

Denmark

Mid-term Implementation Assessment



Promoting and strengthening
the Universal Periodic Review
<http://www.upr-info.org>

Introduction

1. Purpose of the follow-up programme

The second and subsequent cycles of the review should focus on, inter alia, the implementation of the accepted recommendations and the development of the human rights situation in the State under review.

A/HRC/RES/16/21, 12 April 2011 (Annex I C § 6)

The Universal Periodic Review (UPR) process takes place every four and half years; however, some recommendations can be implemented immediately. In order to reduce this interval, we have created an update process to evaluate the human rights situation two years after the examination at the UPR.

Broadly speaking, *UPR Info* seeks to ensure the respect of commitments made in the UPR, but also, more specifically, to give stakeholders the opportunity to share their opinion on the commitments. To this end, about two years after the review, *UPR Info* invites States, NGOs, and National Institutions for Human Rights (NHRI) to share their comments on the implementation (or lack thereof) of recommendations adopted at the Human Rights Council (HRC) plenary session.

For this purpose, *UPR Info* publishes a Mid-term Implementation Assessment (MIA) including responses from each stakeholder. The MIA is meant to show how all stakeholders are disposed to follow through on, and implement their commitments. States should implement the recommendations that they have accepted, and civil society should monitor that implementation.

While the follow-up's importance has been highlighted by the HRC, no precise directives regarding the follow-up procedure have been set until now. Therefore, *UPR Info* is willing to share good practices as soon as possible, and to strengthen the collaboration pattern between States and stakeholders. Unless the UPR's follow-up is seriously considered, the UPR mechanism as a whole could be adversely affected.

The methodology used by UPR Info to collect data and to calculate index is described at the end of this document.

Geneva, 20 February 2014

Follow-up Outcomes

1. Sources and results

All data are available at the following address:

<http://followup.upr-info.org/index/country/denmark>

We invite the reader to consult that webpage since all recommendations, all stakeholders' reports, as well as the unedited comments can be found at the same internet address.

13 stakeholders' reports were submitted for the UPR. 19 NGOs were contacted. 1 UN agency was contacted. The Permanent Mission to the UN was contacted. The National Human Rights Institution (NHRI) was contacted as well.

13 NGOs responded to our enquiry. The UN agency did not respond. Although the State under Review did not respond to our enquiry, it plans to publish a mid-term report later in 2014. The NHRI responded to our enquiry.

The following stakeholders took part in the report:

1. **NHRI:** The Danish Institute for Human Rights (DIHR)
2. **NGOs:** (1) European Network Against Racism - Denmark (ENAR) (2) RCT coalition members: Børnesagens Fællesråd (Joint Council on the Children's Cause), Danish Law Enforcement Union, Danish Medical Association, Danish Red Cross, Danish Refugee Council, Danish-Russian Association, DIGNITY – Danish Institute Against Torture, Disabled Peoples Organisation Denmark, European Anti-Poverty Network, LGBT Denmark, Save the Children Denmark, the Street Lawyers and the UN Association Denmark (joint) (3) Refugees Welcome, Denmark (RWD) (4) The Documentation and Advisory Centre on Racial Discrimination+SOS Against Racism (DRC+SOSAR)

IRI: 71 recommendations are not implemented, 40 recommendations are partially implemented, and 19 recommendations are fully implemented. No answer was received for 1 out of 135 recommendations and voluntary pledges (full list of unanswered recommendations is available at the end of this document).

2. Index

Hereby the issues which the MIA deals with:

rec. n°	Rec. State	Issue	IRI	page
53	Afghanistan	Special procedures	not impl.	page 58
12	Algeria	International instruments, Labour, Migrants	not impl.	page 52
79	Algeria	Freedom of religion and belief, Racial discrimination	partially impl.	page 25
97	Algeria	Freedom of religion and belief, Racial discrimination, Impunity	fully impl.	page 74
15	Argentina	International instruments, Labour, Migrants	not impl.	page 52
16	Argentina	Enforced disappearances, International instruments	not impl.	page 53
69	Argentina	Racial discrimination	partially impl.	page 22
8	Australia	Disabilities, International instruments	not impl.	page 50
96	Australia	Civil society, Rights of the Child, Trafficking	fully impl.	page 73
6	Austria	Disabilities, International instruments	not impl.	page 50
48	Austria	Civil society, NHRI, UPR process	not impl.	page 95
80	Austria	Rights of the Child, Women's rights	not impl.	page 80
81	Austria	Rights of the Child, Women's rights	-	page 81
88	Austria	Trafficking	partially impl.	page 70
30	Azerbaijan	International instruments	not impl.	page 57
46	Azerbaijan	Human rights education and training	not impl.	page 9
86	Azerbaijan	Women's rights	partially impl.	page 82
92	Azerbaijan	Rights of the Child, Trafficking	partially impl.	page 85
109	Azerbaijan	Freedom of religion and belief	partially impl.	page 8
50	Bangladesh	Development	fully impl.	page 10
56	Bangladesh	Freedom of religion and belief, Racial discrimination	partially impl.	page 13
111	Bangladesh	Freedom of opinion and expression	not impl.	page 9
102	Belarus	Detention conditions, Freedom of religion and belief	partially impl.	page 76
107	Belarus	Other	not impl.	page 89
36	Belgium	Impunity, Women's rights	fully impl.	page 67
101	Belgium	Detention conditions, Rights of the Child	not impl.	page 88
2	Brazil	International instruments, Rights of the Child	not impl.	page 47
17	Brazil	Enforced disappearances, International instruments	not impl.	page 53
70	Brazil	Racial discrimination	partially impl.	page 23
130	Brazil	Justice, Migrants	not impl.	page 42
10	Burkina Faso	Disabilities, International instruments	not impl.	page 51
26	Canada	International instruments	not impl.	page 55
31	Canada	Other	partially impl.	page 93
32	Canada	Torture and other CID treatment	not impl.	page 66
51	Canada	Special procedures, Treaty bodies, UPR process	partially impl.	page 95
20	Ecuador	International instruments, Labour, Migrants	not impl.	page 52
21	Ecuador	Enforced disappearances, International instruments	not impl.	page 54
22	Ecuador	Other	not impl.	page 54



23	Ecuador	Disabilities,ESC rights - general,International instruments	not impl.	page 48
24	Ecuador	International instruments,Rights of the Child,Trafficking	not impl.	page 55
60	Ecuador	Freedom of religion and belief,Racial discrimination	partially impl.	page 18
61	Ecuador	Migrants	partially impl.	page 19
132	Ecuador	Asylum-seekers - refugees,International instruments,Migrants	not impl.	page 65
13	Egypt	International instruments,Labour,Migrants	not impl.	page 52
27	Egypt	General	not impl.	page 56
62	Egypt	Freedom of religion and belief,Racial discrimination	partially impl.	page 19
63	Egypt	Human rights violations by state agents,Racial discrimination	not impl.	page 20
116	Finland	Other	partially impl.	page 61
7	France	Disabilities,International instruments	not impl.	page 50
11	France	Enforced disappearances,International instruments	not impl.	page 51
104	France	Women's rights	not impl.	page 27
115	France	Asylum-seekers - refugees,Right to health	not impl.	page 29
55	Greece	Racial discrimination	not impl.	page 13
94	Greece	Rights of the Child	partially impl.	page 87
117	Greece	Rights of the Child	partially impl.	page 32
25	Guatemala	International instruments,Labour,Migrants	not impl.	page 52
85	Honduras	Women's rights	not impl.	page 82
112	Honduras	Right to education,Rights of the Child	not impl.	page 89
1	Hungary	International instruments,Rights of the Child,Trafficking	not impl.	page 47
98	Hungary	Justice	not impl.	page 74
38	India	International instruments,Rights of the Child	fully impl.	page 93
42	Indonesia	National plan of action	not impl.	page 94
87	Indonesia	International instruments,Rights of the Child,Women's rights	partially impl.	page 84
91	Indonesia	Rights of the Child	partially impl.	page 85
108	Indonesia	Freedom of religion and belief,Racial discrimination	partially impl.	page 8
47	Iran	Indigenous peoples,International instruments	partially impl.	page 10
68	Iran	Racial discrimination	partially impl.	page 22
95	Iran	Justice,Rights of the Child	fully impl.	page 73
105	Iran	Other	-	page 89
106	Italy	Rights of the Child	no comment	/
33	Kyrgyzstan	International instruments	not impl.	page 55
41	Kyrgyzstan	NHRI,Rights of the Child,Treaty bodies	fully impl.	page 94
100	Kyrgyzstan	Justice,Rights of the Child,Treaty bodies	fully impl.	page 60
58	Malaysia	Racial discrimination	partially impl.	page 15
59	Malaysia	Minorities	partially impl.	page 17
93	Malaysia	Rights of the Child	partially impl.	page 86
65	Mexico	Freedom of religion and belief,Justice,Minorities,Racial discrimination	partially impl.	page 68
122	Mexico	Asylum-seekers - refugees,International instruments	not impl.	page 62
123	Mexico	Migrants,Women's rights	not impl.	page 36
45	Moldova	Women's rights	-	page 80



19	Morocco	International instruments,Labour,Migrants	not impl.	page 52
71	Morocco	Freedom of religion and belief,Minorities	partially impl.	page 24
29	Netherlands	International instruments	not impl.	page 55
127	Netherlands	Asylum-seekers - refugees	partially impl.	page 39
135	Netherlands	Counter-terrorism	not impl.	page 77
34	Norway	Justice,Women's rights	fully impl.	page 78
40	Norway	NHRI,Rights of the Child	fully impl.	page 78
43	Norway	Women's rights	fully impl.	page 79
14	Pakistan	International instruments,Labour,Migrants	not impl.	page 52
37	Pakistan	Freedom of opinion and expression	fully impl.	page 67
49	Pakistan	Development	fully impl.	page 10
110	Pakistan	Freedom of religion and belief,Racial discrimination	partially impl.	page 8
124	Pakistan	Migrants	partially impl.	page 37
5	Palestine	ESC rights - general,International instruments	not impl.	page 49
66	Palestine	Rights of the Child	not impl.	page 80
67	Palestine	Freedom of religion and belief,Racial discrimination	partially impl.	page 22
39	Poland	International instruments,Rights of the Child	fully impl.	page 94
82	Poland	Rights of the Child,Women's rights	partially impl.	page 81
120	Poland	Asylum-seekers - refugees,Rights of the Child	not impl.	page 35
121	Poland	Asylum-seekers - refugees,Rights of the Child	not impl.	page 90
84	Republic of Korea	Rights of the Child,Women's rights	not impl.	page 81
114	Republic of Korea	Indigenous peoples,Minorities	not impl.	page 29
128	Republic of Korea	Asylum-seekers - refugees	-	page 40
52	Russian Federation	Special procedures	not impl.	page 96
54	Russian Federation	Racial discrimination,Treaty bodies	not impl.	page 11
72	Russian Federation	International instruments,Special procedures,Torture and other CID treatment	partially impl.	page 58
76	Slovakia	Justice	not impl.	page 69
89	Slovakia	Trafficking	partially impl.	page 71
90	Slovakia	Trafficking	not impl.	page 72
113	Slovakia	Minorities,Right to education	not impl.	page 28
133	Slovakia	Asylum-seekers - refugees,Migrants	not impl.	page 43
83	Slovenia	Rights of the Child,Women's rights	not impl.	page 80
18	South Africa	International instruments	not impl.	page 53
28	South Africa	International instruments,Treaty bodies	not impl.	page 55
3	Spain	Disabilities,ESC rights - general,International instruments	not impl.	page 48
4	Spain	Enforced disappearances,International instruments	not impl.	page 49
44	Spain	Rights of the Child,Women's rights	fully impl.	page 79
74	Spain	Torture and other CID treatment	not impl.	page 66
131	Sweden	Treaty bodies,Women's rights	partially impl.	page 64
35	Switzerland	Women's rights	fully impl.	page 78
118	Switzerland	Asylum-seekers - refugees	not impl.	page 33
119	Switzerland	Asylum-seekers - refugees	not impl.	page 34



134	Switzerland	Counter-terrorism	partially impl.	page 46
57	Turkey	Racial discrimination	partially impl.	page 13
103	Turkey	Racial discrimination, Women's rights	not impl.	page 26
9	United Kingdom	Disabilities, International instruments	not impl.	page 50
99	United Kingdom	Detention conditions	fully impl.	page 75
129	United Kingdom	Migrants	not impl.	page 41
125	United States	Asylum-seekers - refugees, Migrants	fully impl.	page 37
126	United States	Trafficking	partially impl.	page 38
64	Uzbekistan	Racial discrimination	partially impl.	page 21
73	Uzbekistan	Torture and other CID treatment	not impl.	page 66
75	Uzbekistan	Human rights violations by state agents	partially impl.	page 69
77	Uzbekistan	Human rights violations by state agents, International instruments	not impl.	page 59
78	Uzbekistan	Human rights violations by state agents	fully impl.	page 70

3. Feedbacks on recommendations

CP Rights

Recommendation n°108: *Continue to take serious measures to promote inter-religious and intercultural dialogue in the country and to prevent the reoccurrence of irresponsible acts which perpetuate religious hatred and intolerance* (Recommended by *Indonesia*)

IRI: *partially implemented*

+

Recommendation n°109: *Strengthen measures for the promotion of intercultural understanding and tolerance in order to overcome unacceptable cases of intolerance and absence of respect for the religion of others in the country* (Recommended by *Azerbaijan*)

IRI: *partially implemented*

+

Recommendation n°110: *Take concrete legal and practical measures to combat incitement to religious hatred and intolerance* (Recommended by *Pakistan*)

IRI: *partially implemented*

Refugees Welcome, Denmark response:

The Municipality of Copenhagen has made a strong effort to make more people report on hate crimes and discrimination. They have also launched a campaign for respect and tolerance in the night life (but this is only a local initiative). Sadly, the government has recently stopped the funding for NyDansk Ungdomsråd (Council of New Danish Youth).

The Danish Institute for Human Rights (DIHR) response:

The Ministry of Children and Education is planning to publish a curriculum document containing guidelines concerning the cross-cutting international dimension of education, including tolerance, citizenship, human rights and other elements related to reducing racism and stereotyping and to promoting empathy and conflict resolution. In the National Arts Councils action plan 2011-2015, it has been outlined how the Council will work with cultural diversity.

In recent years, the Government has presented two action plans aimed at increasing tolerance in society; an action plan from 2009 aimed at preventing extremist views among young people and an action plan from 2010 aimed at promoting ethnic equality and respect for the individual. It has not been confirmed that a new action plan will be launched.



European Network Against Racism - Denmark (ENAR) response:

+

The Documentation and Advisory Centre on Racial Discrimination + SOS Against Racism (DRC+SOSAR) response:

These [recommendations] are again "Accepted" by the Government however it is very difficult to see what Denmark is doing to promote inter-cultural and inter-religious understanding.

Recommendation n°111: *Pay due attention to commensurate responsibility in protecting the rights of others and respect for others, while promoting and protecting freedom of expression and opinion* (Recommended by Bangladesh)

IRI: *not implemented*

ENAR response:

+

DRC + SOSAR response:

These [recommendations] are again "Accepted" by the Government however it is very difficult to see what Denmark is doing to promote inter-cultural and inter-religious understanding.

ESC Rights

Recommendation n°46: *Continue its efforts aimed at the promotion of human rights expertise and education and public awareness about human rights protection* (Recommended by Azerbaijan)

IRI: *not implemented*

DIHR response:

Denmark has not implemented the recommendation.

RCT coalition members: Børnesagens Fællesråd (Joint Council on the Children's Cause), Danish Law Enforcement Union, Danish Medical Association, Danish Red Cross, Danish Refugee Council, Danish-Russian Association, DIGNITY – Danish Institute Against Torture, Disabled Peoples Organisation Denmark, European Anti-Poverty Network, LGBT Denmark, Save the Children Denmark, the Street Lawyers and the UN Association Denmark response:

Denmark has not implemented the recommendation. Child rights: It is still arbitrary whether the children in the Danish school system are educated in the rights of children.

ENAR response:

+

DRC + SOSAR response:

Human rights education should and would also include initiatives on non-discrimination and we thus endorse such a recommendation



Recommendation n°49: *Continue providing ODA in line with the United Nations target of 0.7 per cent of GDP (Recommended by Pakistan)*

IRI: *fully implemented*

DIHR response:

Denmark is currently providing ODA with 0,83 per cent of GDP.

Joint response:

Denmark has implemented the recommendation. The goal of the strategy for Denmark's Development Cooperation is to fight poverty with human rights and economic growth. Denmark concentrates on four strategic priority areas: Human rights and democracy, Green growth, Social progress, and Stability and protection. The Danish ODA is split between activities, referring either to poverty alleviation or to global issues, incl. refugee reception in Denmark, meaning that about one sixth of total ODA is not directly focused on fighting poverty.

Total ODA has been declining and was in 2012 0.83 % of GNI. It is the objective of the Danish Government that the Danish ODA in the long run should be raised to 1.0 % of GNI, but so far it has not succeeded in getting even close to this objective. We are of the opinion that observance of the Declaration on the Right to Development should be explicitly included in Denmark's strategic priority areas.

Recommendation n°50: *Continue to support developing countries in the fight against poverty through its development assistance (Recommended by Bangladesh)*

IRI: *fully implemented*

DIHR response:

In May 2012 was a strategy on development aid launched and the financial aid to developing countries was increased.

Joint response:

[See response to recommendation n° 49].

Minorities

Recommendation n°47: *Implement effectively the United Nations Declaration on the Rights of Indigenous Peoples (Recommended by Iran)*

IRI: *partially implemented*

DIHR response:

The establishment of Self-Government in Greenland in 2009 is part of the implementation of the UN Declaration on the Rights of Indigenous Peoples. However, Self-Government has not led to clarification concerning to which extent indigenous peoples' rights applies collectively only or also individually. Also, the question of whether the Greenlandic indigenous population originates from one or several indigenous tribes remains a disputed issue.



DIHR recommends that Greenland and Denmark ensure that individual rights of individuals belonging to an indigenous people are continuously respected. DIHR also recommends that Greenland conducts a country-wide survey in order to establish data on whether individuals identify themselves as belonging to an indigenous population.

Joint response:

Denmark has been among the frontrunners in the deliberations on implementation of the Declaration on the Rights of Indigenous Peoples in its work in the Commission on Human Rights as well as in the Human Rights Council. In light of this endeavour, and also its experience from the cooperation with the Home Rule of Greenland, Denmark should implement and widely disseminate the Declaration on the Rights of Indigenous Peoples.

Recommendation n°54: *Identify, pursuant to the recommendations of the Committee on Economic, Social and Cultural Rights, cases of racism and xenophobia, combat them and foster intercultural understanding and tolerance. (Recommended by Russian Federation)*

IRI: not implemented

RWD response:

To our knowledge this has only been done by NGOs and not the government. Nothing has been done to fight the rising xenophobia over the years. Recently the government has stopped the funding for NyDansk Ungdomsråd (Council of New Danish Youth).

DIHR response:

According to guidelines from the National Commission of the Danish Police, the Danish police force are obliged to report all crimes with a possible racial / ethnic/ religious motive to the Danish Security and Intelligence Service (PET), both in cases where the criminal act is directed against a person of foreign or Danish origin.

The purpose of the reporting system is primarily to provide the Danish Security and Intelligence Service with information of possible organized and systematic criminal activity, inspired by racism and xenophobia.

The number of racially motivated criminal acts increased from 18.2 per cent of all extremist crimes in 2011 to 24.1 per cent in 2012, although the change amounts to only 7 cases, with the rest of the percentage-increase caused by the major decline in politically motivated cases.

Actions	2011		2012	
	Number	Percent	Number	Percent
Racist motivation	70	18,2	77	24,1
Religious motivation	24	6,3	33	10,3



Political motivation	78	20,3	36	11,2
Sexual motivation	23	6,0	33	10,3
Doubtful extremist motivation	189	49,2	141	44,1
Total	384	100	320	100

Table breaking down of criminal acts by category of motivation
(The Danish Security and Intelligence Service, the PET 2012 Hate crime report)

The Ministry of Children and Education is planning to publish a curriculum document containing guidelines concerning the cross-cutting international dimension of education, including tolerance, citizenship, human rights and other elements related to reducing racism and stereotyping and to promoting empathy and conflict resolution. In the National Arts Councils action plan 2011-2015, it has been outlined how the Council will work with cultural diversity.

In recent years, the Government has presented two action plans aimed at increasing tolerance in society; an action plan from 2009 aimed at preventing extremist views among young people and an action plan from 2010 aimed at promoting ethnic equality and respect for the individual. It has not been confirmed that a new action plan will be launched.

A [website](#) set up by the Danish Institute for Human Rights (DIHR) allows people to anonymously report incidents of hate crime or discrimination, either incidents experienced by themselves or incidents that they have witnessed. The website functions as a supplement to the usual course of action in such cases (typically pressing charges or bringing a complaint before the Board of Equal Treatment) and also contains information about how to proceed with a case should the person wish to do so.

ENAR response:

+

DRC + SOSAR response:

Denmark has accepted this recommendation however in a rather awful way. It is stated amongst other that the Danish Government has made two action plans aimed at promoting ethnic equality, however it is not mentioned that the main focus was to combat alleged racist attitudes amongst minorities against the native Danish majority population! It is however mentioned that the action plan from 2009 aimed at “preventing extremist views amongst young people”, however without mentioning that these youngsters are ethnic minorities who are supposed to having “extremist views”. Thus admitting that focus is solely on what minorities are doing “wrong”.

The fight against racism and discrimination should rather focus on how discriminatory barriers frustrates the right of equal access to labour market, education housing etc. for the ethnic minority groups in Denmark.



Recommendation n°55: *Take appropriate measures to protect vulnerable groups from discrimination, racial profiling and hate crimes, and to combat racism and xenophobia* (Recommended by Greece)

IRI: *not implemented*

RWD response:

To our knowledge this has only been done by NGOs and not the government. Nothing has been done to fight the rising xenophobia over the years. Recently the government has stopped the funding for NyDansk Ungdomsråd (Council of New Danish Youth).

DIHR response:

The Ministry of Children and Education is planning to publish a curriculum document containing guidelines concerning the cross-cutting international dimension of education, including tolerance, citizenship, human rights and other elements related to reducing racism and stereotyping and to promoting empathy and conflict resolution. In the National Arts Councils action plan 2011-2015, it has been outlined how the Council will work with cultural diversity.

In recent years, the Government has presented two action plans aimed at increasing tolerance in society; an action plan from 2009 aimed at preventing extremist views among young people and an action plan from 2010 aimed at promoting ethnic equality and respect for the individual. It has not been confirmed that a new action plan will be launched.

ENAR response:

+

DRC + SOSAR response:

Denmark has accepted this recommendation however in a rather awful way. It is stated amongst other that the Danish Government has made two action plans aimed at promoting ethnic equality, however it is not mentioned that the main focus was to combat alleged racist attitudes amongst minorities against the native Danish majority population!

It is however mentioned that the action plan from 2009 aimed at “preventing extremist views amongst young people”, however without mentioning that these youngsters are ethnic minorities who are supposed to having “extremist views”. Thus admitting that focus is solely on what minorities are doing “wrong”. The fight against racism and discrimination should rather focus on how discriminatory barriers frustrates the right of equal access to labour market, education housing etc. for the ethnic minority groups in Denmark.

Recommendation n°56: *Take actions to combat racism, xenophobia, and religious intolerance and hatred* (Recommended by Bangladesh)

IRI: *partially implemented*

+

Recommendation n°57: *Monitor the incidence of and combat xenophobia, and promote intercultural understanding and tolerance* (Recommended by Turkey)

IRI: *partially implemented*



RWD response:

To our knowledge this has only been done by NGOs and not the government. Nothing has been done to fight the rising xenophobia over the years. Recently the government has stopped the funding for NyDansk Ungdomsråd (Council of New Danish Youth).

DIHR response:

According to guidelines from the National Commission of the Danish Police, the Danish police force are obliged to report all crimes with a possible racial / ethnic/ religious motive to the Danish Security and Intelligence Service (PET), both in cases where the criminal act is directed against a person of foreign or Danish origin.

The purpose of the reporting system is primarily to provide the Danish Security and Intelligence Service with information of possible organized and systematic criminal activity, inspired by racism and xenophobia.

