



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

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Seventy-first session
(30 July – 17 August 2007)

OPINION

Communication No. 36/2006

<u>Submitted by:</u>	P. S. N. (represented by counsel, the Documentation and Advisory Centre on Racial Discrimination)
<u>Alleged victim:</u>	The petitioner
<u>State party:</u>	Denmark
<u>Date of communication:</u>	10 February 2006 (initial submission)
<u>Date of present decision:</u>	8 August 2007

[ANNEX]

* Made public by decision of the Committee on the Elimination of Racial Discrimination.

ANNEX

**OPINION OF THE COMMITTEE ON THE ELIMINATION OF RACIAL
DISCRIMINATION UNDER ARTICLE 14 OF THE INTERNATIONAL
CONVENTION ON THE ELIMINATION OF ALL FORMS
OF RACIAL DISCRIMINATION**

Seventy-First session

concerning

Communication No. 36/2006

Submitted by: P. S. N. (represented by counsel, the Documentation and Advisory Centre on Racial Discrimination)

Alleged victim: The petitioner

State party: Denmark

Date of communication: 10 February 2006 (initial submission)

The Committee on the Elimination of Racial Discrimination, established under article 8 of the International Convention on the Elimination of All Forms of Racial Discrimination,

Meeting on 8 August 2007

Adopts the following:

OPINION

1.1 The petitioner is Mr. P. S. N., a Danish citizen born on 11 October 1969 in Pakistan, now residing in Denmark, and a practising Muslim. He alleges a violation by Denmark¹ of articles 2, paragraph 1(d), 4 and 6 of the Convention on the Elimination of All Forms of Racial Discrimination. He is represented by counsel, Miss Line Bøgsted of the Documentary and Advisory Centre on Racial Discrimination (DACoRD).

1.2 In conformity with article 14, paragraph 6 (a), of the Convention, the Committee transmitted the communication to the State party on 23 June 2006.

¹ The Convention was ratified by Denmark on 9 December 1971, and the declaration under article 14 made on 11 October 1985.

Factual background:

2.1 In view of the elections of 15 November 2005, Ms. Louise Frevert, Member of Parliament for the Danish People's Party, published on her website statements against immigration and Muslims, under the headline "articles no one dares to publish". These included statements relating to Muslims, such as:

"...because they think that we are the ones that should submit to Islam, and they are confirmed in this belief by their preachers and leaders. (...) Whatever happens, they believe that they have a right to rape Danish girls and knock down Danish citizens."

2.2 In the same text, Ms. Frevert mentioned the possibility of deporting young immigrants to Russian prisons, and added:

"Even this solution is a rather short-term one, however, because when they return again, they will just be even more determined to kill Danes"².

Another article on the website stated that:

2 The State party provides the context of this statement, by quoting the article:

"(...)

The law that Islam lays down as the only true law is the law construed on the basis of the words of the Koran and as preached by their preachers during prayers – and the boys have never in their short lives heard any other interpretation. This is the only truth that they know, so no Danish official will ever get a chance of influencing these boys into another direction. As seen by Danish eyes, they are lost to society!

The Danish laws cannot handle these "misguided" young people at all, because they think we are the ones that should submit to Islam, and they are confirmed in this belief every day by their preachers and leaders. The fact that they were born in Denmark and speak Danish does not alter their fundamental attitude – whatever happens, they believe that they have a right to rape Danish girls and cut down Danish citizens indiscriminately. If they are caught and sentenced according to Danish law, it inspires them merely with scorn and contempt – they will just become real martyrs and heroes among their own people, for they have proved that they are the holy warriors who will one day take over the leadership of the ungodly underlings, the Danes.

So where is the way forward for Denmark?

We have to consider these young people our opponents at war and not just as disturbed young Danish boys of Muslim background, and opponents at war must be caught and rendered harmless. Our laws forbid us to kill our opponents officially so we only have the option of filling our prisons with these criminals.

