Recommendation no. 15 (1993) on Article 4 of the Convention, States parties should be vigilant in proceeding against organizations promoting racial discrimination as early as possible, without waiting for their dissolution in the future. These organizations, as well as other propaganda activities, should be declared illegal and prohibited. Participation in such organizations should also be prohibited and punished. The Committee recommends that the State party amend its Criminal Code to bring it fully in line with Article 4 (b) of the Convention and to clarify the application of sections 266 b and 81, no. 6 of the Criminal Code.</p> <p>Under section racist discourse and incidents</p>	

	<p>The Committee recommends that the State party:</p> <p>(a) Redouble its efforts to combat racial prejudice and violence, xenophobia as well as intolerance in the country. It urges the State party to remind politicians about their responsibilities to ensure that they contribute to building tolerance and intercultural understanding among different groups.</p> <p>(b) Develop a national action plan on racism as called for in Durban including a particular focus on combating hate crimes and provide detailed information on the initiative mapping such crimes in Denmark and on the new monitoring system in the Danish National Police, outlining concrete results achieved; In view of its General Recommendations No. 35 (2013) on combating racist hate speech, the Committee recalls that the right to freedom of expression is not unlimited but may be subject to certain restrictions, such as with respect to racist hate speech in whatever forms which rejects human dignity and equality and seeks to degrade the standing of individuals and groups. While respecting the right to freedom of expression, the State party should take effective measures to combat racist hate speech, including racist messages on the Internet.</p>	
<p>Recommendations from: Documentation and Advisory Centre on Racial Discrimination (DaCoRD), European Network Against Racism (ENAR-Denmark) SOS against Racism, Denmark For the Universal Periodic Review of Denmark 24th Session of the UN Human Rights Council January- February 2016 http://www.sosmodracisme.d k/ userfiles/downloads/</p>	<p>Legislation on the use and monitoring of hate speech on social media (p.4) <i>Recommendation: -The State party should monitor hate speech on the social media and put a Danish law in place for a system of treating complaints of hate speech on the social media and for addressing the owners of the social media and acting promptly after having found hate speech that would possibly be an offence of Section 266b in the Criminal Code.</i></p> <p>Registration of all cases of hate crimes based on the perception of the victim (p.5) <i>Recommendation: - The State party should ensure police registration of all hate crime as perceived by the victims, thus leaving it to the courts to decide whether a crime is a hate crime</i></p> <p>Public prosecution of hate crime/speech</p>	<p>Hate speech on the social media is rampant and efforts should be made to control it. E.g. Facebook has very strict rules concerning nudity although pornography is legal in Denmark, whereas the freedom of expression seems to be almost limitless.</p>

<p>UPR%20Recommendations%20SOS.pdf</p>	<p>Recommendations:</p> <p><i>-In all cases perceived by the victims as hate crimes/speech the State party should ensure registration of the perceived discrimination ground for the crime, and reasons for discontinuation of investigations and withdrawal of charges.</i></p> <p><i>-The State party should allow victims to institute criminal proceedings on the hate crime/hate speech aspect if the Public Prosecutor declines to press charges under the Criminal Code section 81/ under section 266b of the Criminal Code</i></p> <p>Court registration of hate crimes</p> <p>Recommendation:</p> <p><i>-The State party should ensure court registration of acquittals, convictions and sentences in cases involving Sections 266b and 81 No. 6 of the Danish Criminal Code.</i></p>	<p>Since few cases are registered as hate crimes, the police need to be sensitized and trained. However, in e.g. Sweden hate crimes are categorised according to the perception of the victim and not the police officer making the report.</p> <p>The Public Prosecutions Office very often does not press charges in cases perceived by the victims as hate crimes, which leaves the victims without effective remedies. As it is up to the Public Prosecutions Office whether to press charges for hate speech (Section 266 b of the Criminal Code) or for increasing the sentence (section 81 No. 6 of the Criminal Code) for a hate crime. Often the Public Prosecutor does not press charges in cases perceived</p>
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		<p>by the victims to be hate crimes, which leaves the victims without effective remedies. As it is up to the Public Prosecution whether to press charges for hate speech (Section 266 b of the Criminal Code) or to press charges for increasing the sentence (section 81 of the Criminal Code) regarding e.g. a violent crime that may be a hate crime.</p>
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