The number of racially motivated criminal acts increased from 18.2 per cent of all extremist crimes in 2011 to 24.1 per cent in 2012, although the change amounts to only 7 cases, with the rest of the percentage-increase caused by the major decline in politically motivated cases.

Actions	2011		2012	
	Number	Percent	Number	Percent
Racist motivation	70	18,2	77	24,1
Religious motivation	24	6,3	33	10,3
Political motivation	78	20,3	36	11,2
Sexual motivation	23	6,0	33	10,3
Doubtful extremist motivation	189	49,2	141	44,1
Total	384	100	320	100

Table breaking down of criminal acts by category of motivation
(The Danish Security and Intelligence Service, the PET 2012 Hate crime report)

The Ministry of Children and Education is planning to publish a curriculum document containing guidelines concerning the cross-cutting international dimension of education, including tolerance, citizenship, human rights and other elements related to reducing racism and stereotyping and to promoting empathy and conflict resolution. In the National Arts Councils action plan 2011-2015, it has been outlined how the Council will work with cultural diversity.

In recent years, the Government has presented two action plans aimed at increasing tolerance in society; an action plan from 2009 aimed at preventing extremist views



among young people and an action plan from 2010 aimed at promoting ethnic equality and respect for the individual. It has not been confirmed that a new action plan will be launched.

DRC + SOSAR response:

Denmark has accepted this recommendation however in a rather awful way. It is stated amongst other that the Danish Government has made two action plans aimed at promoting ethnic equality, however it is not mentioned that the main focus was to combat alleged racist attitudes amongst minorities against the native Danish majority population! It is however mentioned that the action plan from 2009 aimed at “preventing extremist views amongst young people”, however without mentioning that these youngsters are ethnic minorities who are supposed to having “extremist views”. Thus admitting that focus is solely on what minorities are doing “wrong”. The fight against racism and discrimination should rather focus on how discriminatory barriers frustrates the right of equal access to labour market, education housing etc. for the ethnic minority groups in Denmark.

ENAR response:

[See DRC+SOSAR response above +]

Also protection against hate crimes should be more effective.

Recommendation n°58: *Take more effective measures to combat racial discrimination and intolerance, including by promptly investigating and taking stern action against the perpetrators of hatred, racist and xenophobic acts, speeches and publications* (Recommended by Malaysia)

IRI: *partially implemented*

RWD response:

To our knowledge this has only been done by NGOs and not the government. Nothing has been done to fight the rising xenophobia over the years. Recently the government has stopped the funding for NyDansk Ungdomsråd (Council of New Danish Youth).

DIHR response:

With regards to hate speech, the primary safeguard remains section 266 b of the Criminal Code, colloquially referred to as “the racism paragraph”. The paragraph states that “a person who publically or with intent to be made public, makes a statement [...], by which a group of people are threatened, derided or belittled on account of their race, skin colour, national or ethnic origins, faith or sexual orientation, is subject to a fine or imprisonment of up to 2 years”.

The total number of criminal actions with “extremist character” (hate crimes) in 2012 was 320. In comparison was the number in 2011 384. The Board of Equal Treatment heard and adjudged 18 cases in 2012 on the ground of ethnic discrimination while the number of cases in 2011 was 43.

According to guidelines from the National Commission of the Danish Police, the Danish police force are obliged to report all crimes with a possible racial / ethnic/



religious motive to the Danish Security and Intelligence Service (PET), both in cases where the criminal act is directed against a person of foreign or Danish origin.

The purpose of the reporting system is primarily to provide the Danish Security and Intelligence Service with information of possible organized and systematic criminal activity, inspired by racism and xenophobia.

The number of racially motivated criminal acts increased from 18.2 per cent of all extremist crimes in 2011 to 24.1 per cent in 2012, although the change amounts to only 7 cases, with the rest of the percentage-increase caused by the major decline in politically motivated cases.

Actions	2011		2012	
	Number	Percent	Number	Percent
Racist motivation	70	18,2	77	24,1
Religious motivation	24	6,3	33	10,3
Political motivation	78	20,3	36	11,2
Sexual motivation	23	6,0	33	10,3
Doubtful extremist motivation	189	49,2	141	44,1
Total	384	100	320	100

Table breaking down of criminal acts by category of motivation
(The Danish Security and Intelligence Service, the PET 2012 Hate crime report)

The Ministry of Children and Education is planning to publish a curriculum document containing guidelines concerning the cross-cutting international dimension of education, including tolerance, citizenship, human rights and other elements related to reducing racism and stereotyping and to promoting empathy and conflict resolution. In the National Arts Councils action plan 2011-2015, it has been outlined how the Council will work with cultural diversity.

In recent years, the Government has presented two action plans aimed at increasing tolerance in society; an action plan from 2009 aimed at preventing extremist views among young people and an action plan from 2010 aimed at promoting ethnic equality and respect for the individual. It has not been confirmed that a new action plan will be launched.

DRC + SOSAR response:

Denmark has accepted this recommendation however in a rather awful way. It is stated amongst other that the Danish Government has made two action plans aimed at promoting ethnic equality, however it is not mentioned that the main focus was to



combat alleged racist attitudes amongst minorities against the native Danish majority population!

It is however mentioned that the action plan from 2009 aimed at “preventing extremist views amongst young people”, however without mentioning that these youngsters are ethnic minorities who are supposed to having “extremist views”. Thus admitting that focus is solely on what minorities are doing “wrong”.

The fight against racism and discrimination should rather focus on how discriminatory barriers frustrates the right of equal access to labour market, education housing etc. for the ethnic minority groups in Denmark.

ENAR response:

[See DRC+SOSAR response above +]

Also protection against hate crimes should be more effective.

Recommendation n°59: *Step up efforts in promoting intercultural understanding and tolerance between different ethnic groups in the country* (Recommended by Malaysia)

IRI: *partially implemented*

RWD response:

To our knowledge this has only been done by NGOs and not the government. Nothing has been done to fight the rising xenophobia over the years. Recently the government has stopped the funding for NyDansk Ungdomsråd (Council of New Danish Youth).

DIHR response:

The Ministry of Children and Education is planning to publish a curriculum document containing guidelines concerning the cross-cutting international dimension of education, including tolerance, citizenship, human rights and other elements related to reducing racism and stereotyping and to promoting empathy and conflict resolution. In the National Arts Councils action plan 2011-2015, it has been outlined how the Council will work with cultural diversity.

In recent years, the Government has presented two action plans aimed at increasing tolerance in society; an action plan from 2009 aimed at preventing extremist views among young people and an action plan from 2010 aimed at promoting ethnic equality and respect for the individual. It has not been confirmed that a new action plan will be launched.

DRC + SOSAR response:

Denmark has accepted this recommendation however in a rather awful way. It is stated amongst other that the Danish Government has made two action plans aimed at promoting ethnic equality, however it is not mentioned that the main focus was to combat alleged racist attitudes amongst minorities against the native Danish majority population!



It is however mentioned that the action plan from 2009 aimed at “preventing extremist views amongst young people”, however without mentioning that these youngsters are ethnic minorities who are supposed to having “extremist views”. Thus admitting that focus is solely on what minorities are doing “wrong”.

The fight against racism and discrimination should rather focus on how discriminatory barriers frustrates the right of equal access to labour market, education housing etc. for the ethnic minority groups in Denmark.

ENAR response:

[See DRC+SOSAR response above +]

Also protection against hate crimes should be more effective.

Recommendation n°60: *Strengthen the legal actions against all forms of discrimination on the basis of race, ethnic origin, language, religion or national origin* (Recommended by *Ecuador*)

IRI: *partially implemented*

RWD response:

On the contrary, many politicians wish to eliminate the law criminalising blasphemy and hate speech. The article could collide with the freedom of speech.

DIHR response:

An expert committee has been established by the Danish Ministry of Justice in 2012 with the mandate to consider, inter alia, the possibility of adopting Protocol No. 12 of the European Convention on Human Rights that includes a general prohibition of discrimination. Further consideration by the Danish Government as to the appropriateness of a general anti-discrimination legislation awaits the result of the expert committee’s work.

ENAR response:

+

DRC + SOSAR response:

Legal actions are need especially when it comes to racial discrimination. The Board on equal treatment is indeed very effective with regard to gender discrimination and old age cases. When it comes to racial discrimination cases however, it seems that the board is more reluctant and consequently a review of the effectiveness of the Board with regard to racial discrimination cases are needed.

Joint response:

Danish civil legislation on discrimination still operates with different levels of protection depending on the ground of discrimination. E.g civil law does not protect from discrimination based on religious affiliation outside the labour market, while its protects from discrimination based on ethnicity and national origin.

The expert committee on incorporation (referred to above) has also been mandated to consider, inter alia, the possibility of adopting Protocol No. 12 of the European Convention on Human Rights that includes a general prohibition of discrimination. Further consideration as to the appropriateness of a general anti-discrimination



legislation awaits the result of the expert committee's work and the extent of the political support on the recommendations from the expert committee.

On discrimination on the LGBT area, it should be noted that in the provisions in the Criminal Code regarding hate crimes, hate speech and discrimination on the ground of sexual orientation interpret sexual orientation to include gender identity (reference is made to transvestism). This erroneous consideration is used in court decisions and is used to argue, that specific protection of gender identity is unnecessary.

Generally the level of compensation for victims of discrimination in the field of civil law and the level of fines in the field of criminal law must be considered to be relatively low and thus lacking the element of deterrence.

Recommendation n°61: *Fully respect the human rights of foreigners, regardless of their migratory status* (Recommended by Ecuador)

IRI: *partially implemented*

RWD response:

Certain steps have been taken in this direction. We can mention easier access to citizenship and family reunification. But it is far from sufficient to ensure equal rights, as the level of rights for migrants was extremely low when this government took over.

DIHR response:

Denmark's international obligations are reflected in the Danish Aliens Act. On some areas, the human rights situation for foreigners in Denmark could however be improved. As an example of such, that there is a difference between who is charged with forgery when entering Denmark on illegal documents and applying for asylum (persons with refugee-status are not charged, where persons with subsidiary protection status are charged). Furthermore, Denmark does not provide a mandatory health screening for foreigners who are placed in detention.

ENAR response:

+

DRC + SOSAR response:

This Recommendation is accepted by the Danish Government however foreigners – as it is said regardless of their migration status – do not fully enjoy the same respect for human rights as the native born population. By way of example all decision by administrative Boards/commissions etc. can be appealed to the Danish Courts. The only one exception is decisions of the Danish Refugee Board, which according to the Aliens Act are final, and asylum seekers have no right to appeal to the Courts, which must be considered as a human rights violation (Fair trial) and also discrimination with regard to fair trial.

Recommendation n°62: *Strengthen and effectively implement its legislation to prohibit, prosecute and punish hate speech, incitement to hatred and acts of religious profiling* (Recommended by Egypt)

IRI: *partially implemented*



RWD response:

On the contrary, many politicians wish to eliminate the law criminalising blasphemy and hate speech. The article could collide with the freedom of speech.

DIHR response:

With regards to hate speech, the primary safeguard remains section 266 b of the Criminal Code, colloquially referred to as “the racism paragraph”. The paragraph states that “a person who publically or with intent to be made public, makes a statement [...], by which a group of people are threatened, derided or belittled on account of their race, skin colour, national or ethnic origins, faith or sexual orientation, is subject to a fine or imprisonment of up to 2 years”.

In 2011, the Director of Public Prosecutions also issued new guidelines (No. 2/2011 replacing Instruction No. 9/2006) concerning the investigation and prosecution of cases concerning violation of Section 266 b of the Criminal Code and the Act on Prohibition of Discrimination based on Race and cases in which Section 81 no. 6 of the Criminal Code might apply.

Hate crime is a special area of focus in the 2012-2015 strategy of the prosecution service, and that the prosecution of hate crimes is a subject that has been and will continue to be discussed in relevant forums within the prosecution service.

In recent years, the Government has presented two action plans aimed at increasing tolerance in society; an action plan from 2009 aimed at preventing extremist views among young people and an action plan from 2010 aimed at promoting ethnic equality and respect for the individual. . It has not been confirmed that a new action plan will be launched.

ENAR response:

+

DRC + SOSAR response:

Again a recommendation, which is accepted by the Danish government to the great surprise of us as NGOs.

The numbers of convictions for hate speech during year 2012 were only three persons, and a similar number was convicted in 2013, in a time where the use of hate speech seems to be sadly widespread in Denmark.

Recommendation n°63: *Take effective measures to prevent and prohibit racial profiling by the police* (Recommended by Egypt)

IRI: not implemented

RWD response:

We have not heard of any actions to prevent this. It is a serious problem that the police force include very few persons with minority background and the culture in the force is close to racist. A couple of incidents have been documented on mobile phones where young people with minority background have been unjustly accused of crimes or harassed verbally and physically by the police.



DIHR response:

When a citizen is stopped in a stop-and-search zone the police can search their clothing, possessions and any vehicle, this is an infringement of their right to privacy. However, this type of search can be justified if the aim is to combat crime.

In 2010 the ECHR made it clear in the judgment Gillian and Quinton v. The United Kingdom that stop-and-search zones increase the risk of discrimination.

The Danish Institute for Human Rights has in 2011 made a report on the topic. No Danish guidelines exist concerning prevention of ethnic profiling when carrying out random police stops.

The Danish Institute for Human Rights has recommended in the report from 2011 and in the annual status-report on human rights from 2013 that Denmark call attention to the risk of discrimination in connection with stop-and-search activities.

ENAR response:

+

DRC + SOSAR response:

A study from 2011 documented that half of those stopped and searched in Copenhagen were of minority background even though they may only represent 20% of the population in Copenhagen. It is however difficult to secure effective access for victims of such discrimination especially because such NGO's that assists the victims have all funding withdrawn by the Danish authorities.

Joint response:

The official explanation of the acceptance of the recommendations is to be found in the Addendum comments concerning rec. 106.54. These arguments are of a very broad and evasive nature and do not particularly refer to racial profiling by the police, cases of racism and xenophobia, etc. The government should take actual steps taken to promote the acceptance of the recommendations. A pure reference to the art. 266B of the penal code is insufficient.

Recommendation n°64: *Identify cases of racism and xenophobia and combat them, as well as continue to foster intercultural understanding and tolerance (Recommended by Uzbekistan)*

IRI: *partially implemented*

DIHR response:

[See response to recommendation n° 56]

ENAR response:

+

DRC + SOSAR response:

A study from 2011 documented that half of those stopped and searched in Copenhagen were of minority background even though they may only represent 20% of the population in Copenhagen. It is however difficult to secure effective access for victims of such discrimination especially because such NGOs that assists the victims have all funding withdrawn by the Danish authorities.



Joint response:

The official explanation of the acceptance of the recommendations is to be found in the Addendum comments concerning rec. 106.54. These arguments are of a very broad and evasive nature and do not particularly refer to racial profiling by the police, cases of racism and xenophobia, etc. The government should take actual steps taken to promote the acceptance of the recommendations. A pure reference to the art. 266B of the penal code is insufficient.

RWD response:

[See response to recommendation n° 56]

Recommendation n°67: *Continue combating the phenomena of racism and xenophobia and promote tolerance between cultures and religions* (Recommended by *Palestine*)

IRI: *partially implemented*

RWD response:

[See response to recommendation n° 56]

DIHR response:

The Ministry of Children and Education is planning to publish a curriculum document containing guidelines concerning the cross-cutting international dimension of education, including tolerance, citizenship, human rights and other elements related to reducing racism and stereotyping and to promoting empathy and conflict resolution. In the National Arts Councils action plan 2011-2015, it has been outlined how the Council will work with cultural diversity.

In recent years, the Government has presented two action plans aimed at increasing tolerance in society; an action plan from 2009 aimed at preventing extremist views among young people and an action plan from 2010 aimed at promoting ethnic equality and respect for the individual. . It has not been confirmed that a new action plan will be launched.

ENAR response:

+

DRC + SOSAR response:

All of these recommendations are "accepted" however if this is the case, as NGOs we still need to see any results of that. Especially the Muslim minority suffers from islamophobia, but also anti-Semitism and other forms of racism are common and needs very much to be addressed.

Recommendation n°68: *Undertake measures to tackle racial discrimination and to combat more resolutely all forms of racism* (Recommended by *Iran*)

IRI: *partially implemented*

+

Recommendation n°69: *Continue its efforts to combat xenophobia* (Recommended by *Argentina*)

IRI: *partially implemented*



RWD response:

To our knowledge this has only been done by NGOs and not the government. Nothing has been done to fight the rising xenophobia over the years. Recently the government has stopped the funding for NyDansk Ungdomsråd (Council of New Danish Youth).

DIHR response:

[See response to recommendation n° 56]

+

A [website](#) set up by the Danish Institute for Human Rights (DIHR) allows people to anonymously report incidents of hate crime or discrimination, either incidents experienced by themselves or incidents that they have witnessed. The website functions as a supplement to the usual course of action in such cases (typically pressing charges or bringing a complaint before the Board of Equal Treatment) and also contains information about how to proceed with a case should the person wish to do so.

ENAR response:

+

DRC + SOSAR response:

All of these recommendations are "accepted" however if this is the case, as NGOs we still need to see any results of that. Especially the Muslim minority suffers from islamophobia, but also anti-Semitism and other forms of racism are common and needs very much to be addressed.

Recommendation n°70: *Monitor the incidence of and combat racism and xenophobia*
(Recommended by *Brazil*)

IRI: *partially implemented*

RWD response:

The Municipality of Copenhagen has made a strong effort to make more people report on hate crimes and discrimination. They have also launched a campaign for respect and tolerance in the night life (but this is only a local initiative). Sadly, the government has recently stopped the funding for NyDansk Ungdomsråd (Council of New Danish Youth).

DIHR response:

According to guidelines from the National Commission of the Danish Police, the Danish police force are obliged to report all crimes with a possible racial / ethnic/ religious motive to the Danish Security and Intelligence Service (PET), both in cases where the criminal act is directed against a person of foreign or Danish origin.

The purpose of the reporting system is primarily to provide the Danish Security and Intelligence Service with information of possible organized and systematic criminal activity, inspired by racism and xenophobia.

The number of racially motivated criminal acts increased from 18.2 per cent of all extremist crimes in 2011 to 24.1 per cent in 2012, although the change amounts to



only 7 cases, with the rest of the percentage-increase caused by the major decline in politically motivated cases.

Actions	2011		2012	
	Number	Percent	Number	Percent
Racist motivation	70	18,2	77	24,1
Religious motivation	24	6,3	33	10,3
Political motivation	78	20,3	36	11,2
Sexual motivation	23	6,0	33	10,3
Doubtful extremist motivation	189	49,2	141	44,1
Total	384	100	320	100

Table breaking down of criminal acts by category of motivation
(The Danish Security and Intelligence Service, the PET 2012 Hate crime report)

A [website](#) set up by the Danish Institute for Human Rights (DIHR) allows people to anonymously report incidents of hate crime or discrimination, either incidents experienced by themselves or incidents that they have witnessed. The website functions as a supplement to the usual course of action in such cases (typically pressing charges or bringing a complaint before the Board of Equal Treatment) and also contains information about how to proceed with a case should the person wish to do so.

ENAR response:

+

DRC + SOSAR response:

All of these recommendations are "accepted" however if this is the case, as NGOs we still need to see any results of that. Especially the Muslim minority suffers from islamophobia, but also anti-Semitism and other forms of racism are common and needs very much to be addressed.

Recommendation n^o71: *Strengthen measures to promote tolerance and combat attitudes, behaviours and reflexes not covered by the law as well as stereotypes directed, inter alia, at the Muslim minority* (Recommended by Morocco)

IRI: *partially implemented*

RWD response:

[See response to recommendation n^o 70]

DIHR response:

The Ministry of Children and Education is planning to publish a curriculum document containing guidelines concerning the cross-cutting international dimension of education, including tolerance, citizenship, human rights and other elements related to reducing racism and stereotyping and to promoting empathy and conflict

resolution. In the National Arts Councils action plan 2011-2015, it has been outlined how the Council will work with cultural diversity.

In recent years, the Government has presented two action plans aimed at increasing tolerance in society; an action plan from 2009 aimed at preventing extremist views among young people and an action plan from 2010 aimed at promoting ethnic equality and respect for the individual. . It has not been confirmed that a new action plan will be launched.

ENAR response:

+

DRC + SOSAR response:

[See response to recommendation n° 70]

Recommendation n°79: *Adopt appropriate measures to ensure that the establishment of so called arrest and search zones is not done on the basis of criteria which might be equivalent to racial, ethnic or religious profiling (Recommended by Algeria)*

IRI: partially implemented

DIHR response:

When a citizen is stopped in a stop-and-search zone the police can search their clothing, possessions and any vehicle, this is an infringement of their right to privacy. However, this type of search can be justified if the aim is to combat crime.

In 2010 the ECHR made it clear in the judgment Gillian and Quinton v. the United Kingdom that stop-and-search zones increase the risk of discrimination.

The Danish Institute for Human Rights has in 2011 made a report on the topic. No Danish guidelines exist concerning prevention of ethnic profiling when carrying out random police stops.

The Danish Institute for Human Rights has recommended in the report from 2011 and in the annual status-report on human rights from 2013 that Denmark call attention to the risk of discrimination in connection with stop-and-search activities.

Joint response:

The police may only establish temporary search (arrest) zones. Up till now no evaluation of the search zones has taken place. The government should conduct a thorough investigation of the use of these search zones including the practice of profiling on the basis of race, ethnicity and religion.

ENAR response:

+

DRC + SOSAR response:

A study from 2011 documented that half of those stopped and searched in Copenhagen were of minority background even though they may only represent about 20% of the population in Copenhagen. It is however difficult to secure effective



access for victims of such discrimination especially because such NGOs that assists the victims have all funding withdrawn by the Danish authorities.

Recommendation n°103: *Ensure that the right to family life, marriage and choice of spouse is guaranteed to every person without discrimination based on national or ethnic origin (Recommended by Turkey)*

IRI: *not implemented*

RWD response:

The government has made some amendments regarding family reunification. However, the majority of discriminating legislation is still in effect, the most serious ones being the limit of 24 years, the demand for attachment, the demand of applying from the country of origin (even in cases where the person is in Denmark), the demand for bank deposit and self support, the limitations for parents bringing children to Denmark. Families are also still being split up because a marriage certificate from for instance Afghanistan or Pakistan is not considered legal, or because the time spent together by the married couple is not considered long enough.

DIHR response:

Several amendments have been made on the area of family reunification. The following are example of some of these amendments.

In 2011 amendments were introduced regarding the 24 years-rule and a system of points were introduced. In 2012 the system of points were abolished, so it was the regulation before the 2011-amendment that applied.

According to section 9 (4) of the Aliens Act a financial security of 50.000DKK should be provided when applying for family reunification. In 2011, this amount was increased to 100.000DKK, but in 2012 it was decreased to 50.000DKK.

According to section 9 (7) family reunification can initially only be granted if the couple's combined connection to Denmark is greater than their combined connection to another country. This requirement can however be waived if the person residing in Denmark has had Danish citizenship for more than 26 years or has had legal residence in Denmark for more than 26 years. This exception to the connection requirement was in 2012 changed from 28 years to 26 years. In relation to the amendment, DIHR recommended that the effects of the connection requirement and the 26-years rule was regularly monitored in order to view if the rules are proportionate.

The Danish Aliens Act has, since it was adopted in 1983, been subject to many amendments (94 amendments from June 1983 until May 2013). This has led to a complex regulation for both the persons applying for residence permit, but also for the persons administrating the act. DIHR has in November 2013 recommended that the Danish Aliens Act is revised to ensure a clear and systematic presentation of the legislation, including describing the relationship to Denmark's international obligations.



ENAR response:

+

DRC + SOSAR response:

The right to family life is a core human right and must be respected, however the Danish Aliens Act is violation with this right and should be amended including the requirement of being 24 years old before you can be allowed family reunification with your spouse.

Joint response:

The acceptance is limited to non-discrimination. The rigid administration of the aliens act concerning this issue has by the Government in office since October 2011, been eased to a limited extent. Denmark however is still interpreting the right to family life in a rather restrictive manner. The purpose behind the adoption of the complicated provisions in the Danish aliens act on the matter was originally (2005) a desire to prevent forced and contracted marriages. It has however never been evaluated, if the rules have reduced the number of contracted marriages. The government should start this work of evaluation especially with regard to the regulations laid down in the Danish Aliens act article 9 section 1.8 and generally with regard to an overall clarification and simplification of the entire act.