This is an extremely costly solution, and as they will never repent of their acts, they will quickly gain control of the prisons in the same way the outlaw bikers do today. We probably have to think along other lines and, for example, accept a Russian offer of keeping the petty criminals in Russian prisons for DKK 25 per day – that is far cheaper, and their possibilities of influencing their surroundings will be eliminated. Even this solution is a rather short-term one, however, because when they return again, they will just be even more determined to kill Danes.

(...)"

“We can spend billions of Kroner and hours in trying to integrate Muslims into the country, but the result will be what the doctor observes. The cancer spreads without hindrance while we are talking.”

2.3 Several of these statements were previously published in a book by Ms. Frevert, under the title “In short - a political statement”. In this book, other statements against Muslims read:

“We are hit by our own ‘human rights’ laws and have to see our culture and governmental system yield to a superior force building on 1000 years of dictatorship, a clerical rule” (*page 36*).

“The march of events is certainly true. It can be measured. But the Muslim means of achieving the goal of the ongoing third holy war (third Jihad) are secret” (*page 37*).

2.4 Ms. Frevert later withdrew some of the material from the webpage as a result of the public debate generated by her statements. However, on 30 September 2005, in an interview to the Danish newspaper “Politiken”, she upheld the statements. The following extract is from an article entitled “The Danes are overrun”:

“(…)

(Reporter) *How many are there of those who believe that they have a right to rape Danish girls?*

(Ms. Frevert) I don’t know anything about that. It should be seen in consideration of the fact that the Koran says in certain places that you may behave as you like to women in a male chauvinist spirit. It is a rhetorical way of expression relative to the saying of the Koran.

(Reporter) *Are you saying that it is ok according to the Koran to rape Danish girls?*

(Ms. Frevert) I am saying that the Koran allows you to use women as you like.

(Reporter) *How many Danish girls get raped by Muslims?*

(Ms. Frevert) I have no knowledge about that as such, other than that it is very well known that there has been a rape in a toilet by the courthouse. So that is a concrete example. How many I don’t know, but you know too from court cases that there have been rapes.

(Reporter) *Yes, but if it more or less appears from the Koran that rape is ok, then one would presumably be able to bring forth substantially more examples.*

(Ms. Frevert) I am not saying that it is a pattern, I am saying that this is what may happen.

(Reporter) *In the chapter that you have now removed, you wrote that our laws forbid us to kill them. Is that what you would like the most?*

(Ms. Frevert) No, but I am certainly allowed to write it. I am allowed to write exactly whatever suits me. If they rape and kill other people the way they do with suicide bombs, etc.- well, you aren't allowed to do so in our country, are you?"

2.5 On 30 September, 13 October and 1 November 2005, the DACoRD, on the petitioner's behalf, filed three complaints against Ms. Frevert for violations of section 266b of the Danish Criminal code³, which prohibits racial statements. In the first complaint, DACoRD claimed that the website statements were directed against a specific group of people (Muslims), that they were taunting and degrading, and that they had a propagandistic character, as they were published on a website directed at a large audience, and at the same time sent to various Danish newspapers for purposes of publication. The DACoRD quoted several decisions of conviction by Danish courts for statements published on websites, which were considered as "dissemination to a wide circle of people". The second complaint related to Ms. Frevert's book, in particular pages 31 to 41, which the petitioner claimed contained threatening, taunting and degrading statements against Muslims. The third complaint related to the article published in the "Politiken". DACoRD claimed that the statements in the article violated section 266B of the Criminal Code and that they confirmed the statements published on the website.

