

APPENDIX II: COMMENTS BY THE DANISH GOVERNMENT

The Danish Government is pleased to respond to the invitation of the Committee of Experts of the European Charter for Minority Languages to comment on the proposals for recommendations to the Committee of Ministers, as contained in the first report on Denmark.

Please find below the Danish comments to the following proposals for recommendations to:

- 1. Adopt a more structured policy in the protection and promotion of German in order to achieve a practical implementation of the provisions of the Charter, especially in the fields of administration, justice and the media;**

Denmark fully recognizes and appreciates the purpose of the Charter, which is to protect and to promote the use of German language in all domains of public and private life covered by the Charter in Southern Jutland County. Denmark fully recognizes and appreciates the cultural wealth represented by the German minority in Southern Jutland County.

Denmark has – as is stated in the findings of the Committee of Experts (p. 23, F) - not introduced new legislation or modified existing legislation in order to implement the Charter since the ratification of the Charter due to the fact that Danish legislation already before the ratification of the Charter was in conformity with Denmark's undertakings under the Charter. Denmark has specified that Article 10, paragraph 1, subparagraph a v) and paragraph 4 will apply to German as a minority language. Article 10, paragraph 1 and 4, only concerns administrative districts of the state and paragraph 1, subparagraph a v concerns the right to validly submit a document in German to the state authorities in South Jutland.

It is recognized in the findings of the Committee of Experts (p.23, G) that there is a significant potential in Southern Jutland County concerning the use of German in public life, as a large number of majority language speakers, including staff in public authorities, speak good German. A potential which - as stated in Denmark's report on the European Charter for Regional or Minority Languages, December 2002 - is widely used in everyday public administration.

Even though Denmark has not specified Article 10 – paragraph 2 and 3 - to be applied by the local and regional authorities, The Ministry of Interior and Health on 1 October 2003 wrote a letter to the local and regional municipalities in Southern Jutland County in order to point out some special circumstances, that the local and regional authorities should pay attention to when dealing with cases concerning the German minority.

In the letter the Ministry of Interior and Health, among other things, has drawn the attention to the fact that the Copenhagen-Bonn Declarations ensure, that the minorities on both sides of the border can keep their identity and their linguistic and cultural characteristics.

In the letter, the Ministry of Interior and Health also has stated that the Framework Convention for the Protection of National Minorities (the Framework Convention) and The European Charter for Regional and Minority Languages (the Charter) are important in matters relating to the German minority. In the letter the local and regional municipalities were informed, that the Copenhagen-Bonn Declarations, the Framework Convention and the Charter are published on the official website of the Ministry of the Interior and Health, www.im.dk. The website also includes a pamphlet about the Charter and Denmark's first reports to the European Council according to provisions of the Charter and the Framework Convention. The report on the Charter states, which articles in the Charter Denmark has specified to apply to German as a minority language.

As stated in the letter, this letter should be seen as a means to ensure that misunderstandings that could damage the good relations between the two communities in the Southern Jutland County would not arise. It is the hope of the Ministry of Interior and Health that this letter promotes a positive development of the good spirit that both the German Minority and the Danish majority are contributing to in the Southern Jutland County.

The right to use German in *legal proceedings* is for instance safeguarded by the provisions of the Danish Administration of Justice Act. In civil cases, it is thus allowed to produce documents and evidence in German – if necessary by the use of interpreters and/or translations. The validity of legal documents must not be denied solely because they are drafted in German.

It thus appears from section 149(2), first clause, of the Administration of Justice Act that documents issued in a foreign language must be accompanied by a translation into Danish, which, if required by the court or the adversary, shall be certified by an authorised translator. Under section 149(2), second clause, however, the right to a translation may be waived when both parties agree to do so and the court believes it has adequate knowledge of the foreign language.

State authorities in Southern Jutland comply, to the widest possible extent, with the requests of employees having knowledge of German to be appointed in the territory where the German language is used. This is one of the areas where steps are taken to ensure that the German minority has the possibility of being served by the state authorities in Southern Jutland in German.

The Secretariat to the German Minority is also in regular contact with the Government on issues of any nature, including linguistic issues.