Recommendation n^o104: *Abrogate the provisions of its internal legislation which prohibit, in practice, the union with a person who has family links abroad and those which prohibit reunification of spouses who have not yet reached the minimum age of 24 years (Recommended by France)*

IRI: not implemented

RWD response:

Marriage between even great-cousins is still not accepted when it comes to foreigners and residence permit - while there is no law against this in Denmark, and no problems if two Danes who are related decide to marry (and see 103 above).

DIHR response:

Several amendments have been made on the area of family reunification. The following are example of some of these amendments.

In 2011 amendments were introduced regarding the 24 years-rule and a system of points were introduced. In 2012 the system of points were abolished, so it was the regulation before the 2011-amendment that applied.

According to section 9 (4) of the Aliens Act a financial security of 50.000DKK should be provided when applying for family reunification. In 2011, this amount was increased to 100.000DKK, but in 2012 it was decreased to 50.000DKK.

According to section 9 (7) family reunification can initially only be granted if the couple's combined connection to Denmark is greater than their combined connection to another country. This requirement can however be waived if the person residing in Denmark has had Danish citizenship for more than 26 years or has had legal residence in Denmark for more than 26 years. This exception to the connection requirement was in 2012 changed from 28 years to 26 years. In relation to the



amendment, DIHR recommended that the effects of the connection requirement and the 26-years rule was regularly monitored in order to view if the rules are proportionate.

The Danish Aliens Act has, since it was adopted in 1983, been subject to many amendments (94 amendments from June 1983 until May 2013). This has led to a complex regulation for both the persons applying for residence permit, but also for the persons administrating the act. DIHR has in November 2013 recommended that the Danish Aliens Act is revised to ensure a clear and systematic presentation of the legislation, including describing the relationship to Denmark's international obligations.

ENAR response:

+

DRC + SOSAR response:

The right to family life is a core human right and must be respected, however the Danish Aliens Act is violation with this right and should be amended including the requirement of being 24 years old before you can be allowed family reunification with your spouse.

Joint response:

Even though the rules on family reunification have been amended, the age requirement that both spouses must be 24 years of age still applies and still constitutes indirect discrimination. The rigid administration of the aliens act concerning this issue has by the Government in office since October 2011, been eased to a limited extent. Denmark however is still interpreting the right to family life in a rather restricted manner. The purpose behind the adoption of the complicated provisions in the Danish aliens act on the matter was originally (2005) a desideratum to prevent forced and contracted marriages. It has however never been evaluated, if the rules has reduced the number of contracted marriages. The government should start this work of evaluation especially with regard to the regulations laid down in the Danish Aliens act article 9 section 1.8 and generally with regard to an overall clarification and simplification of the entire act.

Recommendation n^o113: *Address in particular high school dropout among students belonging to ethnic minorities* (Recommended by Slovakia)

IRI: *not implemented*

RWD response:

This is a problem especially for the boys. A solution could be better support for home work and school reports, as many minority children lack sufficient help from their parents. This is unfortunately not offered by the Danish state or municipalities.

ENAR response:

+

DRC + SOSAR response:

Here it seems that the government has accepted that there is a problem with high school dropout amongst students belonging to ethnic minorities. Then the Government should also address what they are going to do about it.



Recommendation n^o114: *Adopt stronger measures to protect minorities and indigenous peoples from discrimination and to ensure their access to public facilities (Recommended by Republic of Korea)*

IRI: *not implemented*

DIHR response:

The Ministry of Social Affairs, Children and Integration (Social-, Integrations- og Børneministeriet) has announced that they will seek to strengthen the Council for Ethnic Minorities (Rådet for Etniske Minoriteter). The Council was established in 1999 to promote participation by ethnic minorities in all areas of society. The Council meets with the minister every three months to discuss current problems and new legislation. The announcement concerns legislation altering the structure of the Council, to be put to a vote in the near future. Among other changes, representatives from the four largest municipalities in Denmark will be invited to join the Council on a permanent basis.

ENAR response:

Discrimination with regard to access to Bars and Disco are widespread and many minority groups suffers from this (maybe also indigenous people).

DRC + SOSAR response:

Discrimination with regard to access to Bars and Discos are widespread and many minority groups suffer such discrimination.

Recommendation n^o115: *Remedy the difficulties in terms of access to health care for asylum seekers created by the fact that they do not have the social security number required for identification and support (Recommended by France)*

IRI: *not implemented*

RWD response:

This is a huge problem, neglected by the government. Asylum seekers only have limited access to health care, and only through the special clinics run by nurses in the camps.

ENAR response:

The government argues that asylum seekers have the same right to health care as any other person in Denmark. This is not correct. As an asylum seeker you have access to emergency health care [only].

Joint response:

Denmark has rejected the recommendation, referring to it as a factual misunderstanding. As stated by the Government in their response, health care to asylum seekers is provided by the Danish Immigration Service to all asylum seekers, including those rejected, and those under the age of 18 are entitled to the same healthcare as children who are residents.

All expenses for health care that are necessary, urgent and alleviating are covered by the Immigration Service and asylum seekers as well as undocumented migrants are entitled to free emergency hospital treatment, e.g. in case of accidents, birth or worsening of chronic conditions.



The Danish Red Cross agrees to this and thus recognizes the rejection to the recommendation, but does however have a concern towards access to treatment for undocumented migrants with, for instance, chronic diseases or to preventive treatment for pregnant women.

- Recommendation: To improve access to preventive care for undocumented migrants in need of such.

We acknowledge that asylum seekers have access to basic health care while they are residing at an asylum centre. However, The Immigration Service has to approve of certain types of treatment (kaution) and an asylum seeker is therefore not in the same position as a Danish resident to have free access to the health care system. We would furthermore like to point at a related issue concerning access to health care in Denmark. Today, adults without a residence permit outside the asylum system are only entitled to emergency medical care in the public health system, and do not have access to regular health care, preventive care or help with chronic conditions. This means e.g. that pregnant women cannot be seen by a midwife and get checked whether the baby is healthy and well, and that patients with inflammatory conditions cannot be seen by a doctor and get treatment. Because of this health care vacuum, the Medical Association, the Danish Red Cross and the Danish Refugee Council in August 2011 opened a new health care clinic for people who do not have a residence permit in Denmark - the so-called undocumented migrants.

The health care clinic offers anonymous and free medical care. The background to the establishment of the clinic is that an estimated 1,000 to 5,000 people in Denmark do not have access to necessary health care. The Danish Refugee Council finds that number disturbingly high and urges the Danish Government to counter this problem by providing the necessary legal framework to equalize the access to health care for documented and un-documented migrants.

Undocumented immigrants and access to health care (ICESCR, article 24):

Access to health care in Denmark depends on the migratory status of the individual and is regulated by various rules of law. With regard to immigrants and persons with refugee status, access to health care is primarily regulated on the basis of the Danish Health Care Legislation Act. As to asylum seekers and undocumented immigrants, the Alien Act regulates the access to health care for everything but acute treatment.

Therefore, the most vulnerable and exposed group of migrants also has the fewest recognised rights to health care. Asylum seekers are subject to specific restriction in their access to treatment but especially the undocumented migrants are vulnerable.

These limited rights lead to barriers as to receiving relevant medical help and to use of alternative strategies in order to receive help with negative consequences for their health.

The number of undocumented migrants in Denmark is uncertain. However, health care personnel in hospitals and in private practise have for many years witnessed



migrants in need of treatment who were not legal residents in Denmark and therefore had no public health insurance.

Danish legislation gives no right to health care to this group except for medical emergencies. The Danish Health Care Act only gives these people a right to acute treatment (article 80). This means that for example chronic diseases and certain types of cancer, according to the legislation cannot be treated. Therefore, health care personnel have been in a dilemma as public resources cannot be used to treat these patients.

A study from 2011 describes that Danish doctors find that undocumented migrants have unequal access to health care services, and there is a widespread uncertainty on how to act in situations where undocumented migrants need medical treatment. There is no official guideline on how health care personnel should act in these situations.

As an attempt to solve this problem, the Danish Red Cross, The Danish Medical Association and the Danish Refugee Council in 2011 asked the Minister of health to support a change of the Danish Health Care Act so it would be in compliance with the UN Convention on Economic, Social and Cultural rights. Alternatively, asked for help to run and finance a clinic for undocumented migrants. Both were rejected. The present Government has not confronted the issue in spite of our approaches the Minister of Health.

In Copenhagen, there is a well-documented need for medical aid. In a clinic established after initiative of the Danish Red Cross, The Danish Medical Association and the Danish Refugee Council, there have been 4000 consultations divided on 1,400 patients during the past two years.

The concern is that across the country and in the Capital, several more undocumented migrants are in need of health care. The question is whether the Danish Government meets the standards of the CESCR article 12 and the Convention on the Rights of the Child article 24 on everybody's right to the highest attainable standard of health.

[...]

DRC + SOSAR response:

The government argues that asylum seekers have the same right to health care as any other person in Denmark. This is not correct. Adult asylum seekers can use the basic health system in the asylum camps, in case of emergency they can use the general health system. For referral to some types of specialist treatment, planned surgery and other hospital treatment: after an application healthcare expenses may be covered by the Danish Immigration Service provided the healthcare is necessary and urgent (treatment cannot be postponed) and/or pain-relieving. For asylum children prophylactic services incl. dentistry is covered. Many asylum children needing child psychiatric treatment will not receive it.

Recommendation n°117: *Allow for family reunification for children in as many cases as possible and ensure that Danish jurisprudence on family reunification is in accordance with its human rights obligations (Recommended by Greece)*

IRI: *partially implemented*

RWD response:

The residing government made some amendments regarding children's access to family reunification. But the demands are still much too strict. A child over 16 years of age is not considered a child, and there are still age limits concerning "ability to integrate" for children. More than 1,000 children have had their application to stay in Denmark turned down over the last 5 years. A very critical point is the consequent lack of consideration for the best interest of the child.

DIHR response:

In 2012 the Danish Aliens Act was amended so it was specified in section 9 c (1) that a residence permit can be granted to applicants under 18 years if very significant reasons deem it necessary, including the best interest of the child. This was introduced to clarify the possibility to grant a residence permit on the grounds of family reunification to children above 15 years.

Joint response:

Denmark has partially implemented this recommendation. Children between the age of 15 and 17 years of age do not have an unconditional right to be reunited with their parents in Denmark, but may be granted permission to come to Denmark on a discretionary basis.

The present government changed the laws for family reunifications for children resulting in much fewer children being rejected family unification to Denmark than previously. There are still some rules which the reporting group finds not to be in line with the human rights obligations of Denmark:

- 1) According to the new law children from 6 years of age shall demonstrate integration potential and it is possible in advance to find some children between 6 and 15 'not able to demonstrate integration potential' into the Danish society.
- 2) Non-Danish children between 15 and 18 do still not have same rights as children under 15 to family reunification with their parents living in Denmark.

The reporting group finds that all decisions regarding family-reunifications of children should be based on a determination of the best interest of the child.

ENAR response:

+

DRC + SOSAR response:

Denmark has changed the rules after being sentenced by the European court of Human Rights (the Osman case) and the UN Committee on Human rights for violation of the child's right to family life with parents. Whether or not the changes fully will solve this human rights problem is still too early to say.



Recommendation n°118: *Review its practice of returning aliens to regions where they may encounter real risks of persecution or serious harm, particularly in Iraq (Recommended by Switzerland)*

IRI: *not implemented*

RWD response:

The Danish asylum department and Refugee Appeals Board has over the years had a very different view on the situation in especially Iraq, Afghanistan and Somalia than UNHCR and other European countries. Unfortunately no means have been taken to adjust the line of protection need better to that of our neighbour countries or UNHCR.

DIHR response:

According to the prohibition of torture in human rights law, states may not send or extradite a person to another state if it can be assumed that the person will be subjected to torture or inhumane or demeaning treatment in the receiving state.

In recent years, many states have entered into diplomatic guarantees with receiving states to the effect that the person being extradited will not be subjected to torture etc. in the receiving state. In a case regarding the extradition of a Danish citizen for legal proceedings for a charge of terrorism in India, Denmark received a diplomatic guarantee from India that the person in question would not be subjected to torture etc. The Eastern High Court subsequently overruled the extradition of the person in question based on the diplomatic guarantee, because there was a genuine risk that the person would be exposed to treatment in conflict with the prohibition of torture in human rights law.

With a ruling made on 23 January 2011, the European Court of Human Rights made it clear that sending asylum seekers back to Greece was a breach of the European Convention on Human Rights (ECHR) due to the country's inadequate asylum system. The ruling highlights the need for clarification of the Danish rules and practice in the area.

Joint response:

Denmark has not implemented this recommendation. According to the political programme of the present government from Oct. 2011 the Government will examine the Aliens Act in order to see if the act is in accordance with the UN Convention on the Rights of the Child, and see which initiatives and changes might be necessary to make. Unfortunately this study has not been made. The reporting group finds that the deportation of rejected asylum families after several years of stay in Denmark shall take the best interest of the child and the child's right to private life into consideration, and accordingly, make the necessary changes to the Aliens Act.

ENAR response:

+

DRC + SOSAR response:

The UN torture Committee has in a recent Opinion (Communication no. 464/202011) made a ruling that Denmark by deporting an Afghan refugee violated CAT article 3. This may also be the case with regard to deportation to Iraq, Iran or other countries known for massive violations of human rights.



Recommendation n°119: *Strictly observe the principle of non-refoulement and not resort to diplomatic assurances to circumvent it* (Recommended by Switzerland)

IRI: *not implemented*

RWD response:

Denmark consequently returns asylum seekers to other Dublin countries (except Greece) in spite of evidence that countries like Hungary do not offer protection and are guilty of refoulement. No changes have been made regarding diplomatic assurances from countries outside Europe to our knowledge.

DIHR response:

According to the prohibition of torture in human rights law, states may not send or extradite a person to another state if it can be assumed that the person will be subjected to torture or inhumane or demeaning treatment in the receiving state.

In recent years, many states have entered into diplomatic guarantees with receiving states to the effect that the person being extradited will not be subjected to torture etc. in the receiving state. In a case regarding the extradition of a Danish citizen for legal proceedings for a charge of terrorism in India, Denmark received a diplomatic guarantee from India that the person in question would not be subjected to torture etc. The Eastern High Court subsequently overruled the extradition of the person in question based on the diplomatic guarantee, because there was a genuine risk that the person would be exposed to treatment in conflict with the prohibition of torture in human rights law.

With the ruling made on 23 January 2011, the European Court of Human Rights made it clear that sending asylum seekers back to Greece was a breach of the European Convention on Human Rights (ECHR) due to the country's inadequate asylum system. The ruling highlights the need for clarification of the Danish rules and practice in the area.

Joint response:

Denmark has partially implemented the recommendation. We acknowledge that Denmark - upon application - issues a residence permit to a foreigner if the foreigner falls within the provisions of the Convention relating to the Status of Refugees or if the foreigner risks the death penalty or being subjected to torture or inhuman or degrading treatment or punishment in case of return to his or her country of origin. However, we would like to emphasize that the principle of direct and indirect non refoulement also applies in cases of return to another EU country according to the Dublin Regulation. As we have seen from the European Court of Human Rights' judgement in the case of *M.S.S. v. Belgium and Greece* of 21 January 2011, the returning state should ensure, that an asylum seekers return after the Regulation to another European country does not happen contrary to the principle of non refoulement. We urge the Danish Government to pay special attention to the principle of non refoulement in cases of Dublin-returns to e.g. Italy, Bulgaria and other countries where international organisations, national human rights NGO's and asylum seekers have raised severe criticism of the conditions for asylum seekers and refugees and the risk of refoulement to the country of origin.



In Communication No. 464/2011, 3/12 2012 the UN Committee against Torture established that Denmark - in the rejection of the complainant's asylum request without seeking further investigation on his claims nor ordering a medical examination - had failed to determine whether there are substantial grounds for believing that the complainant would be in danger of being subjected to torture if returned. Consequently, the Committee against Torture concluded that, in the circumstances, the deportation of the complainant to his country of origin would constitute a violation of article 3 of the UN Convention against Torture. Denmark had in the mean-time deported the asylum seeker to Afghanistan and is currently, after the criticism by the UN Committee, searching for the complainant to bring him back to re-open the case. Denmark is urged to use all possible avenues to find the complainant and in the future abstain from expelling, extraditing or in any way transferring a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture or ill-treatment (A/c.3/68/L.33/Rev.1).

In the High Court judgment U.2011.2904Ø, the Court found that Niels Holck, a Danish citizen wanted for prosecution on alleged terrorist activities, could not be extradited to India as there was a real risk of treatment in violation of ECHR article 3. The diplomatic assurance was not considered as sufficient protection or guarantee against torture, inhuman or degrading treatment when trustworthy sources of information establish that authorities participate in practices that are contrary to ECHR article 3.

Denmark should abstain from using diplomatic assurances when extraditing persons to prosecution as they do not provide protection or safeguards against torture or ill-treatment. As emphasized by the UN Special Rapporteur on Torture during his visit to Denmark in 2008, diplomatic assurances are an attempt to circumvent the absolute prohibition of torture and non-refoulement, and they are unreliable and ineffective.

DRC + SOSAR response:

The UN torture Committee has in a recent Opinion (Communication no. 464/202011) made a ruling that Denmark by deporting an Afghan refugee violated CAT article 3. This may also be the case with regard to deportation to Iraq, Iran or other countries known for massive violations of human rights.

Recommendation n^o120: *Revise the proposed amendments to the Danish Aliens Act with respect to unaccompanied children seeking asylum (Recommended by Poland)*

IRI: not implemented

RWD response:

Unaccompanied children obtaining protection status because of lack of network in the home country are still forced to leave Denmark when they turn 18, which is a terrible situation for them. The state seems hesitant to carry this out in practice, but the young persons are terrified at the thought.



DIHR response:

The amendments from 2010 regarding are still in force. DIHR has latest in November 2013 in its status report on asylum recommended that it is examined what consequences it has for the development and well-being of an unaccompanied minor to have a residence permit that expire when the asylum seeker turns 18. On this basis it should be considered if the rules should be amended.

ENAR response:

The UN torture Committee has en a recent Opinion (Communication no. 464/202011) made a ruling that Denmark by deporting an Afghan refugee violated CAT article 3. This may also be the case with regard to Iraq or deportation to n other countries known for their massive violations of human rights.

Joint response:

Denmark has not implemented the recommendation No changes have been made to the Danish Aliens Act from 2011 with regards to the laws covering the unaccompanied children seeking asylum. According to the recommendation of the Committee on the Child, the best interest of the child should be the guiding principle in cases involving separated children and during refugee determination procedures (cf. CRC/C/DNK/CO/4/34 and 58) and durable solutions should be found. The reporting group does therefore still not find that rules in the Aliens Act enforce the best interest of the child as the guiding principle in finding a durable solution for separated children or for children in asylum seeking families.

DRC + SOSAR response:

Unfortunately the amendments were implemented in the law. Many unaccompanied Afghan children have had a limited residence permit until they turn 18, and have later been sent back to Afghanistan.

Recommendation n^o123: *Take the necessary legal or administrative measures to ensure that migratory status does not depend on conjugal relations in cases in which gender violence is reported (Recommended by Mexico)*

IRI: not implemented

RWD response:

Women who are residing in Denmark because of a marriage to a Danish man face a special risk of domestic violence and abuse. The law says they will lose their permit to stay if they divorce or even move out from the spouse. The Alien Act was changed June 2012 removing the time limit of 2 years of stay minimum. But to keep the permit they still have to prove a strong personal attachment to Denmark beside the husband, and they must have "shown a will and ability to integrate into Danish society". This is often a problem because the violent husbands tend to isolate and humiliate the wives, even threatening them directly that they will be thrown out of Denmark if they don't put up with the abuse.

DIHR response:

According to the Danish Aliens Act section 19 (7 and 8) a residence permit granted on the basis of marriage or marital status will not be revoked in cases where the



foreigner shows that he/she or the his/her child has been exposed to domestic violence, mistreatment or any other form of abuse. In this context it is important to mention that there will be situations in which the foreigner has difficulties proving the violence – for example if the he/she have not found his/her way to the E.R, or if the spouse or other relatives have acted as an interpreter in their contact with the health care system, which poses a great risk of suppressed information on the incident.

Denmark does not have a national Action Plan against domestic violence.

DIHR has latest in November 2013 in its status report on gender recommended that a national action plan is drawn up. DIHR also recommended that a mapping of known research regarding domestic violence is initiated in order to identify areas where further knowledge is required.

ENAR response:

+

DRC + SOSAR response:

Foreign married women needs better protection against expulsion after being subjected to violence by a husband, and thus have to flee the home.

Recommendation n^o124: *Give due consideration to the cultural and religious sensitivities of newly arrived foreigners and migrants when designing social integration policies and programmes* (Recommended by *Pakistan*)

IRI: *partially implemented*

RWD response:

Agree[d], but no such plans have been presented.

DIHR response:

The Ministry of Social Affairs, Children and Integration has developed the Integration Barometer (integrationsbarometer.dk), a project to analyse the statistics and local data on integration in Denmark, to be used as part of the wider integration effort of the Government. The Barometer measures among others employment, Danish language competency, civic participation and equality. The first report from the Barometer was released in October 2013. The report indicated progress in the area of education, a standstill in the areas of employment and crime, and negative developments with regards to housing.

ENAR response:

+

DRC + SOSAR response:

This is again a recommendation that is "Accepted" – however nothing leaves us with the impression that there is any sensitivities of newly arrived for the social integration.

Recommendation n^o125: *Review the requirements for migrants and asylum-seekers to obtain permanent residence and citizenship and consider removing retroactive elements of these requirements* (Recommended by *United States*)

IRI: *fully implemented*



RWD response:

To some extent this recommendation has been met by lowering the level of demands concerning work, study and Danish language. However, the demands are still high, and a significant stress factor for the weak groups such as illiterate and traumatised migrants. There is a need for a special program for migrants who face difficulties living up to these demands.

DIHR response:

The rules have been reviewed and the requirements are now more lenient – although still comparatively strict. They do not include retroactive elements.

Still, the Aliens Act, section 9(13) on family reunification exempts sponsors who are granted permanent residence according to the Act in force from fulfilling a number of requirements that sponsors who are granted permanent residence according to previous (now repealed) rules must fulfil. The requirements are comparable to the actual requirements for permanent residence and therefore the arrangement may be characterized as a kind of retroactive element.

Joint response:

Denmark has implemented the recommendation. The rules have been reviewed and the requirements are now more lenient – although still comparatively strict. They do not include retroactive elements. Still, the Aliens Act, section 9(13) on family reunification exempts sponsors who are granted permanent residence according to the Act in force from fulfilling a number of requirements that sponsors who are granted permanent residence according to previous (now repealed) rules must fulfil. The requirements are comparable to the actual requirements for permanent residence and therefore the arrangement may be characterized as a kind of retroactive element.

ENAR response:

+

DRC + SOSAR response:

This is a massive problem for foreigners – including US citizens (who made the Recommendation) living in Denmark, without a permanent status. The Danish rules create fear and lack of integration opportunities and seems to have no proper reasoning – except from exclusion of the foreign person.

Recommendation n^o126: *Strengthen its protection of trafficking victims, specifically by offering longer-term alternatives that would allow them to stay in the country on a work or residency permit, rather than solely offering repatriation or asylum (Recommended by United States)*

IRI: *partially implemented*

RWD response:

Helping victims of trafficking to a safe and dignified future is a responsibility that Denmark has not yet lived up to. The access to asylum should be much easier, and for the women who prefer to go back Denmark should offer a longer period of



education/learning followed by economical support upon return (given in a way that will ensure their future and not put them in danger of blackmail or robbery).

DIHR response:

With the above mentioned amendment to the Aliens Act in May 2013 it is now specifically mentioned in the Aliens Act that a residence permit could be granted to a person, if their stay is necessary for the purpose of investigation or criminal proceedings (section 9 c (5)). The residence permit can only be granted during the work of the investigation or criminal proceedings. This section also applies for victims of trafficking. Before the amendment, victims of trafficking could be granted a residence permit in these situations according to another section of the Aliens Act that was not as specific. The amendment did not change the practice of granting residence permits for the investigation or criminal proceedings.