2.6 The first complaint (relating to the website) against Ms. Frevert was rejected by the Copenhagen Police on 10 October 2005, on the ground that there was no reasonable evidence to support that an unlawful act had been committed. In particular, the decision pointed out that it did not appear, with the necessary reasonable prospect for a conviction, that Ms. Frevert had the intent to disseminate the listed quotations, and that it appeared that she was unaware that those statements had been posted on the web. The webmaster (Mr. T.) took entire responsibility for the publication of the statements and was charged with violation of section 266 b of the Criminal Code. On 30 December 2005, the Copenhagen Police forwarded the case file to the Helsingør Police for further investigation of the case against him. The case is still under investigation by the Helsingør Police.

2.7 On 13 December 2005, the Regional Public Prosecutor of Copenhagen, Frederiksberg and Tårnby confirmed the decision of the police not to prosecute Ms. Frevert, because she and Mr. T. had concurrently explained their collaboration and that the articles had by mistake been posted unedited on the website. He found that it could not be proved that Ms. Frevert had any knowledge that the articles were put on her website and that she had the necessary intent to disseminate them. This decision cannot be appealed.

2.8 The second complaint (relating to the book) was rejected by the Commissioner of the Copenhagen Police on 18 October 2005, as there was no reasonable evidence to support that an unlawful act had been committed. The decision indicated that the book had been published for the purpose of a political debate and did not contain specific statements which could be

3 "Section 266b.

(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) When the sentence is meted out, the fact that the offence is in the nature of propaganda activities shall be considered an aggravating circumstance."

covered under the Criminal code section 266b. The DACoRD did not appeal the Commissioner's decision.

2.9 The third complaint (relating to the interview) was rejected by the Commissioner of the Copenhagen Police on 9 February 2006, as there was no reasonable evidence to support that an unlawful act had been committed. In reaching this decision, the Commissioner took into consideration the principles of freedom of expression and free debate. He also took into account that the statements were made by a politician in the context of a public debate on the situation of foreigners. He considered that in light of the right of freedom of expression, the statements made by Ms. Frevert were not offensive enough to constitute a violation of section 266b of the Criminal Code.

2.10 On 19 May 2006, the Regional Public Prosecutor confirmed the police's decision not to prosecute Ms. Frevert for the statements in the interview. He considered that the representation of Muslims and second generation immigrants by Ms. Frevert in the interview was not so offensive as to be considered insulting or degrading to Muslims or second generation immigrants within the meaning of section 266 b of the Criminal Code. This decision is final and cannot be appealed.

2.11 The petitioner argues that questions relating to the pursuance by the police of charges against individuals are entirely discretionary, and that there is no possibility to bring the case before Danish courts. Legal actions against Ms. Frevert would not be effective, given that the police and prosecutor have rejected the complaints against her. The petitioner refers to a decision of the Eastern High Court of 5 February 1999, where it was held that an incident of racial discrimination does not in itself imply a violation of the honour and reputation of a person under section 26 of the Act in Civil Liability⁴. The petitioner concludes that he has no further remedies under national law.

2.12 The petitioner indicates that he has not availed himself of any other procedure of international investigation or settlement.

The complaint

3.1 The petitioner claims that the decision of the Copenhagen police not to initiate an investigation on the alleged facts, violates articles 2, paragraph 1(d); 4(a); and 6 of the Convention, as the documentation presented by the petitioner should have motivated the police to make a thorough investigation of the matter. He contends that there have been no effective means to protect him from racist statements in this case.

3.2 The petitioner further claims that the decisions of the Copenhagen police and the prosecutor to reject his complaints violate article 6 of the Convention. He contends that the Danish authorities did not examine the material in full and did not take his arguments into account.

⁴ See Communication No. 17/1999, *B.J. v Denmark*, Opinion adopted on 17 March 2000, paras. 2.4 to 2.6.

State party's observations on the admissibility and merits of the communication

4.1 On 10 November 2006, the State party made its submissions on the admissibility and merits of the communication. On admissibility, it submits that the claims fall outside the scope of the Convention and that the petitioner failed to establish a *prima facie* case for purposes of admissibility, as a large number of the various statements comprised by the communication concerns persons of a particular religion and not persons of a particular "race, colour, descent, or national or ethnic origin" within the meaning of article 1 of the Convention. However, the State party acknowledges that it is possible to argue to a certain extent that the statements refer to second-generation immigrants and set up a conflict between "the Danes" and them, thereby falling to some degree within the scope of the Convention.

