



European network of legal experts in gender equality and non-discrimination

FLASH REPORT

Country:	Denmark
Title:	School segregation
Date:	20 March 2020
Expert:	Pia Justesen
<u>Context</u>	
Issue at stake:	The local municipality of Herning established a special section in a primary school for children with an ethnic minority background
Grounds of discrimination:	Racial or ethnic origin
Field of application:	Education
Source:	National case law: Out-of-court settlement of 2 March 2020 between the municipality of Herning and the Danish Institute for Human Rights ¹
Applicable law:	Section 3 of the Act on Ethnic Equal Treatment

Content

Case: In 2018, the city council of the Danish city of Herning decided to establish a new section of the public school Herningsholm for children from the marginalised residential area of Holtbjerg. The new section of the school was called the Holtbjerg section and it opened on 13 August 2019 with 64 students. 63 of these students were bilingual and had an ethnic minority background. Children from the residential area of Holtbjerg starting in Kindergarten in August 2019 had to start in the Holtbjerg section and children in 1st to 3rd grade from the residential area of Holtbjerg were moved from their existing classes to the Holtbjerg section.

In November 2019, the Danish Institute for Human Rights (DIHR) filed a complaint to the Board of Equal Treatment claiming that this new Holtbjerg section constituted discrimination based on ethnic origin. DIHR claimed that the city council knew that the result of the arrangement would be a segregation of ethnic minority children. DIHR argued that even though special resources were provided to the Holtbjerg section, the segregation of ethnic minority children in a special section of a primary school constituted stigmatisation. In other words, DIHR maintained that the segregation by itself constituted discrimination of the children with an ethnic minority background.²

On 2 March 2020, DIHR published a statement that it had agreed with the municipality of Herning on an out-of-court settlement concluding the case before the Board of Equal Treatment.

¹ Danish Institute for Human Rights, Description of the out-of-court settlement available at: <https://menneskeret.dk/nyheder/kommune-anerkender-opdeling-skole-diskrimination>.

² Description of the DIHR viewpoints when filing the complaint to the Board of Equal Treatment in November 2019: <https://menneskeret.dk/nyheder/institut-menneskerettigheder-opdeling-skole-strid-ligebehandlingsloven>.

The settlement included the following wording (translation by the author): 'The municipality of Herning recognizes that the City Council's decision unintentionally constituted discrimination due to ethnicity, because of the fact that the basis for the decision emphasised the ethnic origin of the pupils and because the decision involved the segregation of children with minority background to the Holtbjerg section. [...] The decision thus unintentionally constituted a violation of the prohibition of discrimination in section 3 (3) of the Act on Ethnic Equal Treatment.'³

In the settlement, the municipality of Herning thus acknowledged that the decision by the city council in 2018 constituted direct discrimination based on ethnic origin. The settlement also described that DIHR would withdraw its complaint to the Board of Equal Treatment.

Internet link source: Description of the out-of-court settlement available at:
<https://menneskeret.dk/nyheder/kommune-anerkender-opdeling-skole-diskrimination>.

³ Website of the municipality of Herning: <https://nyheder.herning.dk/nyhedsarkiv/2020/mar/forlig-i-sag-om-folkeskole>.