DIHR has in November 2013 recommended that Denmark ensures that victims of human trafficking are granted residence if the authorities find that the personal circumstances of the person in question render it necessary that the person remain in Denmark.

In March 2012 the Danish Criminal Code was amended to bring the Danish legislation in compliance with Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, although Denmark is not bound by the directive. With the amendment the definition in the criminal code was expanded to also include exploitation of punishable acts. Also, the maximum sentence was increased from 8 to 10 years.

Recommendation n°127: Further streamline the Aliens Act to ensure that acts which may lead to expulsion are in line with international refugee and human rights law (Recommended by Netherlands)

IRI: partially implemented

RWD response:

This probably refers to "Tolerated Stay" (foreigners who are convicted to expulsion because of a crime, but expulsion will lead to inhuman treatment and therefore not carried out). The number of people on Tolerated Stay is now about 60 (rising), and the extremely limited life they lead is clearly a problem in view of human rights.

DIHR response:

The rules on expulsion of aliens due to committed crimes appears not to be in line standards from UNHCR e.g. due to the fact that refugees can lose their refugee status if they have committed minor crimes.

Joint response:

Denmark has partially implemented the recommendation. We acknowledge that Denmark - upon application - issues a residence permit to a foreigner if the foreigner falls within the provisions of the Convention relating to the Status of Refugees or if the foreigner risks the death penalty or being subjected to torture or inhuman or degrading treatment or punishment in case of return to his or her country of origin. However, we would like to emphasize that the principle of direct and indirect non



refoulement also applies in cases of return to another EU country according to the Dublin Regulation. As we have seen from the European Court of Human Rights' judgement in the case of *M.S.S. v. Belgium and Greece* of 21 January 2011, the returning state should ensure, that an asylum seekers return after the Regulation to another European country does not happen contrary to the principle of non refoulement. We urge the Danish Government to pay special attention to the principle of non refoulement in cases of Dublin-returns to e.g. Italy, Bulgaria and other countries where international organisations, national human rights NGOs and asylum seekers have raised severe criticism of the conditions for asylum seekers and refugees and the risk of refoulement to the country of origin.

According to the political programme of the present government from Oct. 2011 the Government will examine the Aliens Act in order to see if the act is in accordance with the UN Convention on the Rights of the Child, and see which initiatives and changes might be necessary to make. Unfortunately this study has not been made. The reporting group finds that the deportation of rejected asylum families after several years of stay in Denmark shall take the best interest of the child and the child's right to private life into consideration, and accordingly, make the necessary changes to the Aliens Act.

Recommendation n°128: Strengthen safeguards against potential refoulement of persons in need of international protection, including by closely monitoring the situation in the countries of origin of the asylum-seekers (Recommended by Republic of Korea)

IRI: -

RWD response:

The Danish asylum department and Refugee Appeals Board has over the years had a very different view on the situation in especially Iraq, Afghanistan and Somalia than UNHCR and other European countries. Unfortunately no means have been taken to adjust the line of protection need better to that of our neighbour countries or UNHCR.

DIHR response:

According to the prohibition of torture in human rights law, states may not send or extradite a person to another state if it can be assumed that the person will be subjected to torture or inhumane or demeaning treatment in the receiving state.

With a ruling made on 23 January 2011, the European Court of Human Rights made it clear that sending asylum seekers back to Greece was a breach of the European Convention on Human Rights (ECHR) due to the country's inadequate asylum system. The ruling highlights the need for clarification of the Danish rules and practice in the area.

Joint response:

We acknowledge that Denmark - upon application - issues a residence permit to a foreigner if the foreigner falls within the provisions of the Convention relating to the Status of Refugees or if the foreigner risks the death penalty or being subjected to torture or inhuman or degrading treatment or punishment in case of return to his or her country of origin. However, we would like to emphasize that the principle of direct



and indirect non refoulement also applies in cases of return to another EU country according to the Dublin Regulation. As we have seen from the European Court of Human Rights' judgement in the case of *M.S.S. v. Belgium and Greece* of 21 January 2011, the returning state should ensure, that an asylum seekers return after the Regulation to another European country does not happen contrary to the principle of non refoulement.

We urge the Danish Government to pay special attention to the principle of non refoulement in cases of Dublin-returns to e.g. Italy, Bulgaria and other countries where international organisations, national human rights NGOs and asylum seekers have raised severe criticism of the conditions for asylum seekers and refugees and the risk of refoulement to the country of origin.

ENAR response:

+

DRC + SOSAR response:

The UN torture Committee has in a recent Opinion (Communication no. 464/202011) made a ruling that Denmark by deporting an Afghan refugee violated CAT article 3. This may also be the case with regard to deportation to Iraq, Iran or other countries known for massive violations of human rights.

Recommendation n°129: Take further concrete steps to ensure the rights of all its citizens in relation to the 24-year rule (Recommended by United Kingdom)

IRI: not implemented

RWD response:

The government has made some amendments regarding family reunification. However, the majority of discriminating legislation is still in effect, one of the most clearly discriminating ones being the limit of 24 years. There is no political will to change this, even though there is still no evidence that the rule works (bringing down the number of forced marriages). amendments regarding family reunification.

DIHR response:

Several amendments have been made on the area of family reunification. The following are example of some of these amendments.

In 2011 amendments were introduced regarding the 24 years-rule and a system of points were introduced. In 2012 the system of points were abolished, so it was the regulation before the 2011-amendment that applied.

According to section 9 (4) of the Aliens Act a financial security of 50.000DKK should be provided when applying for family reunification. In 2011, this amount was increased to 100.000DKK, but in 2012 it was decreased to 50.000DKK.

According to section 9 (7) family reunification can initially only be granted if the couple's combined connection to Denmark is greater than their combined connection to another country. This requirement can however be waived if the person residing in Denmark has had Danish citizenship for more than 26 years or has had legal residence in Denmark for more than 26 years. This exception to the connection



requirement was in 2012 changed from 28 years to 26 years. In relation to the amendment, DIHR recommended that the effects of the connection requirement and the 26-years rule was regularly monitored in order to view if the rules are proportionate.

The Danish Aliens Act has, since it was adopted in 1983, been subject to many amendments (94 amendments from June 1983 until May 2013). This has led to a complex regulation for both the persons applying for residence permit, but also for the persons administrating the act. DIHR has in November 2013 recommended that the Danish Aliens Act is revised to ensure a clear and systematic presentation of the legislation, including describing the relationship to Denmark's international obligations.

ENAR response:

+

DRC + SOSAR response:

The right to family life is a core human right and must be respected, however the Danish Aliens Act is violation with this right and should be amended including the requirement of being 24 years old (which also affects UK citizens – who made the recommendation) before you can be allowed family reunification with your spouse.

Recommendation n^o130: *Ensure that non-Danish residents can also fully enjoy their basic human rights, paying special attention to access to justice* (Recommended by Brazil)

IRI: not implemented

RWD response:

In several areas non-Danish residents have limited access to justice. The first hindrance is the language - all public communication is only in Danish. Residents on Green Card have no access to free Danish language training or information about how to look for jobs. Free juridical counselling is very limited and usually run by volunteers. The Alien Act is by far the most complex and often changed law complex in Denmark, impossible to fully comprehend for even most trained lawyers.

DIHR response:

In 2008, DIHR examined the Copenhagen Municipality's practice on equal treatment. The examination among others showed that persons with inadequate Danish language skills had a difficult time accessing information and did not know their rights and duties. Information from public authorities are often not translated to other languages than Danish and are often difficult to understand. It has also been stressed during a hearing at Rigshospitalet (hospital under the Capital Region of Denmark) that the greatest barrier regarding the use of interpreters is the lack of qualified and educated interpreters.

DIHR has latest in November 2013 in its status report on ethnic origin recommended that Denmark ensures an increased access to information from the authorities to non-Danish speaking persons and ensures that the authorities as far as possible use qualified interpreters.



In 2011, DIHR published a report, “Ethnic profiling in Denmark – legal safeguards within the field of work of the police”. According to the report there is an insufficient criminal protection against and lack of knowledge regarding hate crimes in Denmark. The report also points at a lack of knowledge about hate crimes at the police. Since the spring of 2011 several initiatives have been launched in order to establish a more efficient handling of hate crimes, including for example theme days of further training of the police initiated by the Danish Security and Intelligence Service (PET) and DIHR and revised information from the Director of Public Prosecutions on the topic and courses for prosecutors and judges. DIHR has latest in November 2013 in its status report on ethnic origin recommended that Denmark draft a national action plan and increase the Danish Prosecution service’s effort against hate crimes.

ENAR response:

+

DRC + SOSAR response:

The right to family life is a core human right and must be respected, however the Danish Aliens Act is violation with this right and should be amended including the requirement of being 24 years old before you can be allowed family reunification with your spouse.

Recommendation n^o133: *Ensure that detention of refugees, migrants and asylum-seekers is applied only as a last resort (Recommended by Slovakia)*

IRI: not implemented

RWD response:

Detention of asylum seekers is unfortunately fully up to the police. If the police has some kind of suspicion that the person might go underground or leave the country, they will ask for detention, which is with no exceptions granted by the judges. No other remedies are tried first, and the suspicion does not have to be argued for. Furthermore, there is no screening for victims of torture, mentally ill or other vulnerable groups - all asylum seekers can be detained.

DIHR response:

According to human rights law, Denmark must, when detaining people, give special consideration to vulnerable individuals, and children should only be detained as a last resort. In Denmark, psychologically and physically vulnerable asylum seekers are placed in the Prison Service’s closed prison for detained foreigners, called Ellebæk, in line with other asylum seekers. Moreover, in a number of cases asylum seekers who are minors have also been detained at Ellebæk.

In the comments to the Danish Aliens Act regarding detention of asylum seekers, it is stated, that detention of asylum seekers should be omitted if the detention will be particular burdening on the asylum seeker, for example if the applicant is single with children or can document serious illness. According to a strategy from the National Commission of the Danish Police (updated in January 2011) detention shall always be used with consideration and only if (and as long as) it is necessary to reach an objective aim.



Foreigners who are convicted and cannot be deported by Denmark because they risk torture or similar assault in the receiving country, reside in the country under so-called 'tolerated residence'. Persons on tolerated residence must, as a rule, reside in the asylum centre, Center Sandholm, as well as regularly report to the police.

Joint response:

Denmark has not implemented the recommendation. We regularly visit the immigration detention centre Ellebæk (once or twice a week) in order to provide legal counselling to detained asylum seekers. Occasionally we also visit prisons and other detention facilities where asylum seekers are sometimes held. We find that asylum seekers are too often detained without sufficient regard to their possible vulnerability, including mental illnesses and history of trauma and torture. We find that there is not sufficient care for and attention to vulnerable asylum seekers during detention. When the migration or the traumatic experiences - maybe even torture - has caused the asylum seeker to develop PTSD or similar diseases, this asylum seeker is obviously even more vulnerable, and detention should be avoided or used with great caution. It should be mentioned that we have never heard of a case where the court has denied detention and referred the Police to use sufficient but less coercive measures. From various sides we have been informed that this is very rarely even discussed at the court proceedings which should ensure the principle of less coercive measures. We urge the Danish Government to provide effective safeguards through legislation to ensure that it is being stressed that detention is the last resort and that less coercive measures should be used. One of our observations is also that many asylum seekers show a lack of understanding of the reasons for their detention and the further procedure. We are concerned that the Danish National Police often and without a sufficiently thorough explanation present the detainee with a form to sign whereby the detainee waives his/her right to a court hearing and agrees to another four weeks of detention. We urge the Danish Government to ensure sufficient training of the Danish National Police in these matters. Detention of asylum seekers for several months is not unusual. Given that asylum seekers are detained without having committed any crime several months of detention is very long. And in light of the issues mentioned above months of detention is unreasonably long. We urge the Danish Government to monitor closely the length of detention for asylum seekers and to take action to minimize detention in length and as a whole.

Issues of concern with regard to particularly vulnerable groups of persons who have been deprived of their liberty – asylum seekers:

The detention facility in Ellebaek for rejected asylum seekers awaiting deportation. Adjacent to the primary accommodation centre for asylum seekers in Denmark, the Sandholm Camp, lies the detention facility named Ellebaek.

Ellebaek is used primarily for detaining rejected asylum seekers awaiting deportation, and about whom the police find reason to believe that they will abscond, go underground, etc. in order to evade deportation. Furthermore, Ellebaek, is used to detaining asylum seekers who do not cooperate loyally in accounting for their claim for asylum in Denmark, do not attend asylum interviews for which they have been summoned etc.



On 7-9 May 2012 Amnesty International's Medical Group carried out a medical examination of persons in custody in Ellebaek. (Participation was voluntary and covered 22 detainees out of a total of 43 detainees on the said dates). The medical examination was based on the principles laid down in the UN Istanbul Protocol. PTSD was assessed in pursuance of the World Health ICD-10 Classification, so that all of the below criteria must be met in order to reach the diagnosis of PTSD:

A: Previous exposure to exceptionally grave strain/stress (to the degree of catastrophe)

B: 1) Recurring reliving of the trauma in "flashbacks", insistent/compulsory/pressing memories,

or 2) Strong discomfort by exposure to circumstances reminding the person of the trauma.

C: Avoidance of everything/anything that revives memories/reminds of the trauma.

D: 1) Partial or complete loss of memory/remembrance of the traumatic experience, or 2) continuous/persistent symptoms of mental/psychological hypersensitivity or alert with at least two of the following symptoms: trouble falling asleep/interrupted sleep, irritability or bursts of anger, concentrations difficulties, hyper virgility (increased alertness/watchfulness), inclination /impulse to cower.

E: Symptoms appear/begin within six months of the traumatic experience.

Conclusion of the survey

- 27% of the detained asylum seekers examined were torture survivors.
- 33% of the torture survivors suffered from PTSD.
- One person among the non-torture survivors was found to be psychotic.
- On average the examined persons suffered from pains in two organ systems. 27% were in continuous treatment with pain-relieving medication.
- 63% of all the examined persons had a WHO-Five well-being score below 13, equivalent of "poor well-being".
- The survey is a spot check, which describes the situation at a given time, and it deals with a relatively small group. Further research is, therefore, recommended by the Medical Group.
- It is the opinion of the Medical Group that the results of the survey indicate that the present legislation and guidelines do not ensure that particularly vulnerable groups are not deprived of their liberty in Ellebaek. Amnesty International's Medical Group finds that there is a need for establishing a formalized screening system, which ensures that vulnerable asylum seekers, such as torture survivors and mentally ill persons, are not deprived of their liberty.

Detention of foreign children.

The reporting group finds that two issues need further attention regarding detention of foreign children.

1. Detention of separated children with false documents. The reporting group wants to stress the importance of a review of the guidelines for treatment of cases, in which asylum seekers use false documents in relation to entering Denmark that also covers separated children aged 15-17. According to the guidelines, separated children can



be prosecuted and imprisoned for false identification papers if they receive subsidiary protection in Denmark. And separated children who have entered on false documents and have not received refugee status or protection status will not be able to apply for protection under the special rules in the Danish Aliens Act regarding separated children. The reporting group is deeply concerned about the harm it may cause children not to receive the same protection as other separated children, if they have entered the country with false papers. We also fear the effects it might have on a child who have received a subsidiary protection status to begin its integration in Denmark with a prison sentence and a criminal record. We strongly encourage the Danish state to review the guidelines and bring them in line with the Convention on the Rights of the Child and the Gen. Comments no. 6.

2. Detention of separated children prior to forced return: If it is determined that there is a risk that a separated child will resist cooperation prior to a forced return, the child might be detained with adults who are also awaiting deportation. The Danish government argues that the children are not detained in adult prisons with criminals (§ 37, stk. 10). The reporting group finds that it should be stressed that the detention of children in migration can only be done as a last resort and for the shortest possible period. In the exceptional situation that a child is detained, the child should be separated from adults (and not just adults who committed the crime). "Special arrangements must be made for living quarters that are suitable for children and that separate them from adults, unless it is considered in the child's best interests not to do so. Indeed, the underlying approach to such a program should be "care" and not "detention". CRC/GC/2005/6 (63).

ENAR response:

+

DRC + SOSAR response:

A recent study of detained asylum seekers showed that about 20 % were torture victims from their countries of origin. Thus there is a real need for a screening process to identify such torture victims in order not to detain them in prisons but rather secure the care they need.

Recommendation n°134: *Assess in an open and transparent manner the consequences of flights conducted over Danish territory and landings that took place in the context of the Central Intelligence Agency extradition programme (Recommended by Switzerland)*

IRI: *partially implemented*

Joint response:

After the change in government in 2011 the Danish government and Greenland agreed that the Danish Institute for International Studies (DIIS) should conduct an independent investigation. The report was published in 2012 and is [[available online](#)].

DIIS was appointed to investigate double play/foul play between Denmark and USA in the preparation of the Inter-Ministerial statement (CIA-statement) on secret CIA flights on Danish and Greenlandic territory. Moreover, DIIS was, based on information and relevant material made available by the Danish central



administration, to conduct a verification of the findings and conclusions of the inter-ministerial statement.

The independent investigation was subject to a deadline, and DIIS did not have the same free access to information as the inter-ministerial statement was based on, this included that access to requested information was subject to approval by the Ministries and furthermore, that DIIS did not have the opportunity to interview relevant Ministers and officials or present them with their findings. Therefore, DIIS states that the conclusions of the report have been made with some caution.

DIIS concludes that the claims made with respect to suspected foul play/ double play in the issuing of the Inter-ministerial Statement was unfounded. That the conclusions of the CIA-statement are, on the basis of DIIS investigation of the available written documents, correct. However, the CIA-statement did not include information about the interpretation of existing law by the Danish Ministry of Justice, namely that USA can freely transport prisoners through the airspace without Danish consent, as long as the aircraft does not stopover on Danish territory. The Ministry of Justice's position on the legality of use of Danish airspace should have been included in the report and has not been made public in connection with the publication of the 2008 Inter-ministerial report. Furthermore, the perception of the Ministry of Justice is contrary to the political guarantee provided by the USA in 2008 that prohibited all rendition flights without the prior express permission by the Danish State. Finally, the report concludes that the guarantee given by the USA should not be interpreted as a broad legal guarantee including all transports of detainees but political guarantee safeguarding against extraordinary renditions, especially seen in the light of the interpretation of the Ministry of Justice.

International Instruments

Recommendation n^o1: *Extend the applicability of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children to Greenland and to the Faroe Islands* (Recommended by Hungary)

IRI: *not implemented*

DIHR response:

The territorial reservations have not been withdrawn.

Joint response:

Denmark has not implemented the recommendation. The territorial reservations have not been withdrawn.

Recommendation n^o2: *Withdraw its reservations to the Convention on the Rights of the Child and its Protocols* (Recommended by Brazil)

IRI: *not implemented*



DIHR response:

Denmark has not implemented the recommendation. Denmark has taken no steps towards withdrawing its reservations.

Joint response:

Denmark has not implemented the recommendation. There have been no initiatives to withdraw Denmark's reservation to art. 40. The reporting group further recommends Denmark to ratify the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure.

Recommendation n°3: *Sign and ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, sign and ratify the Optional Protocol to the Convention on the Rights of Persons with Disabilities (Recommended by Spain)*

IRI: *not implemented*

+

Recommendation n°23: *Accept the right to present individual communications provided for in the Optional Protocol to the Convention on the Rights of Persons with Disabilities and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, and withdraw the reservation to the International Covenant on Economic, Social and Cultural Rights (Recommended by Ecuador)*

IRI: *not implemented*

DIHR response:

The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights

An expert committee has been established by the Ministry of Justice to draft a report concerning the consequences of incorporating seven of the UN core human rights conventions, ratification of additional optional protocols concerning individual complaints to UN human rights committees and ratification of Protocol No. 12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms. The expert committee is expected to deliver a report in 2014 with recommendation on whether or not to incorporate and ratify further human rights instruments. Based on the committee's recommendations the Danish government will consider future steps.

The Optional Protocol to the Convention on the Rights of Persons with Disabilities

However, the Danish Government has expressed that it intends to accede to the protocol. A public inquiry on draft of Act on ratification of the Optional Protocol to the Convention on the Rights of Persons with Disabilities was completed in January 2014.

Joint response:

OP-ICESCR: Denmark has not implemented the recommendation. The government argues that the International Covenant on Economic, Social and Cultural Rights is vague and imprecise. The reporting group does not consider the argument valid. Rather, we find the causes of difficulties in ratification on the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights founded on the fact



that Denmark has a low level of implementation of international covenants and conventions in national legislation. Therefore, we find that the recommendation is still pertinent and can be followed fruitfully if connected with a higher degree of implementation.

OP-CRPD: Denmark has not implemented the recommendation. However, at the present moment an Act on ratification of the Optional Protocol to The Convention on the Rights of Persons with Disabilities is on its way through parliament. As the act is proposed by the government it already has a majority. The reporting group is thankful and satisfied that the government has taken this initiative, and looks forward to fully utilise the Convention on the Rights of Persons with Disabilities. We clearly see it as a state obligation to inform the public about the options under the protocol and, in accordance with the Convention on the Rights of Persons with Disabilities, expect to be involved in these efforts.

Recommendation n°4: *Ratify the International Convention for the Protection of All Persons from Enforced Disappearance (Recommended by Spain)*

IRI: not implemented

DIHR response:

The initial study has not been completed.

Joint response:

Denmark has not implemented the recommendation. In response to the recommendations given during the UPR in 2011 Denmark explained that it was taking steps to ratify CED and that these included amending and harmonizing national legislation to ensure full compliance with the Convention. Furthermore, Denmark stated that it would initiate a study on the legal implications of accepting the competence of the Committee on Enforced Disappearances provided for in articles 31-32. It is uncertain whether the mentioned study has been initiated, but what remains certain is that no such study has been made public as of January 2014. We urge the government to ratify CED without delay, to accept the competence of the Committee under articles 31-32 and provide information as to when this will happen.

Recommendation n°5: *Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (Recommended by Palestine)*

IRI: not implemented

DIHR response:

An expert committee has been established to draft a report concerning the consequences of incorporating seven of the UN core human rights conventions, ratification of additional optional protocols concerning individual complaints to UN human rights committees and ratification of Protocol No. 12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms. The expert committee is expected to deliver a report in 2014 with recommendation on whether or not to incorporate and ratify further human rights instruments. Based on the committee's recommendations the Danish government will consider future steps



Joint response:

Denmark has not implemented the recommendation. The Ministry of Justice has established an expert committee, which is mandated to draft a report concerning the consequences of incorporating seven of the UN core human rights conventions and ratifying additional optional protocols concerning individual complaints to UN treaty bodies and Protocol No. 12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms. The expert committee was due to deliver its report in 2013, but it has now been postponed to April 2014. The expert committee will recommend whether or not to incorporate one or more of the seven core UN human rights treaties in Danish law. Based on the committee's recommendations the Danish government will consider future steps. The reporting group recommends the incorporation of the seven core UN human rights treaties into national law.

Recommendation n°6: *Become party to the Optional Protocol of the Convention on the Rights of Persons with Disabilities* (Recommended by Austria)

IRI: not implemented

+

Recommendation n°7: *Proceed to the ratification of the Optional Protocol to the Convention on the Rights of Persons with Disabilities as soon as possible* (Recommended by France)

IRI: not implemented

+

Recommendation n°8: *Become a party to the Optional Protocol to the Convention on the Rights of Persons with Disabilities* (Recommended by Australia)

IRI: not implemented

+

Recommendation n°9: *Sign, ratify and implement the Optional Protocol to the Convention on the Rights of Persons with Disabilities* (Recommended by United Kingdom)

IRI: not implemented

DIHR response:

The Danish Government has expressed that it intends to accede the protocol. A public inquiry on draft of Act on ratification of the Optional Protocol to The Convention on the Rights of Persons with Disabilities was completed in January 2014.

Joint response:

Denmark has not implemented the recommendation. However, at the present moment an Act on ratification of the Optional Protocol to The Convention on the Rights of Persons with Disabilities is on its way through parliament. As the act is proposed by the government it already has a majority. The reporting group is thankful and satisfied that the government has taken this initiative, and looks forward to fully utilise the Convention on the Rights of Persons with Disabilities. We clearly see it as a state obligation to inform the public about the options under the protocol and, in accordance with the Convention on the Rights of Persons with Disabilities, expect to be involved in these efforts.