4.2 The State party further submits that the part of the communication relating to the statements in Ms. Frevert's book is inadmissible under article 14, paragraph 7 (a), of the Convention, as the petitioner has not exhausted all available domestic remedies. When the Commissioner of the Copenhagen Police decided, on 18 October 2005, to discontinue investigation of the case against Ms. Frevert in relation to the publication of her book, the petitioner did not appeal the decision to the Regional Public Prosecutor. Thus, he has failed to exhaust domestic remedies, and the part of the communication concerning the statements in the book should be declared inadmissible.

4.3 On the merits, the State party disputes that there was a violation of articles 2, paragraph 1 (d), 4 and 6 of the Convention. On the claim that the documentation presented to the police should have motivated it to initiate a thorough investigation of the matter, the State party argues that the Danish authorities' evaluation of the petitioner's reports of alleged racial discrimination fully satisfies the requirements of the Convention, even though they did not produce the outcome wanted by the petitioner. The Convention does not guarantee a specific outcome of cases on alleged racially insulting statements, but sets out certain requirements for the authorities' investigation of such alleged statements. The State party argues that these requirements have been satisfied in the case, as the Danish authorities did take effective action, by processing and investigating the reports lodged by the petitioner.

Ms. Frevert's website

4.4 The State party indicates that under section 749(2) of the Administration and Justice Act⁵, the police may discontinue an investigation already initiated when there is no basis for continuing the investigation. In criminal proceedings, the prosecutor has the burden of proof that a criminal offence was committed. It is important for the sake of due process that the evidence is of certain strength for the courts to convict an accused. Pursuant to section 96(2)

5 "Section 749.

(1) The police shall dismiss a report lodged if it deems that there is no basis for initiating investigation. (2) If there is no basis for continuing an investigation already initiated, the police may decide to discontinue the investigation if no charge has been made (...). (3) If the report is dismissed or the investigation is discontinued, those who may be presumed to have a reasonable interest therein shall be notified. The decision can be appealed to the superior public prosecutor under the rules of Part 10."

of the Administration of Justice Act⁶, public prosecutors have a duty to observe the principle of objectiveness. They cannot prosecute a person unless they are of the opinion that the prosecution will lead to conviction with a reasonable prospect of certainty. This principle is designed to protect innocent persons from prosecution.

4.5 The State party is aware that it has a duty to initiate an investigation when complaints related to acts of racial discrimination are filed. An investigation must be carried out with due diligence and expeditiously, and must be sufficient to determine whether or not an act of racial discrimination has occurred.

4.6 The State party points out that upon receipt of the complaint regarding Ms. Frevert's website, the Copenhagen Police initiated an investigation of the case. When interviewed, both Ms. Frevert and Mr. T. stated that the webmaster had created the website and that he had uploaded the relevant material without Ms. Frevert's knowledge. The agreement was that only articles and contributions approved by Ms. Frevert were to be posted on the website. By mistake, 35 articles by Mr. T. were posted on the website in unedited form and without Ms. Frevert's prior approval. When the mistake was discovered, the articles were removed. The webmaster was charged with violation of section 266b of the Criminal Code.

4.7 The State party contends that the police investigated the matter thoroughly. Once it appeared that the articles were posted without Ms. Frevert's knowledge, the public prosecutors rightly assessed that it would not be possible to prove that she had intended a wide dissemination of the statements. Criminal proceedings could therefore not be expected to result in her conviction and the public prosecutors therefore decided not to prosecute her. That the investigation against Mr. T. remains pending shows that the police takes reported acts of racial discrimination seriously and investigates them thoroughly and effectively. The State party argues that the police made a thorough investigation of the matter, that the material was examined in full and that the arguments presented by the DACoRD were taken into consideration, in accordance with article 6 of the Convention. The investigation revealed Ms. Frevert's lack of intent to violate section 266b of the Criminal Code. The fact that the case had another outcome than wished by the petitioner is irrelevant.