The Danish Ministry of Foreign Affairs has published a booklet on the Minority Languages Charter in 2001, available in both a Danish and a German edition. The booklet explains the importance of the Charter in all relevant legal areas. The booklet has been forwarded to the relevant Danish government departments and to the authorities of Southern Jutland, including the Government Office of Southern Jutland County. In addition, the booklet has been sent to the local authorities of South Jutland and to Southern Jutland and County. The German minority has received 6000 copies in German and 1000 copies in Danish for distribution among its members.

Denmark finds that the Danish policy for protection and promotion of German has shown sufficient capacity in order to achieve a practical implementation of the provisions of the Charter in the fields of administration and legal proceedings, and the Danish authorities look forward to a continuous dialogue with the Committee of Experts.

2. Renew consultations with the Home Rule Authorities of the Faroe Islands and Greenland on the possible application of the Charter in the two Home Rule areas;

The Danish Government would like to emphasize that this question falls outside the scope of the Convention due to the declaration made by Denmark in connection with the ratification on 8 September 2000, but has however noted the recommendation. Furthermore it deserves to be mentioned that the Danish Government has received no requests for new consultations from The Home Rule Authorities of the Faroe Islands and Greenland. Should such a request be received, the Danish Government will consider it in a positive manner.

3. Consider the protection of the German language in the context of the possible reform of administrative structures which could affect Southern Jutland County;

Denmark is fully aware of and is recognizing the interest of the German language in the context of the possible reform of administrative structures, which can also affect Southern Jutland County.

Denmark has noted that The Committee of Experts in its findings (p.24, H) has expressed that the Committee trusts that the Danish authorities will take fully into account the potential consequences of such a reform of administrative structures on the use of German language in Denmark, in connection with Denmark's undertakings under the Charter.

The Structural Commission was established by the Danish Government on 1 October 2002. The task of the Commission was to provide a technical analysis of whether the existing administrative structures live up to the demands of a modern welfare society.

In the report submitted by The Structural Commission in January 2004, the Commission has pointed out that dissolution of existing municipalities and counties into larger administrative units could result in a diminished political representation and influence in the local council and in the county council for some groups.

This could for example be the consequence, if a municipality on an island is united with an - often larger - municipality on the mainland, or if the municipalities around the German-Danish border are united in which case the German minorities' political party - Slesvigsk Parti - could have difficulties in maintaining political representation.

The Commission estimates, that it is possible to consider these potential consequences within the frames of the Local Government Act. According to article 17, paragraph 4, the local council can set up select committees for the performance of specific tasks or discharge of preparatory or advisory functions for the local council, the finance committee or the standing committees. Non-members of the local council can be chosen for such committees.

The setting up of such select committees makes it possible to ensure minorities a political platform if they - due to lack of a sufficient number of votes - are not represented after a reform of the administrative structures.

The political debate will be based on the report submitted by the Structural Commission, including what is mentioned there about the German minority. The special interests of the German minority are currently being discussed with the German minority and will naturally be part of the Danish Governments' basis of decision.

4. Ensure that German speakers have the possibility to use their language before administrative authorities in practice;

Reference is made to the comments given to recommendation no. 1.

5. Implement the undertakings chosen in the field of the broadcasting media.

The Committee of Experts recommends that Denmark implements the undertakings chosen in the field of the broadcasting media. These undertakings are Article 11, 1. bi), b)ii, ci), cii) and d. B and c deal with encouraging and/or facilitating the creation of a radio or a television station in the regional or minority language. D deals with encouraging and/or facilitating the production and distribution of audiovisual works in these languages.

The Committee finds that the Danish authorities' supposition that sufficient protection is provided by allowing German-speakers to benefit from existing provisions in the same way as any other party, does not constitute an adequate basis for the implementation of Denmark's undertakings under the Charter.

The Danish Government does not agree with this finding. As described in Denmark's first report on the Charter in December 2002, Danish media legislation does, in our view, facilitate the creation of local radio- and television stations by providing the technical infrastructure for such stations and the possibility of acquiring a broadcasting licence as well as state support for running the stations. The fact that these opportunities are also available to other groups in society does not constitute "not facilitating". As far as German programmes on the public service channels of DR and TV 2 are concerned, the Danish Government considers the provisions in the public service obligations of the two broadcasters i.e. to serve the entire population and place requisite emphasis on freedom of information and expression as sufficient protection, taking the principle of the independence and autonomy of the media into consideration.