ENAR response:

+

DRC + SOSAR response:

Is about to be implemented by the new Danish Government which is strongly endorsed

Recommendation n°10: *Accede to other international human rights instruments to which it is not yet party in order to strengthen its national provisions to ensure human rights specifically with regards to persons with disabilities* (Recommended by Burkina Faso)

IRI: not implemented

DIHR response:

An expert committee has been established to draft a report concerning the consequences of incorporating seven of the UN core human rights conventions, ratification of additional optional protocols concerning individual complaints to UN human rights committees and ratification of Protocol No. 12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms. The expert committee is expected to deliver a report in 2014 with recommendation on whether or not to incorporate and ratify further human rights instruments. Based on the committee's recommendations the Danish government will consider future steps.

Joint response:

Denmark has not implemented the recommendation. So far recognition of discrimination and inadequate fulfilment of rights stems from a low level of recognition of multiple discrimination. As disability is often not mentioned in relation to other groups or issues such as refugees, women, children, international development etc. the fulfilment of rights for persons with disabilities in areas where disability is not the primary consideration, is accordingly low. Therefore, more coherent and deliberate attention should be paid to the fulfilment of rights for persons with disabilities, accession to more human rights instruments included.

Recommendation n°11: *Ratify as soon as possible the International Convention for the Protection of All Persons from Enforced Disappearance and fully recognize the competence of the Committee on Enforced Disappearances, as provided for in articles 31 and 32 of the Convention* (Recommended by France)

IRI: not implemented

DIHR response:

The initial study has not been completed.

Joint response:

Denmark has not implemented the recommendation. In response to the recommendations given during the UPR in 2011 Denmark explained that it was taking steps to ratify CED and that these included amending and harmonizing national legislation to ensure full compliance with the Convention. Furthermore, Denmark stated that it would initiate a study on the legal implications of accepting the competence of the Committee on Enforced Disappearances provided for in articles 31-32. It is uncertain whether the mentioned study has been initiated, but what remains certain is that no such study has been made public as of January 2014. We



urge the government to ratify CED without delay, to accept the competence of the Committee under articles 31-32 and provide information as to when this will happen.

Recommendation n°12: *Continue commitment to human rights through the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families in accordance with recommendation 1737 of 17 March 2006, adopted by the Parliamentary Assembly of the Council Europe, of which Denmark is a member (Recommended by Algeria)*

IRI: not implemented

+

Recommendation n°13: *Sign and ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Recommended by Egypt)*

IRI: not implemented

+

Recommendation n°14: *Become party to the remaining United Nations human rights instruments, in particular the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Recommended by Pakistan)*

IRI: not implemented

+

Recommendation n°15: *Study the possibility of ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Recommended by Argentina)*

IRI: not implemented

+

Recommendation n°19: *Ratify and implement the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Recommended by Morocco)*

IRI: not implemented

+

Recommendation n°20: *Adhere to or ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Recommended by Ecuador)*

IRI: not implemented

+

Recommendation n°25: *Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Recommended by Guatemala)*

IRI: not implemented

DIHR response:

The Danish Government stated in May 2013 that the Convention has not been ratified by Denmark due to the uncertainty of the consequences in relation to existing legislation.

None of the EU Member States have signed the 1990 UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. It is the position of the EU Commission that the insufficient distinction in the Convention between the economic and social rights of regular and irregular migrant workers is



not in line with national and EU policies, and has therefore become a fundamental obstacle. It is the view of the Commission that there may be scope, in the longer term, for reviewing the current composite normative framework, including the option of working towards a new convention that addresses the rights of all migrant workers, adapted to the realities and challenges of the 21st century.

ENAR response:

+

DRC + SOSAR response:

The Convention on Migrants Rights is an important legal instrument and must be ratified and incorporated by Denmark

Recommendation n°16: *Study the possibility of ratifying the International Convention for the Protection of All Persons from Enforced Disappearance* (Recommended by Argentina)

IRI: *not implemented*

+

Recommendation n°17: *Ratify the International Convention for the Protection of All Persons from Enforced Disappearance* (Recommended by Brazil)

IRI: *not implemented*

DIHR response:

The initial study has not been completed.

Joint response:

It is uncertain whether Denmark has implemented the recommendation. In response to the recommendations given during the UPR in 2011 Denmark explained that it was taking steps to ratify CED and that these included amending and harmonizing national legislation to ensure full compliance with the Convention. Furthermore, Denmark stated that it would initiate a study on the legal implications of accepting the competence of the Committee on Enforced Disappearances provided for in articles 31-32. It is uncertain whether the mentioned study has been initiated, but what remains certain is that no such study has been made public as of January 2014. We urge the government to ratify CED without delay, to accept the competence of the Committee under articles 31-32 and provide information as to when this will happen.

Recommendation n°18: *Review its reservations to a number of international human rights instruments with a view to withdrawing them completely* (Recommended by South Africa)

IRI: *not implemented*

DIHR response:

Denmark has taken no steps towards withdrawing its reservations.

Joint response:

Denmark has not implemented the recommendation. No steps have been taken towards withdrawing the reservations.



ENAR response:

+

DRC + SOSAR response:

From the point of view of international agreements, countries should not take on reservations but fully accept the agreements, especially with regard to human rights treaties. Consequently Denmark should lead the way.

Recommendation n°21: *Adhere to or ratify the International Convention for the Protection of All Persons from Enforced Disappearance* (Recommended by Ecuador)

IRI: *not implemented*

DIHR response:

The initial study has not been completed.

Joint response:

Denmark has not implemented the recommendation. In response to the recommendations given during the UPR in 2011 Denmark explained that it was taking steps to ratify CED and that these included amending and harmonizing national legislation to ensure full compliance with the Convention. Furthermore, Denmark stated that it would initiate a study on the legal implications of accepting the competence of the Committee on Enforced Disappearances provided for in articles 31-32. It is uncertain whether the mentioned study has been initiated, but what remains certain is that no such study has been made public as of January 2014. We urge the government to ratify CED without delay, to accept the competence of the Committee under articles 31-32 and provide information as to when this will happen.

Recommendation n°22: *Adhere to or ratify Protocol No. 12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms concerning the general prohibition of discrimination* (Recommended by Ecuador)

IRI: *not implemented*

DIHR response:

An expert committee has been established by the Danish Ministry of Justice to draft a report concerning the consequences of incorporating seven of the UN core human rights conventions, ratification of additional optional protocols concerning individual complaints to UN human rights committees and ratification of Protocol No. 12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms. The expert committee is expected to deliver a report in 2014 with recommendation on whether or not to incorporate and ratify further human rights instruments. Based on the committee's recommendations the Danish government will consider future steps.

Joint response:

Denmark has not implemented the recommendation. The lack of ratification of protocol 12 enables the state to maintain an unsatisfying legislation on non-discrimination resulting in unequal access to legal instruments. Discrimination grounds other than gender and ethnicity are subject to subpar protection.



ENAR response:

+

DRC + SOSAR response:

Protocol no. 12 includes a very important non-discrimination clause and Denmark should thus sign and ratify the Optional Protocol in order to allow victims of racial discrimination to use this redress.

Recommendation n°24: *Greenland and Faroe Islands to ratify the following international instruments: Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and ensure their application* (Recommended by Ecuador)

IRI: not implemented

DIHR response:

The territorial reservations have not been withdrawn.

Joint response:

Denmark has not implemented the recommendation. The territorial reservations have not been withdrawn.

Recommendation n°26: *Incorporate into domestic law its international human rights obligations under the Conventions to which it is party* (Recommended by Canada)

IRI: not implemented

+

Recommendation n°28: *Incorporate international human rights instruments to which it is party into its legal system, as recommended by the various treaty monitoring bodies* (Recommended by South Africa)

IRI: not implemented

+

Recommendation n°29: *Incorporate the different provisions of the United Nations core human rights conventions, ratified by Denmark, into national law* (Recommended by Netherlands)

IRI: not implemented

+

Recommendation n°33: *Incorporate the provisions of the United Nations conventions on human rights into national legislation, to ensure the direct application of international treaties by the courts* (Recommended by Kyrgyzstan)

IRI: not implemented

DIHR response:

An expert committee has been established by the Ministry of Justice to draft a report concerning the consequences of incorporating seven of the UN core human rights conventions, ratification of additional optional protocols concerning individual complaints to UN human rights committees and ratification of Protocol No. 12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms. The expert committee is expected to deliver a report in 2014 with recommendation on whether or not to incorporate and ratify further human rights instruments. Based on the committee's recommendations the Danish government will consider future steps.



Joint response:

Denmark has not implemented the recommendation. The Ministry of Justice has established an expert committee, which is mandated to draft a report concerning the consequences of incorporating seven of the UN core human rights conventions. The expert committee was due to deliver its report in 2013, but it has now been postponed to April 2014. The expert committee will recommend whether or not to incorporate one or more the seven core UN human rights treaties in Danish law. Based on the committee's recommendations the Danish government will consider future steps. The reporting group recommends the incorporation of the seven core UN human rights treaties into national law.

DRC + SOSAR response:

+

ENAR response:

The European Convention on Human rights was incorporated into Danish legislation in 1992, and have since made a huge impact on the level of protection of Human Rights in Denmark. Thus the same impact would follow with the incorporation of the UN human rights conventions, and the new Danish government should therefore incorporate these conventions as soon as possible.

Recommendation n°27: *Bring its national legislation in line with its international obligations* (Recommended by Egypt)

IRI: *not implemented*

DIHR response:

The adoption of a new act in 2012 states that the Danish Institute for Human Rights (DIHR) shall work to strengthen research and information relating to human rights in times of peace and under armed conflict. The Act broadens the references to international human rights to cover the Charter on Fundamental Rights of the European Union as well as the human dimension of the OSCE. Moreover, the 2012 Act inserts a new provision on the monitoring and reporting role of DIHR, which is an increasingly important function of DIHR. Another highlight of the 2012 Act is the explicit reference to the "freedom to conduct independent research" of the Danish Institute, underscoring independency, both on and institutional level and on an individual level. In relation to the special mandate on monitoring the implementation of the UN Disability Convention according to article 33 (2) of the CRPD and Greenland, it appears that the DIHR will be mandated to take on this task by the Greenlandic government and parliament, within the funding already allocated to the DIHR.

Joint response:

Denmark has not implemented the recommendation: Denmark has ratified seven of the major UN human rights conventions but not incorporated them into domestic legislation, contrary to the European Convention on Human Rights, which was incorporated in 1992. Several UN treaty bodies have repeatedly recommended incorporation of the UN conventions into Danish law, and the Danish Committee on Incorporation of Human Rights Conventions into Danish Law recommended in 2001 the incorporation of the International Covenant on Civil and Political Rights (ICCPR), the International Convention on the Elimination of All Forms of Racial Discrimination



(ICERD) and the Convention against Torture (CAT) into its domestic legal order. In addition to these there is also a lack of incorporation of the International Covenant on Economic, Social and Cultural Rights (ICESCR), The Convention of the Rights of the Child (CRC) and the International Convention Against all forms of Discrimination Against Women (CEDAW), Furthermore Denmark has not ratified the Optional Protocol to the Convention on the Rights of Persons with Disabilities (OP-CRPD), the International Convention on Migrant Workers (ICMW), the Optional Protocol on the International Convention on Economic, Social and Cultural Rights. Additionally, six years after signing the International Convention for the Protection of all Persons from Enforced Disappearances Denmark has not ratified the convention. The question of incorporation of UN human rights conventions into domestic legislation should be part of the discussion on the development and implementation of a national action plan for human rights. This action plan should be developed and implemented in close cooperation between the government, the national institution for human rights, and the civil society.

ENAR response:

+

DRC + SOSAR response:

The European Convention on Human rights was incorporated into Danish legislation in 1992, and have since made a huge impact on the level of protection of Human Rights in Denmark. Thus the same impact would follow with the incorporation of the UN human rights conventions, and the new Danish government should therefore incorporate these conventions as soon as possible.

Recommendation n°30: Extend the applicability of all international human rights instruments to which it has acceded to the whole territory of the country (Recommended by Azerbaijan)

IRI: not implemented

DIHR response:

Human rights instruments are acceded to with a territorial reservation concerning Greenland and the Faroe Islands, due to the principle of self-governance of said territories.

Joint response:

Denmark has not implemented the recommendation. The system with self-governance of Greenland and the Faroese Island require Denmark to enter into dialogue with the Greenlandic and Faroese Governments before human rights instruments are applicable in these territories. Therefore several human rights instruments are still acceded to with a territorial reservation concerning Greenland and the Faroe Islands. No reservations have been lifted recently.

On the issue of general applicability it could be noted that the Government has appointed an expert committee with the task of considering the possibility of incorporating a number of treaties into Danish law as well as signing and ratifying optional protocols on individual communications. If the recommendations of the committee are to incorporate UN core treaties and if the recommendations receive political support in Parliament, it is assessed to have a positive impact on the general



applicability of international human rights instruments before courts of law and other law applying bodies and institutions. The work of the committee has been postponed to April 2014.

Recommendation n°53: Respond to the remaining questionnaires on thematic issues sent by special procedures mandate holders (Recommended by Afghanistan)

IRI: not implemented

Joint response:

Denmark has not implemented this recommendation. The backlogs of responses to thematic questionnaires from special procedures of the Human Rights Council are to our knowledge among others questions from the Committee against Torture (CAT) and the Committee on the Elimination of Racial Discrimination (CERD). It seems, however, that the government at present is lacking any kind of overview of the total of thematic questionnaires received, questionnaires forwarded to the relevant departments, and questionnaires responded to. It is the general opinion that the flow of questionnaires from the special procedures is huge, and that dead-lines are often too short. We recommend that both government and OHCHR consider streamlining the process.

Recommendation n°72: Implement the recommendation of treaty bodies and special procedures to introduce the offence of torture into the Criminal and Military Criminal Codes, as well as align rules and provisions on the statute of limitations with the Convention against Torture (Recommended by Russian Federation)

IRI: partially implemented

RWD response:

To our knowledge this has not been done, in spite of campaigning from Amnesty International in Denmark over years to do this.

DIHR response:

The Danish government expressed in its response to the recommendation in 2011 that all actions considered to be covered by the definition of torture in Article 1 of the Convention against Torture – including acts where mental pain and suffering is inflicted on the victim – are already covered by existing provisions of Danish criminal law. Furthermore, there is a special provision in the Danish Criminal Code making torture an aggravating circumstance in the determination of the sentence for violation of the Criminal Code. The Criminal Code explicitly states that a crime of torture can never be subject of limitation.

DIHR agrees with the information provided by the Danish government.

Joint response:

Denmark has not implemented this recommendation. Torture is not a specific criminal offence in the Criminal Code, but only an aggravating circumstance in its criminal law. The UN Committee against Torture has repeatedly called upon Denmark to incorporate a specific offence of torture, as defined in article 1 of the Convention, in its Criminal Code and Military Criminal Code making it a punishable offence as set out in article 4, para. 2 of the Convention (CAT/C/CR/28/1 para. 6(a) and CAT/C/DNK/CO/5 para. 10). Defining and criminalizing the crime of torture is



central to fight impunity, which is one of the root causes for the widespread practice of torture as well as ensuring full redress to the victims of torture by prosecution of the perpetrators. The UN Committee against Torture has reiterated the importance of naming and defining the offence of torture in accordance with the Convention as distinct from other crimes which will directly advance the overarching aim of preventing torture, inter alia by alerting everyone to the specific gravity of the crime of torture and by improving the deterrent effect of the prohibition itself (CAT/C/SWE/CO/5, pkt. 9-10). Denmark is urged to incorporate torture as a specific offence under national criminal law, which will also support the repeated position of the Danish state as being a leading international actor in the prevention of torture and ill-treatment (among other CAT/C/SR.757, para. 3).

Statute of limitation: The Criminal Code and Military Criminal Code were amended in 2008 (Lov nr. 494 af 17/06/2008), and a new provision was introduced whereby acts of torture are not subject to any statute of limitation (Criminal Code § 93 b jf. §157a and Military Criminal Code § 10a). However, this legislative amendment took place with a delay of several years. Already in 2003, the UN Committee Against Torture had established that States parties should repeal the statute of limitation for crimes of torture (CAT/C/CR/30/5, 27/5 2003). This has also been established by the European Court of Human Rights (*Abdülsamet Yaman v Turkey*, 2/11 2004, pr 55). The fact that Denmark only brought its national criminal legislation in accordance with its international obligations in 2008 has prevented Denmark from fulfilling another obligation under the UNCAT, namely to ensure that there are no safe havens from where perpetrators of torture can escape responsibility (universal jurisdiction regime).

In January 2014, Mr Carmi Gillon, a former head of the Israeli intelligence service Shin Bet, visited Denmark. He is known to have been responsible for Shin Bet's use of torture and 'moderate physical pressure' under his leadership in 1994-95. A complaint of torture was filed to the Danish police during Gillon's stay in Denmark. Prior to the 2008-amendment of the Criminal Code, acts of torture were subject to a 10 year statute of limitation. As the torture in the present case took place in 1994-95, the Danish Prosecution concluded its preliminary investigation into the Gillon case. Denmark could not pursue the case, because responsibility for acts of torture, which have taken place before 1998, are time barred under Danish law. In conclusion, Denmark's delayed implementation of its international obligation - to ensure that acts of torture are never time barred - have effectively shielded an alleged perpetrator of torture for responsibility.

Recommendation n°77: Review the existing mechanism and framework for handling allegations of excessive use of force, including the use of weapons by law enforcement officials, in order to ensure full compliance with the Convention against Torture (Recommended by Uzbekistan)

IRI: not implemented

RWD response:

Amnesty International and others have pointed to the fact that Danish police use their weapons much more often than Swedish and Norwegian police, and quite often killing people. Very few cases result in suspension or verdicts against the police.

DIHR response:

The Danish Independent Police Complaints Authority investigates criminal cases against police officers and processes and decides complaints of police misconduct. Headed by a council and a chief executive, the Danish Independent Police Complaints Authority exercises its functions in complete independence of both police and prosecutors. The recruitment is done, however, from the police itself.

Since the use of pepper spray was introduced in the Danish police, the use of force has more than tripled. The use of pepper spray has also increased the overall use of force in prisons. The European Court of Human Rights has stated that pepper spray must not be used in confined areas. However, pepper spray is being used in confined areas in Danish prisons. The Danish Independent Police Complaints Authority is currently investigating the use of pepper spray in the police. DIHR is currently making a field study on the matter concerning both the use of pepper spray in the police and the use of pepper spray in prison facilities.

Joint response:

Denmark has not implemented this recommendation. In 2010, the ‘Independent Police Complaints Authority’ was established by Act. No. 404 of 21 April 2010, which entered into force on 1 January 2012. The Independent Police Complaints Authority is placed under the auspices of the Ministry of Justice, and is headed by the Police Complaints Council and the Chief Executive. The Police Complaints Council is the supreme governing body of the Authority and consists of a Chair, who must be a High Court judge, an attorney, a university lecturer of law and two representatives of the general public. Members of the Police Complaints Council are appointed by the Minister of Justice for four years at a time and are eligible for re-appointment once. The Chief Executive is in charge of the everyday operations of the Police Complaints Authority. The Authority is mandated to handle investigation of criminal cases against police officers and considers complaints of police misconduct. The Authority is authorized to make arrests and request orders for pre-trial from court; however, it is still the regional public prosecutor that has the power of indictment. Therefore, when the investigation is complete the application must be sent to the District Attorney General (statsadvokaten) who has the power of discretion to assess whether there are grounds for prosecuting, prepare the indictment, and conduct the proceedings. The decision of the prosecution can be appealed to the Director of Public Prosecution (rigsadvokaten). (See the Administration of Justice Act Chapter 11a)

The current structure and mandate of the Independent Police Complaints Authority does not fulfil the criteria of independence as the Authority still does not have the power to indict. Furthermore, it has been subject to debate amongst experts within criminal procedure that most investigations are carried out by former police officers and/or former prosecutors. The Danish government is urged to ensure the independence of the body and mandate the Authority with the power to indict in criminal cases and in cases of misconduct. Furthermore, ensure that the Authority has the necessary resources to effectively carry out its mandate.

Recommendation n^o100: *In light of the 1 July 2010 amendments to Danish legislation reducing the age for criminal responsibility to 14, bring it into line with the*

recommendations of the Committee on the Rights of the Child (Recommended by Kyrgyzstan)

IRI: *fully implemented*

RWD response:

The age was brought back to 15 as it was before, by the residing government.

DIHR response:

The age of criminal responsibility has been raised to its previous level at 15 years as per 1 March 2012.

Joint response:

Denmark has implemented the recommendation. The present government has raised the age of criminal responsibility from 14 to 15.

In 2012, the minimum age for criminal responsibility was raised from 14 years to 15 years (Criminal Code article 15, lov 2012, nr. 158).

The law initially lowering the age of criminal responsibility in 2010 also removed the bar of 8 years maximum sentence for criminal acts committed by young offenders under 18. Today the only existing limitation is that juvenile offenders cannot receive life imprisonment. The Committee on the Rights of the Child has emphasized “that the reaction to an offence should always be in proportion not only to the circumstances and the gravity of the offence, but also to the age, lesser culpability, circumstances and needs of the child, as well as to the various and particularly long-term needs of the society. A strictly punitive approach is not in accordance with the leading principles for juvenile justice spelled out in article 40 (1) of CRC” (CRC/C/GC/10). Therefore, we urge the Danish government to re-introduce a maximum sentence for young offenders under 18 that respect the principles of rehabilitation and restorative justice as emphasized by the Committee on the Rights of the Child when dealing with juvenile offenders.

Recommendation n^o116: Oversee the citizenship policy regarding the granting of citizenship to stateless persons in order to ensure that it corresponds with the Convention on the Reduction of Statelessness (Recommended by Finland)

IRI: *partially implemented*

RWD response:

A state scandal has unfolded, causing the former minister of Integration to be dismissed for unlawful conduct. The case against her is still pending. However, this case was concerning stateless children growing up in Denmark. The adults going through the normal procedure of citizenship do still have to fulfil the same high demands as everybody else. And we still have an unsolved problem when some rejected asylum seekers, who are in practice stateless, are deported to countries where they have no chance of obtaining citizenship. In these cases Denmark is participating in keeping this person stateless.

DIHR response:

The citizenship policy corresponds with (the minimum requirements of) the Convention on the Reduction of Statelessness apart from the Danish ‘lawful



residence' requirement for granting Danish born stateless persons citizenship; the convention only permit 'habitual residence' (article 1(2)(b)).

Joint response:

Denmark has partially implemented this recommendation. A new law makes it possible for children who are born and raised in Denmark, to acquire Danish nationality by declaration (and not by law), making it more swift for these children to gain Danish citizenship. With regards to stateless children, the reporting group in particular recommends that the Danish state takes steps to ensure that:

1. All children born stateless in Denmark are automatically granted Danish citizenship at birth.
2. Children born in Denmark of parents with refugee status and who are de facto stateless persons will be as eligible for citizenship as here born stateless children.
3. All stateless children and de facto stateless children, who get to stay in Denmark, have easier access to citizenship within a shorter period of time.

The citizenship policy and law corresponds with (the minimum requirements of) the Convention on the Reduction of Statelessness apart from the Danish 'lawful residence' requirement for granting Danish born stateless persons citizenship; the convention only permit 'habitual residence' (article 1(2)(b)).

ENAR response:

+

DRC + SOSAR response:

This is being implemented by a Commission on the handling of the applications for citizenship made by stateless youngsters.

Recommendation n°122: Ensure that any decision obliging a foreigner to leave the country is in accordance with international standards and under no circumstances should a person needing international protection be expelled, in accordance with the Convention Relating to the Status of Refugees, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Covenant on Civil and Political Rights, to all of which Denmark is a party (Recommended by Mexico)

IRI: not implemented

RWD response:

This is not the case. In the majority of rejected asylum cases the reason is "lack of credibility". The demand for consistent, precise and persuasive presentation of the story is not always possible for torture victims, illiterate women and unaccompanied minors. Many cases are rejected on dubious grounds, and as mentioned under 118 the Danish authorities are often not in line with UNHCR. In Denmark there is a demand for "concrete and individual threat" which is often difficult to prove. The decisions from the Appeals Board are final and cannot be taken further in the legal system.