Ms. Frevert's book

4.8 Under section 749(1)⁷ and section 742(2)⁸ of the Administration and Justice Act, the public prosecutor must assess whether a criminal offence subject to public prosecution was

6 "Section 96.

(1) It is the duty of the public prosecutors, in cooperation with the police, to prosecute offences according to the rules of this Act.

(2) The public prosecutors shall dispatch any one case at the speed permitted by the nature of the case, and shall thus ensure not only that guilty persons are held responsible, but also that prosecution of innocent persons does not occur."

⁷ See above.

8 "Section 742.

(1) Criminal offences must be reported to the police.

(2) The police shall institute investigations upon a report lodged or on its own initiative when it may reasonably be presumed that a criminal offence subject to prosecution has been committed."

committed. If there is no basis for assuming that a criminal offence has been committed, the public prosecutor has to dismiss the report. The Commissioner of the Copenhagen Police discontinued the investigation concerning the book as it had been published for the purpose of generating a political debate, and as it contained no specific statements that might fall under section 266b of the Criminal Code. In addition, the DACoRD did not mention in its report which statements it considered to fall within the scope of that provision.

4.9 The State party emphasises that there were no problems of evidence and no need for the police to continue the investigation, as the police was in possession of the book in question, and both Ms. Frevert and Mr. T. were interviewed on this matter. Both stated that the disputed contribution to the book was written by Mr. T., but that this contribution had been edited and approved by Ms. Frevert, who was responsible for the publication of the book. The only question left for the Police Commissioner was whether there were statements in the book that could be considered to fall within the scope of section 266b of the Criminal Code. After a thorough analysis of the book's contents, he considered that the statements were broad and clearly published as part of a political debate in anticipation of the upcoming election. This legal assessment was thorough and adequate, and the public prosecutor's handling of the case satisfied the requirements that can be inferred from article 2, paragraph 1(d), and article 6 of the Convention.

Statements made by Ms. Frevert in the newspaper "Politiken" on 30 September 2005

4.10 The State party recalls that it does not follow from the Convention and the jurisprudence of the Committee that prosecution should be initiated in *all* cases reported to the police, in particular if no basis is found for prosecution. In this case, there were no problems of evidence, as the statements were printed in the newspaper as quotations of Ms. Frevert, and therefore there was no need for the police to initiate an investigation to identify the specific contents or the originator of the statements.

4.11 The State party argues that the legal assessment made by the public prosecutors was thorough and adequate. They evaluated the statements in the light of the fact that they were made by a politician in the context of a political debate about religion and immigrants, and balancing the protection of the right to freedom of expression, protection of the freedom of religion and protection against racial discrimination. The statements must be seen in the context in which they were made, namely as contributions to a political debate about religion and immigrants, and without regard as to whether the reader supports Ms. Frevert's viewpoint on these issues. A democratic society has to make room for a debate about such viewpoints, within certain limits. The prosecutors considered that the statements were not so gross that they could be deemed "insulting or degrading" within the meaning of section 266b of the Criminal Code.

4.12 The State party argues that the right to freedom of expression is particularly imperative for an elected representative of the people. She represents her electorate, draws attention to their preoccupations and defends their interests. Accordingly, interferences with the freedom of expression of a Member of Parliament, like Ms. Frevert, call for close scrutiny on the part of public prosecutors. In this case, they interpreted section 266b in the light of the context in which the statements were made and with due consideration of the fundamental principle of the right to freedom of expression for a Member of Parliament. The State party concludes that the public prosecutors' handling of the case satisfies the requirements that can be inferred from article 2, paragraph 1(d), and article 6 of the Convention.

