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Examen périodique universel

Rapport du Groupe de travail sur l'Examen périodique universel*

Danemark

Additif

Observations sur les conclusions et/ou recommandations, engagements exprimés et réponses de l'État partie

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Le Danemark accueille avec satisfaction les recommandations formulées à l'occasion de l'Examen périodique universel dont il a fait l'objet le 2 mai 2011. Après avoir attentivement étudié ces recommandations, le Danemark a le plaisir de communiquer les réponses ci-après, qui seront intégrées dans le rapport final:

- 106.1 Acceptée¹
 106.2 Non acceptée²
 106.3 Non acceptée³
 106.4 Acceptée⁴
 106.5 Non acceptée⁵
 106.6 Non acceptée⁶
 106.7 Non acceptée⁷
 106.8 Non acceptée⁸
 106.9 Non acceptée⁹
 106.10 Non acceptée¹⁰
 106.11 Acceptée¹¹

¹ The Kingdom of Denmark is currently examining to what extent legislative amendments for Greenland and the Faroe Islands would be necessary to meet the obligations under the Optional Protocols and expects this study to be completed in the course of 2011.

² By far the greater number of cases in which appeal requires a special permission from the Danish Leave of Appeal Board are simple and do not present problems as regards the evidence or matters of law. Furthermore, the penalty is often fixed on the basis of a scale.

³ A large part of the provisions of the International Covenant on Economic, Social and Cultural Rights are of a vague and rather imprecise nature. Therefore, the Committee may in some instances be brought in a situation where it must define the more specific content of these provisions and thus act as legislator. In certain instances the Committee will not be able to assess whether there has been a breach of the convention without at the same time taking a position as to the manner in which the particular state distributes its welfare resources. In the opinion of Denmark, such questions should be dealt with by the Government and the legislative power of the individual state.

The Convention on the Rights of Persons with Disabilities includes various economic, social and cultural rights which the parties to the Convention must implement gradually within the resources available. These economic, social and cultural rights build on open formulations in the Convention text that are difficult to define accurately and therefore are interpreted more or less extensively. The reason is that economic, social and cultural rights are subject to the principle of gradual implementation, rendering the parties' obligations difficult to define. To this should be added that they will often be of a distribution political nature and therefore unsuitable to be assessed in relation to individual cases.

Against this backdrop, the Danish government has found it inexpedient to sign the Optional Protocol to the Convention on the Rights of Persons with Disabilities.

⁴ Reference is made to the answer to recommendation no. 106.11.

⁵ Reference is made to the answer to recommendation no. 106.3.

⁶ Reference is made to the answer to recommendation no. 106.3.

⁷ Reference is made to the answer to recommendation no. 106.3.

⁸ Reference is made to the answer to recommendation no. 106.3.

⁹ Reference is made to the answer to recommendation no. 106.3.

¹⁰ Reference is made to the answer to recommendation no. 106.3.

¹¹ Denmark is currently examining to what extent it would be necessary to amend Danish legislation to meet the obligations under the Convention. Denmark expects that this study will be completed in the

- 106.12 Non acceptée¹²
- 106.13 Non acceptée¹³
- 106.14 Non acceptée¹⁴
- 106.15 Non acceptée¹⁵
- 106.16 Acceptée¹⁶
- 106.17 Acceptée¹⁷
- 106.18 Non acceptée¹⁸
- 106.19 Non acceptée¹⁹
- 106.20 Non acceptée²⁰
- 106.21 Acceptée²¹
- 106.22 Non acceptée²²
- 106.23 Non acceptée²³
- 106.24 Acceptée²⁴
- 106.25 Non acceptée²⁵

course of 2011. Denmark will ratify the convention when the necessary amendments to Danish law have been adopted and the Danish Parliament has given its consent to the ratification.

Denmark converts the remainder of the recommendation into a voluntary commitment, as follows:

“Denmark will consider the possibility of recognizing the competence of the Committee on Enforced Disappearances, as provided for in Articles 31 and 32 of the Convention, after having completed a study of the legal implications. The study is expected to be completed at the time of ratification of the Convention.”

¹² Denmark has ratified all the ILO core conventions on workers’ rights. These also apply to foreign nationals resident in Denmark. Also, as mentioned in the national report, Denmark gives high priority to improving the labour-market integration of migrants, which is essential in the context of migrants’ rights.

¹³ Reference is made to the answer to recommendation no. 106.12.

¹⁴ The part of the recommendation which concerns the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families is not accepted. Reference is made to the answer to recommendation no. 106.12 and 106.3.

¹⁵ Reference is made to the answer to recommendation no. 106.12.

¹⁶ Reference is made to the answer to recommendation no. 106.11.

¹⁷ Reference is made to the answer to recommendation no. 106.11.