DIHR response:

With a ruling made on 23 January 2011, the European Court of Human Rights made it clear that sending asylum seekers back to Greece was a breach of the European Convention on Human Rights (ECHR) due to the country's inadequate asylum system. The ruling highlights the need for clarification of the Danish rules and practice in the area..

ENAR response:

+

DRC + SOSAR response:

The UN torture Committee has in a recent Opinion (Communication no. 464/202011) made a ruling that Denmark by deporting an Afghan refugee violated CAT article 3. This may also be the case with regard to deportation to Iraq, Iran or other countries known for massive violations of human rights.

Joint response:

Denmark has partially implemented the recommendation. We acknowledge that Denmark - upon application - issues a residence permit to a foreigner if the foreigner falls within the provisions of the Convention relating to the Status of Refugees or if the foreigner risks the death penalty or being subjected to torture or inhuman or degrading treatment or punishment in case of return to his or her country of origin. However, we would like to emphasize that the principle of direct and indirect non refoulement also applies in cases of return to another EU country according to the Dublin Regulation. As we have seen from the European Court of Human Rights' judgement in the case of M.S.S. v. Belgium and Greece of 21 January 2011, the returning state should ensure that an asylum seekers return after the Regulation to another European country does not happen contrary to the principle of non refoulement. We urge the Danish Government to pay special attention to the principle of non refoulement in cases of Dublin-returns to e.g. Italy, Bulgaria and other countries where international organisations, national human rights NGO's and asylum seekers have raised severe criticism of the conditions for asylum seekers and refugees and the risk of refoulement to the country of origin.

In Communication No. 464/2011, 3 December 2012 the UN Committee against Torture established that Denmark - in the rejection of the complainant's asylum request without seeking further investigation on his claims nor ordering a medical examination - had failed to determine whether there are substantial grounds for believing that the complainant would be in danger of being subjected to torture if returned. Consequently, the Committee against Torture concluded that, in the circumstances, the deportation of the complainant to his country of origin would constitute a violation of article 3 of the UN Convention against Torture. Denmark had in the mean-time deported the asylum seeker to Afghanistan and is currently, after the criticism by the UN Committee, searching for the complainant to bring him back to re-open the case. Denmark is urged to use all possible avenues to find the complainant and in the future abstain from expelling, extraditing or in any way transferring a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture or ill-treatment (A/c.3/68/L.33/Rev.1).



In the High Court judgment U.2011.2904Ø, the Court found that Niels Holck, a Danish citizen wanted for prosecution on alleged terrorist activities, could not be extradited to India as there was a real risk of treatment in violation of ECHR article 3. The diplomatic assurance was not considered as sufficient protection or guarantee against torture, inhuman or degrading treatment when trustworthy sources of information establish that authorities participate in practices that are contrary to ECHR article 3.

Denmark should abstain from using diplomatic assurances when extraditing persons to prosecution as they do not provide protection or safeguards against torture or ill-treatment. As emphasized by the UN Special Rapporteur on Torture during his visit to Denmark in 2008, diplomatic assurances are an attempt to circumvent the absolute prohibition of torture and non-refoulement, and they are unreliable and ineffective.

Recommendation n°131: Implement the recommendations of the Committee on the Elimination of Racial Discrimination with regard to the conditions for family reunification of spouses (Recommended by Sweden)

IRI: partially implemented

DIHR response:

According to section 9 (4) of the Aliens Act a financial security of 50.000DKK should be provided when applying for family reunification. In 2011, this amount was increased to 100.000DKK, but in 2012 it was decreased to 50.000DKK.

According to section 9 (7) family reunification can initially only be granted if the couple's combined connection to Denmark is greater than their combined connection to another country. This requirement can however be waived if the person residing in Denmark has had Danish citizenship for more than 26 years or has had legal residence in Denmark for more than 26 years. This exception to the connection requirement was in 2012 changed from 28 years to 26 years. In relation to the amendment, DIHR recommended that the effects of the connection requirement and the 26-years rule was regularly monitored in order to view if the rules are proportionate.

The Danish Aliens Act has, since it was adopted in 1983, been subject to many amendments (94 amendments from June 1983 until May 2013). This has led to a complex regulation for both the persons applying for residence permit, but also for the persons administrating the act. DIHR has in November 2013 recommended that the Danish Aliens Act is revised to ensure a clear and systematic presentation of the legislation, including describing the relationship to Denmark's international obligations.

In 2012 it was to a comment to an amendment of the Aliens Act specified that if a person residing in Denmark cannot exercise his/hers family life in their country of origin or if it is otherwise in violation of ECHR article 8 to refer the person residing in Denmark to exercise the family life in another country, the conditions for family reunification will be departed from. This can for example be, if the person residing in Denmark has a residence permit as a refugee or subsidiary protection because this



person cannot return to his/hers country of origin because of the risk of persecution etc.

Recommendation n°132: *Implement the legal provisions and, where necessary, adopt legal reforms to guarantee family reunification of foreigners who have settled in Denmark, particularly family members of refugees, in accordance with the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, as well as the 1954 Convention Relating to the status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness (Recommended by Ecuador)*

IRI: *not implemented*

RWD response:

Legislation is still presenting a problem concerning the mentioned conventions.

DIHR response:

In 2012 it was to a comment to an amendment of the Aliens Act specified that if a person residing in Denmark cannot exercise his/hers family life in their country of origin or if it is otherwise in violation of ECHR article 8 to refer the person residing in Denmark to exercise the family life in another country, the conditions for family reunification will be departed from. This can for example be, if the person residing in Denmark has a residence permit as a refugee or subsidiary protection because this person cannot return to his/hers country of origin because of the risk of persecution etc.

Joint response:

Denmark has not implemented the recommendation. In principle, a person who has been recognized as a refugee in Denmark has the legal right to be reunited with his or her spouse and/or children below the age of 18 years. However, we often see examples where family reunification to e.g. a spouse is rejected even if the person in Denmark has status as a refugee. The Danish practice of family reunification states, that a marriage which has not been entered into before the flight of the person living in Denmark as a refugee does not automatically give the right to family reunification even if the marriage now constitutes a family life as defined in the European Convention of Human Rights Article 8. According to the Danish Government, the reason for this is that you cannot have a "legitimate expectation" to get family reunification if you did not have a family life as defined in Article 8 before the flight. In cases like this the Danish Immigration Service makes an assessment as to whether the refugee in Denmark can still be considered to be at risk of persecution as defined in the 1951 Convention Relating to the Status of Refugees upon return to the country of origin. If the Danish Immigration Service finds that the person is not at risk of persecution anymore, they will refer the family to enjoy their right to family life in the country of origin. This assessment does not meet the normal legal standards of the Danish asylum procedure and the refugee does not have the possibility to make an appeal to the Refugee Appeals Board in case of the before mentioned assessment from the Danish Immigration Service but a complaint has to be forwarded to the Immigration Appeals Board, which deals with general cases of family reunification etc. We find it necessary to enhance legal certainty by establishing a right to appeal the assessment of continued risk of persecution to the Refugee Appeals Board as The Refugee Appeals Board has the appropriate expertise and an asylum lawyer will



be able to assist in order to ensure the appropriate treatment of this particular type of case.

ENAR response:

+

DRC + SOSAR response:

The right to family life is a core human right and must be respected, however the Danish Aliens Act is violation with this right and should be amended including the requirement of being 24 years old (which also affects UK citizens – who made the recommendation) before you can be allowed family reunification with your spouse.

Justice

Recommendation n°32: *Ensure that all acts of torture are specific offences under its criminal law* (Recommended by *Canada*)

IRI: *not implemented*

+

Recommendation n°73: *Specifically envisage including the offence of torture in the penal and military codes* (Recommended by *Uzbekistan*)

IRI: *not implemented*

+

Recommendation n°74: *Incorporate the crime of torture in the Criminal Code and the Military Criminal Code* (Recommended by *Spain*)

IRI: *not implemented*

RWD response:

To our knowledge this has not been done, in spite of campaigning from Amnesty International in Denmark over years to do this.

DIHR response:

The Danish government expressed in its response to the recommendation in 2011 that all actions considered to be covered by the definition of torture in Article 1 of the Convention against Torture – including acts where mental pain and suffering is inflicted on the victim – are already covered by existing provisions of Danish criminal law. Furthermore, there is a special provision in the Danish Criminal Code making torture an aggravating circumstance in the determination of the sentence for violation of the Criminal Code. The Criminal Code explicitly states that a crime of torture can never be subject of limitation.

DIHR agrees with the information provided by the Danish government. However, there is still – as highlighted by the UN Committee against Torture – a need to insert a specific provision on the crime of torture in the Danish criminal code.

Joint response:

Denmark has not implemented the recommendation. Torture is not a specific criminal offence in the Criminal Code, but only an aggravating circumstance. The UN



Committee against Torture has repeatedly called upon Denmark to incorporate a specific offence of torture, as defined in article 1 of the Convention, in its Criminal Code and Military Criminal Code making it a punishable offence as set out in article 4, para. 2 of the Convention (CAT/C/CR/28/1 para. 6(a) and CAT/C/DNK/CO/5 para. 10). Defining and criminalizing the crime of torture is central to fight impunity, which is one of the root causes for the widespread practice of torture as well as ensuring full redress to the victims of torture by prosecution of the perpetrators. The UN Committee against Torture has reiterated the importance of naming and defining the offence of torture in accordance with the Convention as distinct from other crimes which will directly advance the overarching aim of preventing torture, inter alia by alerting everyone to the specific gravity of the crime of torture and by improving the deterrent effect of the prohibition itself (CAT/C/SWE/CO/5, pkt. 9-10). Denmark is urged to incorporate torture as a specific offence under national criminal law, which will also support the repeated position of the Danish state as being a leading international actor in the prevention of torture and ill-treatment (among other CAT/C/SR.757, 8 May 2007, para. 3).

Recommendation n°36: Remove from the Penal Code (arts. 218, 220, 221, 227) any references to marital relations between victim and perpetrator of offences, in order to ensure that there is no impunity in cases of marital rape (Recommended by Belgium)

IRI: fully implemented

DIHR response:

In June 2013 the Danish Parliament adopted a new law, which changed the former references to marital relations.

Joint response:

Denmark has implemented the recommendation. Parliament has adopted a bill to the amend the Penal Code to the effect that the marital status between the perpetrator and the victim does not have any bearing on the classification of the act as “rape” or “sexual abuse” or the sentencing in such cases. We welcome the new legislation, but call on the government to initiate long term plans of action with a view to improving the reception and investigation of reports of rape, most notably to procure information on the assessment of evidence in such cases, and, possibly reduce the very high attrition rates in rape cases and especially partner and acquaintance rape. We call upon the government to develop and adopt a comprehensive action plan to prevent and combat rape and other forms of sexual violence

Recommendation n°37: Not to repeal section 266(b) of the Criminal Code (Recommended by Pakistan)

IRI: fully implemented

DIHR response:

The Government does not plan to repeal Section 266 b of the Criminal Code.

Joint response:

Denmark has implemented the recommendation. Section 266(b) of the Danish Criminal Code has not been repealed.

ENAR response:

+

DRC + SOSAR response:

We welcome the 75 years anniversary of the Danish ban on hate speech. Since 1939 Denmark has criminalized threats and defamation against Jews and other religious or racial groups under the Danish Penal Code section 266 b.

At the same time however we strongly condemn the far right wing Danish Peoples Party which has again and again called for the total dismantling of the provision. Recently even mainstream political parties like the Conservative and the Liberal party has joined in by demanding changes of section 266 b, since allegedly “too many” are being sentenced. The numbers of convictions in 2012 were however, three and a similar number were convicted in 2013, in a time where the use of hate speech seems to be sadly widespread in Denmark.

Recommendation n°65: Remove the obstacles preventing victims of discrimination from effective access to justice, adopt appropriate measures to facilitate reporting on this crime by national, ethnic and religious minorities (Recommended by Mexico)

IRI: partially implemented

RWD response:

The Municipality of Copenhagen has made a strong effort to make more people report on hate crimes and discrimination. They have also launched a campaign for respect and tolerance in the night life (but this is only a local initiative). Recently the government has stopped the funding for NyDansk Ungdomsråd (Council of New Danish Youth).

DIHR response:

The Ministry of Social Affairs, Children and Integration (Social-, Integrations- og Børneministeriet) has announced that they will seek to strengthen the Council for Ethnic Minorities (Rådet for Etniske Minoriteter). The Council was established in 1999 to promote participation by ethnic minorities in all areas of society. The Council meets with the minister every three months to discuss current problems and new legislation. The announcement concerns legislation altering the structure of the Council, to be put to a vote in the near future. Among other changes, representatives from the four largest municipalities in Denmark will be invited to join the Council on a permanent basis.

Joint response:

The official explanation of the acceptance of the recommendations is to be found in the Addendum comments concerning rec. 106.54. These arguments are of a very broad and evasive nature and do not particularly refer to racial profiling by the police, cases of racism and xenophobia, etc. The government should take actual steps taken to promote the acceptance of the recommendations. A pure reference to the art. 266B of the penal code is insufficient.



ENAR response:

+

DRC + SOSAR response:

A study from 2011 documented that half of those stopped and searched in Copenhagen were of minority background even though they may only represent 20% of the population in Copenhagen. It is however difficult to secure effective access for victims of such discrimination especially because such NGOs that assists the victims have all funding withdrawn by the Danish authorities.

Recommendation n°75: *Ensure that conditions are created so that any reports of violations committed by law enforcement officials are investigated independently, impartially and in a timely manner* (Recommended by Uzbekistan)

IRI: *partially implemented*

DIHR response:

The Danish Independent Police Complaints Authority handles investigation of criminal cases against police officers and considers and decides complaints of police misconduct. Headed by a council and a chief executive, the Police Complaints Authority exercises its functions in complete independence of both police and prosecutors.

Joint response:

Denmark has not implemented this recommendation. In 2010, the 'Independent Police Complaints Authority' was established by Act. No. 404 of 21 April 2010, which entered into force on 1 January 2012. The Independent Police Complaints Authority is placed under the auspices of the Ministry of Justice, and is headed by the Police Complaints Council and the Chief Executive. The Police Complaints Council is the supreme governing body of the Authority and consists of a Chair, who must be a High Court judge, an attorney, a university lecturer of law and two representatives of the general public. Members of the Police Complaints Council are appointed by the Minister of Justice for four years at a time and are eligible for re-appointment once. The Chief Executive is in charge of the everyday operations of the Police Complaints Authority. The Authority is mandated to handle investigation of criminal cases against police officers and considers complaints of police misconduct. The Authority is authorized to make arrests and request orders for pre-trial from court; however, it is still the regional public prosecutor that has the power of indictment. Therefore, when the investigation is complete the application must be sent to the District Attorney General (statsadvokaten) who has the power of discretion to assess whether there are grounds for prosecuting, prepare the indictment, and conduct the proceedings. The decision of the prosecution can be appealed to the Director of Public Prosecution (rigsadvokaten). (See the Administration of Justice Act Chapter 11a).

The current structure and mandate of the Independent Police Complaints Authority does not fulfil the criteria of independence as the Authority still does not have the power to indict. Furthermore, it has been subject to debate amongst experts within criminal procedure that most investigations are carried out by former police officers and/or former prosecutors. The Danish government is urged to ensure the independence of the body and mandate the Authority with the power to indict in



criminal cases and in cases of misconduct. Furthermore, ensure that the Authority has the necessary resources to effectively carry out its mandate.

Recommendation n°76: *Introduce proper identification for its law enforcement officials* (Recommended by *Slovakia*)

IRI: *not implemented*

RWD response:

This has been discussed but dismissed by the police force, among other reasons for fear of personal targeting of innocent officers (maybe as revenge). It has, however, proved to be a main reason for dismissing the majority of the cases against the police, that the officers could not be identified and therefore not prosecuted. Therefore it would seem obvious to have a clear visual number on each officer. One case had been running for more than 3 years and dismissed because the officers involved could not be identified - an innocent man had been arrested on suspicion of terror during the COP15 meeting in Copenhagen and driven around the city in a van for many hours, exposed to inhuman treatment.

DIHR response:

Every year, complaints against police officers are dropped because it is impossible to establish the actual police officer involved. Today, police officers must state their name and place of duty if asked by citizens with whom they interact while on duty. However, there are a number of exceptions to this rule – if the request is given during arrest or major police operations or if the request comes from a person who is under the influence, aggressive or highly unstable.

Joint response:

Denmark has not implemented this recommendation. In many police complaints cases, the cases must be closed/discontinued, because the police officer in question cannot be identified. Amnesty has called on the government to introduce numbers/symbols on the police uniforms to enable the complainants to identify the police officer in question, even if the police officer will not inform the citizen (complainant) of his name and place of service. So far, the current government and Parliament have been very reluctant to introduce ID on the uniform.

Recommendation n°78: *Ensure a timely and impartial investigation of all complaints and reports against such illegal acts* (Recommended by *Uzbekistan*)

IRI: *fully implemented*

DIHR response:

The Danish Independent Police Complaints Authority handles investigation of criminal cases against police officers and considers and decides complaints of police misconduct. Headed by a council and a chief executive, the Police Complaints Authority exercises its functions in complete independence of both police and prosecutors.

Recommendation n°88: *Strengthen the capacities for identifying victims of trafficking* (Recommended by *Austria*)

IRI: *partially implemented*

RWD response:



Victims of trafficking still lacks a reason for seeking help and support from the Danish authorities. Even in cases where the women have testified against their Madams or traffickers, the result is most often that they are deported without sufficient support and protection. Only a couple of women have been granted a permit to stay over the years.

DIHR response:

Denmark has adopted an Action Plan against Human Trafficking 2011-2014. The Action Plan among other emphasises human trafficking to forced labour.

In July 2013, the Ministry of Justice informed DIHR that all students at the Police Academy (Politiskolen) receive training in human trafficking, including for example in the areas of sexual exploitation, forced labour and children.

DIHR has latest in November 2013 recommended that it is ensured that the relevant authorities have the necessary qualifications for identifying victims of human trafficking, including regular training.

Joint response:

Denmark has partially implemented the recommendation. However, there is a need to widen the effort to identifying male, transgender and children victims of trafficking. The main focus has been on women working in the sex industry and as au pairs. There is a need for social workers working with men, transgender and children to be trained in the identification process. There is also a need for:

- Training of the civil society in the identification process, including church related staff with contact to migrants.
- Establishing locations which are not restricted to women, where undocumented migrants – and thereby potential victims of trafficking can come and where social workers have a possibility to establish contact to the potential victims of trafficking.
- More rights orientated approach to victims of trafficking. At present the majority of victims of trafficking are identified by the police after having been arrested and charged with criminal offences. This approach has the consequence that a group of potential victims are not identified because the identification process is linked to the circumstances surrounding arrests – which are often a stressful situation where the potential victims – in lack of knowing their rights – may often choose not to tell their story. We therefore encourage The Danish Government to apply the many recommendations given by the European Councils Group of Experts on Action against Trafficking in Human Beings (GRETA) in their first evaluation round in 2011.
- Independent legal assistance to the potential victims so all of their legal rights are respected in the identification process. We therefore encourage The Danish Government to ensure the potential victim of trafficking free legal advisor/lawyer (Danish: *bistandsadvokat*) to help represent them and guide them through the identification process.



Recommendation n°89: *Strengthen the identification of human trafficking victims* (Recommended by *Slovakia*)

IRI: *partially implemented*

RWD response:

[See response to recommendation n° 88]

Joint response:

[See response to recommendation n° 88]

Recommendation n°90: *Ensure that victims of human trafficking are not detained but instead granted proper protection, as well as expand the reflection period while making it entirely unconditional* (Recommended by *Slovakia*)

IRI: *not implemented*

RWD response:

Victims of trafficking still lacks a reason for seeking help and support from the Danish authorities. Even in cases where the women have testified against their Madams or traffickers, the result is most often that they are deported without sufficient support and protection. Only a couple of women have been granted a permit to stay over the years.

DIHR response:

In May 2013, the Aliens Act was amended. With the amendment the reflection can be extended to 120 days (previously 100 days).

The Ministry of Justice has in July 2013 informed DIHR that there is a possibility to detain a person for a shorter period, until it is determined if the person is a victim of trafficking. It is the general experience of the police, that the person will disappear if not detained. A police district has however had good experiences with placing women at shelters instead of detaining them in accordance with the Aliens Act. The National Commission of the Danish Police has therefore informed the police that placing a person at a shelter can be used after a concrete assessment of the case, although the person has not yet been found to be a victim of trafficking. The police has however not found reason to change the general practice for the use of detention in these cases, because this would reduce the possibility to return the persons, who are not found to be victims of trafficking.

DIHR has in its status report on human trafficking in November 2013 recommended that Denmark ensures that possible victims of human trafficking are not detained but provided accommodation in a safe house during the identification process.

Joint response:

Denmark has not implemented the recommendation. We regularly encounter victims of trafficking who in the process of applying for asylum are being detained, either based on the assumption of disappearance in the beginning of the asylum process or after the final rejection. We find that this particular group of asylum seekers are especially vulnerable and that decisions concerning detention of this group should pay sufficient regard to their possible vulnerability.



We encourage the Danish Government to apply GRETAS recommendations 19 and 20 which urges the Danish authorities to review the legislation in order to ensure that victims of trafficking are provided with an adequate recovery and reflection period, in line with Article 13 of the Convention, rather than a time-limit to prepare their departure from the country as illegal aliens and review the system for granting residence permits to victims of trafficking with a view to ensuring that the victim-centered approach which underpins the Convention is fully applied in order to prevent re-trafficking. The majority of victims of trafficking are identified by the police after having been arrested and charged with criminal offences. This approach has the consequence that a large group of potential victims are not identified because the identification process is linked to the circumstances surrounding arrests – which are often a stressful situation where the potential victims – in lack of knowing their rights – may often choose not to tell their story. We therefore encourage The Danish Government to apply the many recommendations given by the European Councils Group of Experts on Action against Trafficking in Human Beings (GRETA) in their first evaluation round in 2011.

GRETAS recommendations 19 and 20 are of extra importance as they are to ensure, that contact with the Danish authorities and thereby the police can happen in a setting where victims of trafficking can view the police and government officials as a source of relief and not as a sure way to deportation. When identified as a possible victim of trafficking the potential victims are brought to a police station and questioned by a police officer and by a number of social workers from Government or NGO's in order to clarify their status. The women we meet have often been in such a stressful situation that they cannot separate one person from the other and it happens that they have no idea which organizations they have been talking to. We encourage The Danish Government to move these interrogations so that they do not take place at the police stations and we encourage The Danish Government to ensure the potential victim of trafficking free legal advisor/lawyer to help represent them and guide them through the identification process.

Recommendation n°95: Strengthen the capacity of the criminal police to deal with crimes related to child pornography on the Internet and to inform children and their parents about the safe use of the Internet (Recommended by Iran)

IRI: fully implemented

RWD response:

We find that the Danish police do spend a considerable amount of energy on child pornography and paedophiles. Some efforts are also put into informing parents and children about internet behaviour.

DIHR response:

The combat against child pornography on the Internet has for years been the subject of much attention from the police. Danish police special investigative expertise in this area is summarized in the National Police IT Centre of Investigation (NITEC), which collects information on websites that may contain child pornography.



The agreement on the economy 2011 of the police and the prosecutor's office have created a economic framework for the Danish police during the contract period, which runs from 2012 to 2015.

Recommendation n°96: Develop a more systematic approach to cooperation between governmental bodies and civil society to combat child trafficking (Recommended by Australia)

IRI: *fully implemented*

DIHR response:

Denmark has adopted an action plan on combating human trafficking 2011-2014 initiating actions on the field of child prostitution.

Recommendation n°97: Maintain article 266(b) of the Criminal Code and adopt measures to avoid that the shelving of cases related to racial or religious hatred does not dissuade victims from continuing to file complaints, and does not lead to impunity for the perpetrators of such crimes (Recommended by Algeria)

IRI: *fully implemented*

RWD response:

On the contrary, many politicians wish to eliminate the law criminalising blasphemy and hate speech. The article could collide with the freedom of speech.

DIHR response:

The Government does not plan to repeal Section 266 b of the Criminal Code.