4.13 The State party concludes that it is not possible to infer an obligation under the Convention to prosecute in situations that have been found not to provide a basis for prosecution. The Administration of Justice Act offers the requisite remedies compatible with the Convention and the relevant authorities have fully met their obligations in this case.

Petitioner's comments:

5.1 On 29 December 2006, the petitioner commented on the State party's submissions. On the argument that domestic remedies were not exhausted with regards to the complaint about Ms. Frevert's book, it is submitted that the text of the book was also published on her website. The report to the police was meant to cover the whole website, not only the articles under the heading "Articles that nobody dares to publish". When she was interviewed about the website, the police failed to ask her if she was the author of the book, which had been posted as a document on the website. The police apparently based its decision on a very small part of the material placed on the website.

5.2 The petitioner acknowledges that no appeal was filed against the decision of 18 October 2005 of the Copenhagen Police to discontinue the investigation of the case in relation to the book. However, the day before, a complaint was filed against the website, which included the text of the book. Consequently, an appeal of that decision would only have been a duplication of the complaint already sent to the regional prosecutor's office. Therefore, the final decision by the Regional Prosecutor of 13 December 2005 is a final decision both regarding the statements posted on the website and contained in the book. The petitioner therefore considers that he exhausted domestic remedies in respect of all parts of the complaint.

5.3 With respect to the argument that the communication falls outside the scope of the Covenant, the petitioner contends that Islamophobia, just like attacks against Jews, has manifested itself as a form of racism in many European countries, including Denmark. After 11 September 2001, attacks against Muslims have intensified in Denmark. Members of the Danish People's Party use hate speech as a tool to stir up hatred against people of Arab and Muslim background. In their view, culture and religion are connected in Islam. The petitioner argues that CERD already concluded that Danish authorities do not ensure an effective implementation of criminal law in relation to hate speech against Muslims and Muslim culture, especially by politicians. He invokes CERD's 2002 Concluding Observations on Denmark⁹:

[“16.] The Committee is concerned about reports of a considerable increase in reported cases of widespread harassment of people of Arab and **Muslim** backgrounds since 11 September 2001. The Committee recommends that the State party monitor this situation carefully, take decisive action to protect the rights of victims and deal with perpetrators, and report on this matter in its next periodic report”.

[“11.] The Committee, while taking note of the State party's efforts to combat hate crimes, is concerned about the increase in the number of racially motivated offences and in the number of complaints of hate speech. The Committee is also concerned about **hate speech by some politicians in Denmark**. While taking note of the

⁹ CERD/C/60/CO/5, 21 May 2002 and CERD/C/CO/DEN/17, 19 October 2006

statistical data provided on complaints and prosecutions launched under section 266(b) of the Criminal Code, the Committee notes the refusal by the Public Prosecutor to initiate court proceedings in some cases, including the case of the publication of **some cartoons associating Islam with terrorism** (arts. 4(a) and 6)” (emphasis added).

5.4 On the merits, the petitioner refers to the fact that Ms. Frevert was not found responsible for the material on the website. However, in the interview, the journalist quoted the article and asked her “Are you saying that it is ok according to the Koran to rape Danish girls?” She replied: “I am saying that the Koran allows you to use women as you like”. The journalist gave her the possibility to disagree, but she stated that “I am certainly allowed to write that. I am allowed to write exactly whatever suits me. If they rape and kill other people the way they do...”. The petitioner considers that these statements are insulting and that the Danish Courts should strike the balance between the right to freedom of speech for politicians and the prohibition against hate speech. By not bringing the case to court, the authorities violated articles 2, 4 and 6 of the Convention.

Issues and proceedings before the Committee

6.1 Before considering any claims contained in a petition, the Committee on the Elimination of Racial Discrimination must, in accordance with rule 91 of its rules of procedure, decide whether or not it is admissible under the Convention.