ENAR response:

ENAR welcomes the 75 years anniversary of the Danish ban on hate speech. Since 1939 Denmark has criminalized threats and defamation against Jews and other religious or racial groups under the Danish Penal Code section 266 b.

At the same time however ENAR strongly condemns the far right wing Danish Peoples Party which has again and again called for the total dismantling of the provision. Recently even mainstream political parties like the Conservative and the Liberal party has joined in by demanding changes of section 266 b, since allegedly “to many” are being sentenced. The numbers of convictions in 2012 were however, three and a similar number were convicted in 2013, in a time where the use of hate speech seems to be sadly widespread in Denmark.

DRC + SOSAR response:

We welcome the 75 years anniversary of the Danish ban on hate speech. Since 1939 Denmark has criminalized threats and defamation against Jews and other religious or racial groups under the Danish Penal Code section 266 b.

At the same time however we strongly condemn the far right wing Danish Peoples Party which has again and again called for the total dismantling of the provision. Recently even mainstream political parties like the Conservative and the Liberal party has joined in by demanding changes of section 266 b, since allegedly “too many” are being sentenced. The numbers of convictions in 2012 were however, three and a



similar number were convicted in 2013, in a time where the use of hate speech seems to be sadly widespread in Denmark.

Recommendation n°98: *Make case law from Danish courts and administrative organs publicly available and free of charge* (Recommended by Hungary)

IRI: *not implemented*

DIHR response:

Denmark has not implemented the recommendation. Case law from the Danish Supreme Court is now available on the homepage of the court. Judgment from September 2009 and onwards are available free of charge. Case law from other Danish court are not available free of charge. The recommendation is therefore currently not fully implemented.

Joint response:

Denmark has not implemented the recommendation. In 2007 The Danish Court Administration announced that in a couple of years there would be a public accessible database with case law from Danish courts. The Danish Court Administration expected the database to be accessible in 2009. In 2013 former Director of Development at The Danish Court Administration stated to the Danish media, that the [intention from 2007 following showed not to be financed](#). In the Finance act for 2014 the Government has not allocated funds for the database.

One of the elements of due process is based on the predictability which can only be insured if all parties have access to all case law. The lack of public access and thereby equal access to case law may therefore constitute a problem in terms of substantive due process.

The independent board of the court administration has since 2011 been working with this issue. Until now no results has emerged from this work. The reason is supposed to be the costs. (4,3-4,7 million d.kr. annually). This cannot be the real explanation taken into consideration that the Danish Law Courts are generating a handsome surplus on the annual state financial budget. The government should be encouraged to increase the annual budget with sufficient funding of a case law database.

ENAR response:

+

DRC + SOSAR response:

Mapping is needed and thus it should be free of charge to see the court decisions on racial discrimination and hate crimes.

Recommendation n°99: *Limit the use of long periods of pretrial custody* (Recommended by *United Kingdom*)

IRI: *fully implemented*

DIHR response:

Current figures indicate that the situation is becoming slightly less troublesome. But the use of pre-trial detention is still very high in Denmark and has in fact gone up since the amendment was adopted in 2008. A high proportion of all imprisonments



on remand are still long and often last more than half a year. In 2012, for example, 25,9 % of all imprisonments on remand (1.427) lasted on average for 6 months.

The use of solitary confinement during pre-trial has been termed “a peculiar Scandinavian phenomenon” and has been an issue in Denmark for many years. The use of pre-trial solitary confinement has been brought down significantly during the last decades and in 2010 1.9 % of all remand prisoners were subjected to pre-trial solitary confinement. This is a very positive development compared to previously. In 2011, however, the use of pre-trial solitary confinement went up with 46 % from 127 cases in 2010 to 186 cases in 2011. The average duration of solitary confinement was 24 days both in 2010 and 2011.

Joint response:

Denmark has implemented the recommendation. The present government has raised the age of criminal responsibility from 14 to 15.

In 2012, the minimum age for criminal responsibility was raised from 14 years to 15 years (Criminal Code article 15, lov 2012, nr. 158).

The law initially lowering the age of criminal responsibility in 2010 also removed the bar of 8 years maximum sentence for criminal acts committed by young offenders under 18. Today the only existing limitation is that juvenile offenders cannot receive life imprisonment. The Committee on the Rights of the Child has emphasized “that the reaction to an offence should always be in proportion not only to the circumstances and the gravity of the offence, but also to the age, lesser culpability, circumstances and needs of the child, as well as to the various and particularly long-term needs of the society. A strictly punitive approach is not in accordance with the leading principles for juvenile justice spelled out in article 40 (1) of CRC” (CRC/C/GC/10). Therefore, we urge the Danish government to re-introduce a maximum sentence for young offenders under 18 that respect the principles of rehabilitation and restorative justice as emphasized by the Committee on the Rights of the Child when dealing with juvenile offenders.

Recommendation n°102: Take further steps to solve the problem of overcrowding in prisons and to ensure legal responsibility for the spread of racial and religious intolerance through the press (Recommended by Belarus)

IRI: partially implemented

DIHR response:

Current figures could indicate that the situation is becoming less troublesome. But Danish prisons and remand prisons still experienced overcrowding several times in 2013 and the issue still needs attention. On the 20th of June 2013, for example, Copenhagen prisons accommodated prisoners equalling 108,1 % of their capacity.

As a result a number of Danish prisons and remand prisons experience overcrowding on a regular basis. For example, data from the Danish prison service show that a number of prisons and remand prisons were overcrowded in November 2011 and Copenhagen prisons, for example, had on average 23.1 prisoners above their



capacity. In Copenhagen prisons overcrowding has become quite normal during recent years.

Joint response:

Response only to the first half of the recommendation. Currently, the Danish prisons suffer from overcrowding as a result of heightened prison sentences. The Danish Institute for Human Rights describes in their status report from 2013 that overcrowding in the Danish Prison and Probation Service has become an issue of attention due to the increase of the prison population in Denmark. Although the prisons are not suffering from permanent overcrowding this does occur, e.g. in the prisons in the Copenhagen area there was an average of 23,1 prisoners more than the prison is capacitated for. The Danish Ombudsman has addressed the issue in February 2011 with the Prisons and Probation Service, pointing to some of the possible consequences of the overcrowding, including infringements of the right to private life, contact with personnel, conditions of detention, etc.

Recommendation n^o135: *Carry out an inclusive evidence-based evaluation of the Danish antiterrorism legislation (Recommended by Netherlands)*

IRI: not implemented

RWD response:

Antiterrorism legislation has already proved to ignore all other concerns - in several situations violating human rights. The government does not seem worried about this.

DIHR response:

The Danish government has clearly stated in 2012 and 2013 in the yearly report on counter-terrorism measures to the Danish Parliament that it will establish an evaluation committee that shall assess the effect and consequences of the Danish terror legislation and practice.

However, the Committee has not been established yet. The Danish Ministry of Justice informed DIHR in June 2013 that it is in the process of drawing up the terms of reference for the evaluation committee.

In Denmark, a special court trial of administrative rulings exists on the deportation of foreigners suspected of terrorism. The court trial is split into an open and a closed part. As the Danish Supreme Court has also established, this can give rise to human rights issues. If the evidence submitted in the open material does not make it possible for the defendant to give effective instructions to his or her legal counsel, a true and fair legal process is not possible.

Joint response:

The Danish government has not carried out an inclusive evidence-based evaluation of the Danish anti-terrorism legislation. The previous government presented a 50 page overall summary of the anti-terrorism legislation, which was basically a summary of the powers given to the authorities – as perceived by the very same authorities, including the Ministry of Justice, The National Police, the Security and Intelligence Service – who all stated that the powers given to them had been administered with discretion and restraint. But the report held no indication of the



possible practices in consequence of these powers – as seen by independent researchers or others - and certainly no questions as to the possible side-effects in terms of weakened judicial oversight with the use of these powers.

ENAR response:

Racist profiling is also a problem with regard to anti terrorism and should be included in such a evaluation.

Women & Children

Recommendation n°34: *Make efforts to correct formulations in the Penal Code that cover rape and sexual abuse which make reference to the marital relations between victim and alleged perpetrator that have an actual influence on sentences* (Recommended by Norway)

IRI: *fully implemented*

+

Recommendation n°35: *Bring its legislation on rape in line with international law and abolish all references to the status of married couple* (Recommended by Switzerland)

IRI: *fully implemented*

DIHR response:

In June 2013 the Danish Parliament adopted a new law, which changed the former references to marital relations.

Joint response:

Denmark has implemented the recommendation. Parliament has adopted a bill to the amend the Penal Code to the effect that the marital status between the perpetrator and the victim does not have any bearing on the classification of the act as “rape” or “sexual abuse” or the sentencing in such cases. We welcome the new legislation, but call on the government to initiate long term plans of action with a view to improving the reception and investigation of reports of rape, most notably to procure information on the assessment of evidence in such cases, and, possibly reduce the very high attrition rates in rape cases and especially partner and acquaintance rape. We call upon the government to develop and adopt a comprehensive action plan to prevent and combat rape and other forms of sexual violence.

Recommendation n°40: *Consider the establishment of a children's Ombudsman* (Recommended by Norway)

IRI: *fully implemented*

DIHR response:

In 2011 was a specific Children's department under the Danish Parliamentary Ombudsman established.

Joint response:

Denmark has implemented the recommendation. The present (new) government has established a National Children's Office as part of the Danish Parliamentary Ombudsman by 1 November 2012. Together with the National Council for Children, the Danish Institute for Human Rights and the National Social Appeals Board the Children's Office is responsible for the strengthening, the protection, and the improvement of children's rights. The Children's Office has a specific mandate to deal with specific and individual complaints concerning children. The multi headed independent body (bodies) will be evaluated in 2014. The reporting NGO's follow this construction closely and are concerned about the multi-pronged construction. Recommendation: A solid follow up on the evaluation 2014 and further steps to strengthen the relevant Danish bodies.

Recommendation n^o43: *Continue efforts to achieve gender equality* (Recommended by Norway)

IRI: *fully implemented*

DIHR response:

Denmark has with the issuance of the 2013 national action plan on achieving gender equality introduced several initiatives focusing on gender equality both inside and outside the labour market.

In regards to the labour market participation, women's labour market rate is still lower than men's. The participation rate for women was 69,5 per cent in 2012. In comparison, men's participation rate was 73,0 per cent. The wage gap in standardized hourly earnings between women and men was in 2012 17,58 per cent.

With law no. 1383 of 23th of December 2012 was rules on targets and policies for gender composition in leading organs and reporting on the subject by the companies introduced. The Equal Pay Act provides protection against discrimination. It is the courts of law, the Board of Equal Treatment and industrial arbitration deal with such cases.

The new rules mean that businesses as of 1 April 2013 must have set a target for the proportion of women in committees and in addition develop a business policy to increase the proportion of women on the other levels of the management.

Joint response:

The Street Lawyers would like to note that as regards sex work, as in all matters of creating and establishing equality, we strongly encourage the Danish Government to address this matter with the approach of providing - and not taking rights.

The right to choose freely over one's life is the corner stone of Human Rights and must never be compromised in the effort to create "on paper" equality. Real gender equality comes from giving women the power to choose freely over their lives, work, business and their bodies – not by criminalization. We therefore encourage the Danish Government to fully decriminalize sex work and acknowledge its status as work, so that sex workers in Denmark can rely on and become protected by the general workers' rights and the government is encouraged to review the rules on



procuring so that the sex workers are given the possibility to organize their work freely as it is possible in other businesses as well.

Recommendation n°44: *Consider launching an action plan to combat domestic violence in Greenland* (Recommended by Spain)

IRI: *fully implemented*

DIHR response:

In the fall of 2013 the Greenlandic Parliament has adopted a 'Strategy and Action Plan Against Violence 2014-2017' presented to it by the Greenlandic government.

Recommendation n°45: *Continue the implementation of the national strategy to combat violence in intimate relations for 2009-2012* (Recommended by Moldova)

IRI: -

DIHR response:

An external evaluation of the action plan 2010-2012 was concluded in June 2013. It has not been confirmed that a new action plan will be launched.

Recommendation n°66: *Intensify efforts to eliminate all forms of practical discrimination against children* (Recommended by Palestine)

IRI: *not implemented*

RWD response:

The European Council's Commissioner for Human Rights visited Denmark in November 2013. One of his sharpest criticisms was the lack of respect for the best interest of the child when it comes to migrant and refugee children, including decisions about expulsion.

Recommendation n°80: *Continue to ensure effective protection of victims of domestic violence* (Recommended by Austria)

IRI: *not implemented*

+

Recommendation n°83: *Ensure more effective protection of victims of domestic violence* (Recommended by Slovenia)

IRI: *not implemented*

RDW response:

Women who are residing in Denmark because of a marriage to a Danish man face a special risk of domestic violence and abuse. The law says they will lose their permit to stay if they divorce or even move out from the spouse. The Alien Act was changed June 2012 removing the time limit of 2 years of stay minimum. But to keep the permit they still have to prove a strong personal attachment to Denmark beside the husband, and they must have "shown a will and ability to integrate into Danish society". This is often a problem because the violent husbands tend to isolate and humiliate the wives, even threatening them directly that they will be thrown out of Denmark if they don't put up with the abuse.

DIHR response:



In 2011, the Council of Europe adopted a convention preventing and combating violence against women and domestic violence. Denmark has neither signed nor ratified this convention.

A study shows that approx. 33,000 women and 13,000 men in Denmark annually are assessed to have been subjected to physical violence by their partners. Both homosexual and bisexual men are included in this statistic. At this time, Denmark does not have an action plan for combating intimate partner violence. An external evaluation of the action plan 2010-2012 against violence in intimate relationships was concluded in June 2013. It has not been confirmed that a new action plan will be launched.

There is well-documented research indicating that children live under very difficult conditions if their parents have psychological problems due to substance abuse or mental illness. Children often become secondary victims when their father or mother is the primary victim. These children are much more often than other children subject to abuse, have higher mortality rates and live with a much higher risk of mental illness, suicide and alcohol and drug abuse.

Some of the children living in families with alcohol problems or mental illness have not come into the municipal assistance system, and specialists in this area report that many children and adolescents are not receiving the help and support they need. Moreover, these children risk taking second place in social cases where the focus is often on ensuring good collaboration with the adults.

Recommendation n°81: Consider the adoption of a specific law on violence against women, including domestic violence (Recommended by Austria)

IRI: -

RWD response:

[See response to recommendation n°80]

DIHR response:

The Danish Government responded in 2011 that it is a basic principle in Denmark that criminal law provisions are drafted in a gender neutral manner whenever possible. Thus, the provisions in the Danish Criminal Code concerning violence apply irrespectively of the gender of the victim. The DIHR agrees, that law provisions should be drafted in a gender neutral manner.

Recommendation n°82: Continue efforts to prevent and combat violence against women and domestic violence, in particular in the Faroe Islands and Greenland (Recommended by Poland)

IRI: *partially implemented*

DIHR response:

In November 2013 the Danish government has presented a bill to the Danish parliament introducing the changes necessary in Danish legislation to accommodate the anticipated ratification of the "Council of Europe Convention on preventing and



combating violence against women and domestic violence (Istanbul Convention)". The bill is expected to be put to a vote during early 2014. The Danish government has asked the Faroese and Greenlandic governments whether the convention should also apply to the Faroe Islands and Greenland.

Recommendation n°84: *Continue its efforts to combat domestic violence, especially against vulnerable groups such as women and children* (Recommended by Republic of Korea)

IRI: *not implemented*

RWD response:

[See response to recommendation n°80]

DIHR response:

In 2011, the Council of Europe adopted a convention preventing and combating violence against women and domestic violence. Denmark has neither signed nor ratified this convention.

There is well-documented research indicating that children live under very difficult conditions if their parents have psychological problems due to substance abuse or mental illness. Children often become secondary victims when their father or mother is the primary victim. These children are much more often than other children subject to abuse, have higher mortality rates and live with a much higher risk of mental illness, suicide and alcohol and drug abuse.

Recommendation n°85: *Provide foreign married women who are victims of domestic violence with legal safeguards and administrative guidelines for their protection, giving particular consideration to residence permits* (Recommended by Honduras)

IRI: *not implemented*

RWD response:

[See response to recommendation n°80]

DIHR response:

According to the Danish Aliens Act section 19 (7 and 8) a residence permit granted on the basis of marriage or marital status will not be revoked in cases where the foreigner shows that he/she or the his/her child has been exposed to domestic violence, mistreatment or any other form of abuse. In this context it is important to mention that there will be situations in which the foreigner has difficulties proving the violence – for example if the he/she have not found his/her way to the E.R, or if the spouse or other relatives have acted as an interpreter in their contact with the health care system, which poses a great risk of suppressed information on the incident.

DIHR has latest in November 2013 in its status report on gender recommended that Denmark ensures that qualified interpreters are used as far as possible by the authorities and the health care system in the contact with foreign victims of domestic violence holding a residence permit for family reunification.

ENAR response:



Foreign married women needs better protection against expulsion after being subjected to violence by a husband, and thus have to flee the home.

DRC + SOSAR response:

Foreign married women needs better protection against expulsion after having been subjected to violence by a husband. For the time being many have to stay in a marriage with violence, since they else will have to leave Denmark.

Recommendation n°86: Adopt effective policy measures aimed at combating and eliminating violence against women, including domestic violence, and encourage the high level participation of women in the labour market and especially decision making (Recommended by Azerbaijan)

IRI: partially implemented

DIHR response:

Domestic violence

In 2011, the Council of Europe adopted a convention preventing and combating violence against women and domestic violence. Denmark has neither signed nor ratified this convention.

There is well-documented research indicating that children live under very difficult conditions if their parents have psychological problems due to substance abuse or mental illness. Children often become secondary victims when their father or mother is the primary victim. These children are much more often than other children subject to abuse, have higher mortality rates and live with a much higher risk of mental illness, suicide and alcohol and drug abuse.

Some of the children living in families with alcohol problems or mental illness have not come into the municipal assistance system, and specialists in this area report that many children and adolescents are not receiving the help and support they need. Moreover, these children risk taking second place in social cases where the focus is often on ensuring good collaboration with the adults.

A study shows that approx. 33,000 women and 13,000 men in Denmark annually are assessed to have been subjected to physical violence by their partners. Both homosexual and bisexual men are included in this statistic. At this time, Denmark does not have an action plan for combating intimate partner violence. An external evaluation of the action plan 2010-2012 against violence in intimate relationships was concluded in June 2013. It has not been confirmed that a new action plan will be launched.

Labour market

Denmark has implemented the recommendation. Denmark has with the issuance of the 2013 national action plan on achieving gender equality introduced several initiatives focusing on gender equality both inside and outside the labour market.

In regards to the labour market participation women's labour market rate is still lower than men's. The participation rate for women was 69,5 per cent in 2012. In



comparison, men's participation rate was 73,0 per cent. The wage gap in standardized hourly earnings between women and men was in 2012 17,58 per cent.

With law no. 1383 of 23th of December 2012 was rules on targets and policies for gender composition in leading organs and reporting on the subject by the companies introduced. The Equal Pay Act provides protection against discrimination, and the courts of law, the Board of Equal Treatment and industrial arbitration deal with such cases.

The new rules mean that businesses by 1 April 2013 must have set a target for the proportion of women committees and have worked out a policy to increase the proportion of women on the other levels of the management.

Recommendation n°87: Establish specific mechanisms and formulate specific programmes geared to addressing the issue of violence against women and children, including by harmonizing national legislation with international human rights standards (Recommended by Indonesia)

IRI: partially implemented

DIHR response:

In 2011, the Council of Europe adopted a convention preventing and combating violence against women and domestic violence. Denmark has neither signed nor ratified this convention.

There is well-documented research indicating that children live under very difficult conditions if their parents have psychological problems due to substance abuse or mental illness. Children often become secondary victims when their father or mother is the primary victim. These children are much more often than other children subject to abuse, have higher mortality rates and live with a much higher risk of mental illness, suicide and alcohol and drug abuse.

Some of the children living in families with alcohol problems or mental illness have not come into the municipal assistance system, and specialists in this area report that many children and adolescents are not receiving the help and support they need. Moreover, these children risk taking second place in social cases where the focus is often on ensuring good collaboration with the adults.

An external evaluation of the action plan 2010-2012 against violence in intimate relationships was concluded in June 2013. It has not been confirmed that a new action plan will be launched.

Joint response:

Denmark has partially implemented the recommendation. However, there is a need to widen the effort to identifying male, transgender and children victims of trafficking. The main focus has been on women working in the sex industry and as au pairs. There is a need for social workers working with men, transgender and children to be trained in the identification process. There is also a need for:



- Training of the civil society in the identification process, including church related staff with contact to migrants.
- Establishing locations which are not restricted to women, where undocumented migrants – and thereby potential victims of trafficking can come and where social workers have a possibility to establish contact to the potential victims of trafficking.
- More rights orientated approach to victims of trafficking. At present the majority of victims of trafficking are identified by the police after having been arrested and charged with criminal offences. This approach has the consequence that a group of potential victims are not identified because the identification process is linked to the circumstances surrounding arrests – which are often a stressful situation where the potential victims – in lack of knowing their rights – may often choose not to tell their story. We therefore encourage The Danish Government to apply the many recommendations given by the European Councils Group of Experts on Action against Trafficking in Human Beings (GRETA) in their first evaluation round in 2011.
- Independent legal assistance to the potential victims so all of their legal rights are respected in the identification process. We therefore encourage The Danish Government to ensure the potential victim of trafficking free legal advisor/lawyer (Danish: bistandsadvokat) to help represent them and guide them through the identification process.

Recommendation n°91: *Take necessary measures to combat child prostitution and ensure that those children have access to adequate services for their recovery and social reintegration* (Recommended by *Indonesia*)

IRI: *partially implemented*

RWD response:

Child prostitution is not sufficiently investigated. A large number of asylum seeking children disappear on their own from the asylum centers every year, which is not investigated at all. We believe that most of these children go to Sweden to ask for asylum because the chance is better there, but a number of them could very well be (or end up as) victims of child prostitution or labour.

DIHR response:

Denmark has adopted an action plan on combating human trafficking 2011-2014 initiating actions on the field of child prostitution

Recommendation n°92: *Prevent commercial sexual exploitation of children and ensure additional protective measures for all victims of trafficking* (Recommended by *Azerbaijan*)

IRI: *partially implemented*

RWD response:

Child prostitution is not sufficiently investigated. A large number of asylum seeking children disappear on their own from the asylum centers every year, which is not investigated at all. We believe that most of these children go to Sweden to ask for asylum because the chance is better there, but a number of them could very well be (or end up as) victims of child prostitution or labour.

DIHR response:

In May 2011 a comprehensive national strategy against child abuse was issued. The national strategy ensures a further strengthening on the combat against sexual abuse of children and thus complements a series of tightening of the law over the years.

According to the United Nations Convention on the Rights of the Child (CRC), children must be protected from all types of physical, psychological and emotional violence, including neglect and sexual abuse, while the child is in the care of parent(s), guardian(s) or other persons.

In 2012-2013, the Danish Parliament has adopted a number of initiatives aimed at increasing protection for children against violence and sexual abuse. This has led to marked improvements in the opportunities for prevention and support in connection with violence and sexual abuse against children. However, the reform uses a definition of the need for protection that is narrower than that used in the CRC. Moreover, new research suggests that psychological and emotional abuse and neglect are more widespread than violence and sexual abuse. This points to a need for a broader perspective in the protection of children.

The Director of Public Prosecutions (Rigsadvokaten) Notice No. 2/2007 (directed in September 2012) provided detailed guidelines for handling cases of sexual abuse of children.

In 2013, a new provision was introduced in Act on Social Services (Lov om social service) obligating municipalities in each of the five Danish regions to cooperate in establishing a children's house (Børnehus). A children's house shall ensure that abused children or children suspected of being victims of abuse receive highly qualified and coordinated care. In children's houses, relevant professionals will be physically present, and the houses shall be constructed in a child-friendly fashion. The children's houses aim to treat cases of abuse that require crosscutting cooperation between municipal authorities, police and health services. The term "abuse" covers primarily sexual and physical abuse. It is uncertain whether or not psychological abuse or neglect would be covered. Children's houses contribute to the review of children in cases where there is suspicion or knowledge that a child has been subjected to abuse, and where it is relevant for the municipality to involve hospitals or police. It is the municipality where the child lives, that can contact the children's house. Children cannot themselves contact the children's houses.