6.2 The Committee notes the State party’s objection that the petitioner’s claims fall outside the scope of the Convention, because the statements in question are directed at persons of a particular religion or religious group, and not at persons of a particular “race, colour, descent, or national or ethnic origin”. It also takes note of the petitioner’s contention that the statements in question were indeed aimed at persons of Muslim or Arab background. The Committee observes, however, that the impugned statements specifically refer to the Koran, to Islam and to Muslims in general, without any reference whatsoever to any race, colour, descent, or national or ethnic origin. While the elements of the case file do not allow the Committee to analyse and ascertain the intention of the impugned statements, it remains that no specific national or ethnic groups were directly targeted as such by these oral statements as reported and printed. In fact, the Committee notes that the Muslims currently living in the State party are of heterogeneous origin. They originate from at least 15 different countries, are of diverse national and ethnic origins, and consist of non-citizens, and Danish citizens, including Danish converts.

6.3 The Committee recognises the importance of the interface between race and religion and considers that it would be competent to consider a claim of “double” discrimination on the basis of religion and another ground specifically provided for in article 1 of the Convention, including national or ethnic origin. However, this is not the case in the current petition, which exclusively relates to discrimination on religious grounds. The Committee recalls that the Convention does not cover discrimination based on religion alone, and that Islam is not a religion practised solely by a particular group, which could otherwise be identified by its “race, colour, descent, or national or ethnic origin.” The Travaux Préparatoires of the Convention reveal that the Third Committee of the General Assembly rejected the proposal to include racial discrimination and religious intolerance in a single

instrument, and decided in the ICERD to focus exclusively on racial discrimination.¹⁰ It is unquestionable therefore that discrimination based exclusively on religious grounds was not intended to fall within the purview of the Convention.

6.4 The Committee recalls its prior jurisprudence in *Quereshi v. Denmark* that, “a general reference to foreigners does not at present single out a group of persons, contrary to article 1 of the Convention, on the basis of a specific race, ethnicity, colour, descent or national or ethnic origin”¹¹. Similarly, in this particular case, it considers that the general references to Muslims, do not single out a particular group of persons, contrary to article 1 of the Convention. It, therefore, concludes that the petition falls outside the scope of the Convention and declares it inadmissible *ratione materiae* under article 14, paragraph 1, of the Convention.

6.5 Although the Committee considers that it is not within its competence to examine the present petition, it takes note of the offensive nature of the statements complained of and recalls that freedom of speech carries with it both duties and responsibilities. It takes the opportunity to remind the State party of its Concluding Observations, following consideration of the State party’s reports in 2002 and 2006, in which it had commented and made recommendations upon: (a) the considerable increase in reported cases of widespread harassment of people of Arab and Muslim backgrounds since 11 September 2001; (b) the increase in the number of racially motivated offences; and (c) the increase in the number of complaints of hate speech, including by politicians within the State party.¹² It also encourages the State party to follow-up on its recommendations and to provide pertinent information on the above concerns in the context of the Committee’s procedure for follow-up to its concluding observations.

7. The Committee on the Elimination of Racial Discrimination therefore decides:

(a) That the communication is inadmissible *ratione materiae* under article 14, paragraph 1, of the Convention.

(b) That this decision shall be communicated to the State party and to the petitioner.

[Adopted in English, French, Spanish and Russian, the English text being the original version. Subsequently to be issued also in Arabic and Chinese as part of the Committee’s annual report to the General Assembly.]

¹⁰ General Assembly resolution 1779 (XVII), General Assembly resolution 1780 (XVII), and General Assembly resolution 1781 (XVII).

¹¹ See Petition No. 33/2003, Opinion adopted on 9 March 2005, para. 7.3

¹² CERD/C/60/CO/5, 21 May 2002, and CERD/C/DEN/CO/17, 19 October 2006.