Denmark has adopted an Action Plan against Human Trafficking 2011-2014. The Action Plan among other emphasises human trafficking to forced labour.

In July 2013, the Ministry of Justice informed DIHR that all students at the Police Academy (Politiskolen) receive training in human trafficking, including for example in the areas of sexual exploitation, forced labour and children.



DIHR has latest in November 2013 recommended that it is ensured that the relevant authorities have the necessary qualifications for identifying victims of human trafficking, including regular training.

Recommendation n°93: Take more effective measures to prevent sexual exploitation of children, including through criminalizing the production and distribution of pornographic or erotic images including children, and prosecute Danish citizens who abused children abroad (Recommended by Malaysia)

IRI: partially implemented

RWD response:

Child prostitution is not sufficiently investigated. A large number of asylum seeking children disappear on their own from the asylum centers every year, which is not investigated at all. We believe that most of these children go to Sweden to ask for asylum because the chance is better there, but a number of them could very well be (or end up as) victims of child prostitution or labour.

DIHR response:

In May 2011 a comprehensive national strategy against child abuse was issued. The national strategy ensures a further strengthening on the combat against sexual abuse of children and thus complements a series of tightening of the law over the years.

According to the United Nations Convention on the Rights of the Child (CRC), children must be protected from all types of physical, psychological and emotional violence, including neglect and sexual abuse, while the child is in the care of parent(s), guardian(s) or other persons.

In 2012-2013, the Danish Parliament has adopted a number of initiatives aimed at increasing protection for children against violence and sexual abuse. This has led to marked improvements in the opportunities for prevention and support in connection with violence and sexual abuse against children. However, the reform uses a definition of the need for protection that is narrower than that used in the CRC. Moreover, new research suggests that psychological and emotional abuse and neglect are more widespread than violence and sexual abuse. This points to a need for a broader perspective in the protection of children.

The Director of Public Prosecutions (Rigsadvokaten) Notice No. 2/2007 (directed in September 2012) provided detailed guidelines for handling cases of sexual abuse of children.

In 2013, a new provision was introduced in Act on Social Services (Lov om social service) obligating municipalities in each of the five Danish regions to cooperate in establishing a children's house (Børnehus). A children's house shall ensure that abused children or children suspected of being victims of abuse receive highly qualified and coordinated care. In children's houses, relevant professionals will be physically present, and the houses shall be constructed in a child-friendly fashion. The children's houses aim to treat cases of abuse that require crosscutting cooperation between municipal authorities, police and health services. The term



“abuse” covers primarily sexual and physical abuse. It is uncertain whether or not psychological abuse or neglect would be covered. Children’s houses contribute to the review of children in cases where there is suspicion or knowledge that a child has been subjected to abuse, and where it is relevant for the municipality to involve hospitals or police. It is the municipality where the child lives, that can contact the children’s house. Children cannot themselves contact the children’s houses.

Recommendation n°94: Adopt all necessary measures to combat the phenomenon of child sex tourism, including by consistently prosecuting offenders on their return for the crimes committed abroad (Recommended by Greece)

IRI: partially implemented

RWD response:

We find that the Danish police do spend a considerable amount of energy on child pornography and paedophiles. But this is probably mainly done in Denmark, not focusing on Danes who travel abroad as sex tourist, abusing children.

DIHR response:

The National Police Research Centre (NEC) has established a hotline where it is possible to report suspicions of sexual abuse of children abroad anonymously. The number of reports received by the NKC indicates that there might be a need for more knowledge of its existence.

Recommendation n°101: Prohibit incarceration of minors together with adults, as well as solitary confinement of minors (Recommended by Belgium)

IRI: not implemented

RWD response:

The Danish prisons are generally not sufficient for the demand as a result of longer sentences during many years). This leads to examples of minors being kept in "normal" prisons. The special prison for asylum seekers "Ellebæk" also wrote in its report to the government January 2012 that 25 minors age 15-17 had been detained here during 2011. There is no special unit for asylum seekers under 18.

DIHR response:

Denmark has not implemented the recommendation.

Joint response:

Denmark has not implemented the recommendation. In 2011, the UN Committee on the Rights of the Child urged Denmark to take measures to ensure that no child, regardless of circumstance, is subjected to imprisonment in the ordinary prison system with adults CRC/C/DNK/CO/4, 7 April 2011, p. 15) in accordance with CRC article 37. Statistics from the Prison and Probation Service from 2012 reveal that young offenders under 18 years are found in the ordinary prisons, and that the average number [has risen since 2011 from 6,3 persons to 7,5 persons in 2012](#).

According to Danish law solitary confinement of minors should only take place under exceptional circumstances, and no longer than four weeks at a time, except if the incumbent is charged with offences against the Danish state, notably crimes falling within chapter 12 and 13 of the Danish Criminal Code, e.g. terrorism. (See RPL §770



c, stk. 5.). Despite the recommendation of the UN Committee on the Rights of the Child to prohibit the placement of persons under the age of 18 in solitary confinement (CRC/C/DNK/CO/4, 7 April 2011, p. 15) this is still possible under Danish law.

Since 2001, solitary confinement of minors during pre-trial detention has been applied from 0-6 times every year. In 2010, only one person under the age of 18 was subjected to solitary confinement during pre-trial detention and in 2011 there are no registered cases. The statistics from 2012 and 2013 is not available.

Denmark should take urgent action to prohibit the use of solitary confinement of persons under the age of 18 and change existing laws accordingly.

Unaccompanied minor asylum seekers

Unaccompanied minor asylum seekers are detained either with adults in Ellebæk (closed camp) or in institutions with criminal Danish minors, where - to our knowledge - interpreters are often not available and where staff and facilities are not always suitable for young immigration detainees. We urge the Danish Government to ensure that sufficient consideration is taken to the vulnerability of unaccompanied minor asylum seekers in relation to detention and to ensure that they are effectively separated from adults during detention.

Recommendation n°105: Further strengthen the foundation of family and avoid resorting to measures and legislation which endanger the very foundation of family in society (Recommended by Iran)

IRI: -

Joint response:

The provisions on family reunification pose a particular problem to same-sex couples. Whereas opposite-sex couples, who are referred to live in the home country of the non-Danish partner, may potentially do so, often this would be impossible for a same-sex couples.

Recommendation n°107: Take effective measures to strengthen the institution of family, including awareness-raising activities which should focus on raising awareness in society, especially of young people, on the traditional understanding of family and its social significance (Recommended by Belarus)

IRI: not implemented

RWD response:

In Denmark the understanding of family is becoming much wider - rainbow families should have the same respect and rights as traditional families. We are glad that Denmark has accepted the right to marriage, adoption and infertility treatment for gay couples.

DIHR response:

DIHR inform that the Danish Parliament passed a new law in 2012 allowing Ecclesiastical same-sex marriage.

Joint response:



With the recent revision to the Children's Act, children of same-sex couples have finally got the same protection as other children. However, if the child was not conceived in a fertility clinic, the Children's Act does not apply, only the Adoption Act, which is particularly problematic if the birth mother is not a Danish citizen, as the child will not get Danish citizenship then.

Recommendation n°112: Give equal recognition to the right of undocumented children to education (Recommended by Honduras)

IRI: not implemented

RWD response:

This is not possible in practice and therefore a hollow statement. As seen in France, the police could show up at the school where an undocumented child is enrolled. And participation in the important social life of the class would be difficult. Therefore, a better way would be to ensure a better access to legalisation of the child and the parents.

DIHR response:

No further steps has been taken.

ENAR response:

This is accepted but asylum seekers children are not allowed to equal access to education on an equal footing with other children.

Joint response:

In Denmark, if rejected asylum-seekers do not leave the country voluntarily, they are allowed to stay until the Government has arranged for their deportation. It might take years to reach an agreement regarding a transfer with state of origin, leaving the families in "legal limbo" in the meantime. The children in these families might attend public schools. But they do not have a legal right to choose public schools and might be offered a 'centre school'. By decision makers, it might be considered in the best interest of the children to be in those schools, but it may also lead to segregation from Danish society including the right to access quality education on an equal footing with other children. Additionally, undocumented children (not in the asylum system and therefore not known by the authorities), do not have guaranteed rights to education.

We recommend that the issue of school attendance of children seeking asylum be regulated by the Public School Law rather than the Aliens Act.

DRC + SOSAR response:

This was accepted but asylum seekers children do still not have the right to equal access to education on an equal footing with other children, they do not even have the right to attend the Danish basic school. More, their education is often interrupted by being moved from one asylum center to another place in Denmark.

Recommendation n°121: Ensure that the necessary protection and assistance is provided to unaccompanied children seeking asylum (Recommended by Poland)

IRI: not implemented

RWD response:

See response [to recommendation n°] 120

DIHR response:

In cases involving minor asylum seekers, Denmark must take into account the principle of “devotion to the best interests of the child” enshrined in the United Nations Convention on the Rights of the Child. Moreover, the UN Refugee Agency (UNHCR) and the United Nations Committee on the Rights of the Child have published a number of recommendations in the area.

In Denmark, unaccompanied minor asylum seekers do not have their asylum applications processed until they are mature enough to undergo a standard asylum case process. In the interim period, some of them may be granted a residence permit as an unaccompanied minor. In other cases, they wind up in a legal vacuum. A residence permit as an unaccompanied minor lapses as a rule when the minor turns 18. Some unaccompanied minors disappear from Denmark before their cases are concluded.

Denmark’s international obligations are reflected in the Danish Aliens Act concerning unaccompanied minors. On some areas, the human rights situation for foreigners in Denmark could however be improved. DIHR has for example in November 2013 in its status report on asylum recommended it should be considered if unaccompanied minors on arrival should be assigned a legal representative (along with the personal representative already assigned). DIHR furthermore recommended, to promote the human rights of the unaccompanied minors, that the Aliens Act is amended so the Danish immigration authorities shall consider if an unaccompanied minor could be granted asylum in a special procedure, if they cannot go through an ordinary asylum procedure because of their maturity.

Joint response:

Denmark has not implemented the recommendation. Denmark recognizes unaccompanied minors as vulnerable and the Danish Aliens Act contains special rules regarding this group. However, an amendment to the Aliens Act caused a possibility for the State to return foreigners granted residence as unaccompanied by the time the minor turns 18. Residence permits given by §9c, stk. 3, no 1 and 2 in the Danish Aliens Act are now temporary only until the age of 18. By giving the unaccompanied minors the perspective of forced return by the age of 18, they will find themselves in a difficult and insecure position, putting increased pressure on an already vulnerable group, causing poor integration and future perspectives for this group, as learning and education opportunities are reduced.

- Recommendation: To revise the amendment concerning the temporary nature of subsidiary protection granted unaccompanied minors and ensure protection also after the age of 18.

Amendments to the Danish Aliens Act concerning unaccompanied minors were adopted on 16 December 2010. The changes in the legislation mean that a residence permit issued to a minor who is too immature to be examined in an asylum procedure



or by return will be put in a de facto situation of emergency cannot be extended beyond his/her age of 18 years. The prospect for a minor of having to go back to their country of origin when they turn 18 to many will mean uncertainty, fear and lack of future perspective. An already very vulnerable group is thus put in an extremely difficult situation. We fears that municipalities (who are responsible for the minors) do not have the necessary skills and resources to make the residence time (which perhaps more have the character of waiting time) meaningful to the child/young person. You can even fear that the child/young person, often at some level traumatized by past events, would be severely damaged by this uncertainty and lack of prospects. We find this uncertainty contrary to the best interest of the child and the Convention on the Rights of the Child.

In any case, there will be a need for a special two-lane municipal effort , an effort that on one hand makes sense in relation to a life in Denmark, ie . coordinated efforts in relation to education (Education Act), place of residence and Social Care (Social Service) , leisure and social relationships, support under the Integration Act, etc., while supporting the child in getting the necessary resources to cope with the country of origin after turning 18 , including development of the mother tongue. We have heard from various Danish municipalities that the caseworkers are not always even aware, that the minors will loose their residence permit when they turn 18. Therefore there often do not exist special offers of the abovementioned to this group of minors.

We regret that Denmark has tightened the rules for residence permit for such a vulnerable group. It should be noted that in 2009 only 28 residence permits to unaccompanied minors were given. It is therefore difficult to see the need to tighten up in this area.

On this basis, we urge the Danish Government to make new legislation which - again - offers the possibility of renewal of a residence permit after a child turns 18 and to offer exceptions in the current legislation to persons over the age of 18. Exceptions can either be built into the provision itself or by an easy access to the particular application of section 9c (1) of these cases (residence permit on "exceptional circumstances"). We also consider it quite problematic that no legal assistance is secured by law when the residence permit expires or if the minor will apply for residence permit under the Danish Alien Act, Section 9c (1). Rejected unaccompanied minors – who have had a relatively long stay in Denmark (5 years or more) and deportation has not yet been possible – may be granted a residence permit under section 9c(1) if 'exceptional circumstances' exists. The immigration authorities will evaluate the child's attachment to the Danish society versus his/her attachment to the country of origin. During the processing of such cases the child is only assisted by its guardian (if still underage) and the role of the guardians in terms of legal advice is only to support and guide the children during the asylum procedure. They communicate knowledge about procedures but they are not allowed to offer legal assistance since they are not qualified to do so.

Denmark has not implemented the recommendation. No changes have been made to the amendments to the Danish Aliens Act from 2011 with regards to the laws covering the unaccompanied children seeking asylum. According to the recommendation of the Committee on the Child, the best interest of the child should



be the guiding principle in cases involving separated children and during refugee determination procedures (cf. CRC/C/DNK/CO/4/34 and 58) and durable solutions should be found. The reporting group does therefore still not find that rules in the Danish Aliens Act enforce the best interest of the child to be the guiding principle in finding a durable solution for separated children or for children in asylum seeking families.

DRC + SOSAR response:

Many children have their official age changed after a medical examination based upon very insecure methods for determination of age.

Other

Recommendation n°31: *Review its body of legislation prohibiting discrimination to ensure equal protection on all grounds, and in this regard, consider elaborating a single comprehensive act covering all grounds for possible discrimination (Recommended by Canada)*

IRI: *partially implemented*

DIHR response:

An expert committee has been established by the Danish Ministry of Justice in 2012 with the mandate to consider, inter alia, the possibility of adopting Protocol No. 12 of the European Convention on Human Rights that includes a general prohibition of discrimination. Further consideration by the Danish Government as to the appropriateness of a general anti-discrimination legislation awaits the result of the expert committee's work.

Joint response:

Denmark has taken initial steps to implement this recommendation. However, Danish civil legislation on discrimination still maintains different levels of protection depending on the ground of discrimination. E.g civil law does not protect discrimination based on religious affiliation and disability outside the labour market, while discrimination based on ethnicity and national origin is protected outside the labour market.

The expert committee on incorporation referred to above has also been mandated to consider, inter alia, the possibility of adopting Protocol No. 12 of the European Convention on Human Rights that includes a general prohibition of discrimination. Further consideration as to the appropriateness of a general anti-discrimination legislation awaits the result of the expert committee's work.

ENAR response:

+



DRC + SOSAR response:

The Board on equal treatment is very effective with regard to gender discrimination and old age cases. When it comes to racial discrimination cases, it seems that the board is more reluctant and consequently a review of this body in order to ensure equal treatment on all the protected grounds is indeed crucial.

Recommendation n°38: *Establish an independent body to promote and protect the rights of the child and to monitor the implementation of the Convention on the Rights of the Child* (Recommended by *India*)

IRI: *fully implemented*

+

Recommendation n°39: *Consider establishing an independent body or organ charged with monitoring the implementation of the provisions of the Convention on the Rights of the Child* (Recommended by *Poland*)

IRI: *fully implemented*

+

Recommendation n°41: *Consider the creation of a separate institution of Ombudsman for children's rights, as previously recommended by the Committee on the Rights of the Child and the Danish National Council for Children* (Recommended by *Kyrgyzstan*)

IRI: *fully implemented*

DIHR response:

In 2011 was a specific Children's department under the Danish Parliamentary Ombudsman established.

Joint response:

Denmark has implemented the recommendation. The present (new) government has established a National Children's Office as part of the Danish Parliamentary Ombudsman by 1 November 2012. Together with the National Council for Children, the Danish Institute for Human Rights and the National Social Appeals Board, the Children's Office is responsible for the strengthening, the protection, and the improvement of children's rights. The Children's Office has a specific mandate to deal with specific and individual complaints concerning children. The multi headed independent body (bodies) will be evaluated in 2014. The reporting NGO's follow this construction closely and are concerned about the multi-pronged construction. Recommendation: A solid follow up on the evaluation 2014 and further steps to strengthen the relevant Danish bodies.

Recommendation n°42: *Develop and implement a national action plan for human rights in order to framework a systematic and comprehensive approach to the promotion and protection of human rights* (Recommended by *Indonesia*)

IRI: *not implemented*

DIHR response:

Denmark has not implemented the recommendation.

Joint response:



Denmark has not implemented the recommendation. A national action plan for human rights should be developed and implemented in close cooperation between the government, the national institution for human rights, and the civil society. The plan should be continuously assessed and updated, taking into account the information provided from continuously monitoring Danish compliance with responsibilities incurred through signed and/or ratified conventions. Furthermore, no initiatives have been taken to develop and implement a comprehensive national action plan on the protection of the rights of the child contrary to the recommendations of the Committee on the Rights of the Child (CRC/C/DNK/CO/4/17).

Recommendation n°48: *Undertake a process of broad, national consultations with civil society, including the Danish Institute for Human Rights, in the follow-up to this review (Recommended by Austria)*

IRI: *not implemented*

DIHR response:

A follow up seminar with Danish authorities, civil society and the Danish Institute for Human Rights was held in December 2011. Since the Danish UPR process there has been no systematic follow up. The Danish government is however currently preparing a UPR midterm report.

Joint response:

Denmark has not implemented the recommendation. We regret that the Danish Government has failed to deliver their mid-term report on the status of implementation of the 2011 UPR recommendations as well as to undertake consultation with civil society in the follow-up to this review. In light of the failure of the Danish Government, it has not been possible for the civil society to read and therefore not possible to respond to the Danish Governments contribution within the time limit given by UPR.

ENAR response:

+

DRC + SOSAR response:

The Ministry of foreign Affairs has done sadly little in order to allow consultations with civil society, so even though this recommendation was accepted, it has not been implemented. As an example NGO representatives were earlier invited to participate in the official delegation to the UN General Assembly with funding, but now without funding. Thus no NGO can participate any more due to lack of resources.

Recommendation n°51: *Enhance accessibility of the United Nations human rights system for all members of Danish society by ensuring the translation into Danish of its UPR outcome, relevant treaty body concluding observations and special procedure country reports (Recommended by Canada)*

IRI: *partially implemented*

DIHR response:

Concluding observations are not systematically translated into Danish by the Danish government. The Danish Institute for Human Rights published the UPR recommendations for Denmark in Danish and will initiate a translation of the concluding observations into Danish. There is no information on the translation of the



Concluding Observations into other relevant languages especially such as the Greenlandic and Faroese languages since these territories are part of the Danish Realm.

Joint response:

Denmark has partially implemented the recommendation. Concluding observations are not systematically translated into Danish by the Danish government. The Danish Institute for Human Rights (DIHR) published the UPR recommendations for Denmark into Danish and will initiate a translation of the concluding observations from the UN treaty body system into Danish to the extent resources permit this initiative. There is no information on the translation of the Concluding Observations into other relevant languages especially, such as the Greenlandic and Faroese languages since these territories are part of the Danish Realm. The translation of the concluding observations of the CRC from 2011 has to the knowledge of the reporting group been translated into Danish. However it has not yet been made public. Concluding Observations and other key documents are not being disseminated the public or distributed to key stakeholders

ENAR response:

+

DRC + SOSAR response:

The Government “plans to meet with relevant organisations to discuss the process for follow up..” Our organisations still wait for this to happen.

Recommendation n°52: Clear the backlog of responses to thematic questionnaires from special procedures of the Human Rights Council (Recommended by Russian Federation)

IRI: not implemented

Joint response:

Denmark has not implemented this recommendation. The backlogs of responses to thematic questionnaires from special procedures of the Human Rights Council are to our knowledge among others questions from the Committee against Torture (CAT) and the Committee on the Elimination of Racial Discrimination (CERD). It seems, however, that the government at present is lacking any kind of overview of the total of thematic questionnaires received, questionnaires forwarded to the relevant departments, and questionnaires responded to. It is the general opinion that the flow of questionnaires from the special procedures is huge, and that deadlines are often too short. We recommend that both government and OHCHR consider streamlining the process.

Methodology

A. First contact

Although the methodology has to consider the specificities of each country, we applied the same procedure for data collection about all States:

1. We contacted the Permanent Mission to the UN either in Geneva (when it does exist) or New York;
2. We contacted all NGOs which took part in the process. Whenever NGOs were part of coalitions, each NGO was individually contacted;
3. The National Institution for Human Rights was contacted whenever one existed.
4. UN Agencies which sent information for the UPR were contacted.

We posted our requests to the States and NHRI, and sent emails to NGOs and UN Agencies.

The purpose of the UPR is to discuss issues and share concrete suggestions to improve human rights on the ground. Therefore, stakeholders whose objective is not to improve the human rights situation were not contacted, and those stakeholders' submissions were not taken into account.

However, since the UPR is meant to be a process which aims at sharing best practices among States and stakeholders, we take into account positive feedbacks from the latter.

B. Processing recommendations and voluntary pledges

Stakeholders we contact are encouraged to use an Excel sheet we provide which includes all recommendations received and voluntary pledges taken by the State reviewed.

Each submission is processed, whether the stakeholder has or has not used the Excel sheet. In the latter case, the submission is split up among recommendations we think it belongs to. Since such a task is more prone to misinterpretation, we strongly encourage stakeholders to use the Excel sheet.

If the stakeholder does not clearly mention neither that the recommendation was “fully implemented” nor that it was “not implemented”, UPR Info usually considers the recommendation as “partially implemented”, unless the implementation level is obvious.



UPR Info retains the right to edit comments that are considered not to directly address the recommendation in question, when comments are too lengthy or when comments are defamatory or inappropriate. While we do not mention the recommendations which were not addressed, they can be accessed unedited on the follow-up webpage.

C. Implementation Recommendation Index (IRI)

UPR Info developed an index showing the implementation level achieved by the State for both recommendations received and voluntary pledges taken at the UPR.

The **Implementation Recommendation Index (IRI)** is an individual recommendation index. Its purpose is to show an average of stakeholders' responses.

The *IRI* is meant to take into account stakeholders disputing the implementation of a recommendation. Whenever a stakeholder claims nothing has been implemented at all, the index score is 0. At the opposite, whenever a stakeholder claims a recommendation has been fully implemented, the *IRI* score is 1.

An average is calculated to fully reflect the many sources of information. If the State under Review claims that the recommendation has been fully implemented, and a stakeholder says it has been partially implemented, the score is 0.75.

Then the score is transformed into an implementation level, according to the table below:

Percentage:	Implementation level:
0 – 0.32	Not implemented
0.33 – 0.65	Partially implemented
0.66 – 1	Fully implemented

Example: On one side, a stakeholder comments on a recommendation requesting the establishment of a National Human Rights Institute (NHRI). On the other side, the State under review claims having partially set up the NHRI. As a result of this, the recommendation will be given an *IRI* score of 0.25, and thus the recommendation is considered as “not implemented”.

Disclaimer

The comments made by the authors (stakeholders) are theirs alone, and do not necessarily reflect the views, and opinions at UPR Info. Every attempt has been made to ensure that information provided on this page is accurate and not abusive. UPR Info cannot be held responsible for information provided in this document.



Uncommented recommendations

Hereby the recommendations which the MIA does not address:

rec. n°	Recommendation	SMR	Response	A	Issue
106	Ensure that contested children in a marital dispute have the possibility of maintaining effective contact with the foreign parent living abroad	Italy	Accepted	4	Rights of the Child

A= Action Category (see on [our website](#))

SMR = State making recommendation

Contact

UPR Info

Rue de Varembé 3

CH - 1202 Geneva

Switzerland

Website:

<http://www.upr-info.org>



Phone:

+ 41 (0) 22 321 77 70

General enquiries

info@upr-info.org



<http://twitter.com/UPRInfo>



<http://www.facebook.com/UPRInfo>