¹⁸ Denmark attaches great importance to promoting a high level of human rights protection in all areas of society. Denmark has therefore ratified the key human rights instruments. Reservations to these instruments – which are few in number – have been subject to a thorough assessment before adoption.

¹⁹ Reference is made to the answer to recommendation no. 106.12.

²⁰ Reference is made to the answer to recommendation no. 106.12.

²¹ Reference is made to the answer to recommendation no. 106.11.

²² The scope of protocol no. 12 is much broader compared to the existing prohibition of discrimination in Article 14 of the Convention. However, nor the protocol, nor the explanatory report is very precise when it comes to defining the scope and content of the protocol. This makes it difficult to assess which consequences the ratification of the protocol will have for important areas of Danish legislation. Against this background, Denmark has decided not to ratify the protocol. However, Denmark will – on a continuous basis – consider the question of ratification of the protocol as the case law of the Court evolves.

²³ Reference is made to the answer to recommendation no. 106.3 and 106.18.

²⁴ Reference is made to the answer to recommendation no. 106.1.

- 106.26 Non acceptée²⁶
106.27 Acceptée²⁷
106.28 Non acceptée²⁸
106.29 Non acceptée²⁹
106.30 Acceptée³⁰
106.31 Non acceptée³¹
106.32 Acceptée³²
106.33 Non acceptée³³

²⁵ Reference is made to the answer to recommendation no. 106.12.

²⁶ Reference is made to the answer to recommendation no. 106.29.

²⁷ It is the opinion of Denmark that its national legislation is already in accordance with international human rights obligations. However, Denmark is paying continuous attention to further improving the level of human rights protection.

²⁸ Reference is made to the answer to recommendation no. 106.29.

²⁹ Denmark has decided not to incorporate the UN human rights conventions into national law. This decision is based on several considerations.

Firstly, the conventions do not place any obligation on the states as to incorporation into domestic law. When ratifying the conventions, Denmark assessed whether Danish law was in conformity with the conventions or whether any changes were necessary prior to the ratifications. After the ratifications, Denmark has also continuously taken steps to ensure that its national law is in conformity with the conventions, for instance when drafting new legislation. Secondly, the conventions are all relevant sources of law regardless of the method of implementation.

Against this background, Denmark finds that it is neither legally necessary, nor politically desirable to incorporate the UN human rights conventions into Danish law.

³⁰ The Kingdom of Denmark seeks to ensure the highest degree of human rights standards throughout the Kingdom. With a view to, inter alia, ensuring that the peoples of the constituent parts of the Kingdom have real ownership to the democratic process of their respective territories, the Kingdom of Denmark has established a constitutional system whereby a number of legislative and administrative powers are exercised by the governments of Greenland and the Faroe Islands. Consequently, the issue of accession to various human rights instruments may vary in time and scope, thereby reflecting individual practical and political priorities of the constituent parts of the Kingdom. Thus, it may occasionally happen that human rights instruments are ratified by the Kingdom with a declaration of limited territorial application, to the extent that the instrument does not prohibit such declarations. It is then for the competent governments in Greenland and/or the Faroe Islands to decide, in accordance with their national procedures and work schedule - and sometimes in dialogue with the Kingdom's authorities - whether to extend the applicability of the said instrument to the entire territory. This practice is well-established and accepted by the relevant depositaries of international conventions, including the UN Secretary General.

³¹ Denmark attaches great importance to promoting equality and preventing discrimination. The Danish legislation prohibiting discrimination consists of a number of legal acts which offer that very type and level of protection which is best suited depending on the discrimination ground and the area of society in question. In the opinion of Denmark, the various forms of discrimination call for different solutions in order to provide an overall level of high protection.

³² 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.

³³ Reference is made to the answer to recommendation no. 106.29.

- 106.34 Non acceptée³⁴
- 106.35 Non acceptée³⁵
- 106.36 Non acceptée³⁶
- 106.37 Acceptée
- 106.38 Non acceptée³⁷
- 106.39 Non acceptée³⁸
- 106.40 Non acceptée³⁹
- 106.41 Non acceptée⁴⁰
- 106.42 Non acceptée⁴¹
- 106.43 Acceptée
- 106.44 Acceptée
- 106.45 Acceptée⁴²
- 106.46 Acceptée
- 106.47 Acceptée
- 106.48 Acceptée
- 106.49 Acceptée

³⁴ The Government has asked an expert committee on criminal law to make a thorough review of Chapter 24 on sexual offences in the Criminal Code. The committee is expected to finish its work in approximately 1 year. The Government finds that any legislative changes must await the recommendations of the committee.

³⁵ Reference is made to the answer to recommendation no. 106.34.

³⁶ Reference is made to the answer to recommendation no. 106.34.

³⁷ Denmark has well established institutions such as the National Social Appeals Board, the Danish Parliamentary Ombudsman, and the National Council for Children – which collectively safeguard children’s and young people’s rights in Denmark. Both the Danish Parliamentary Ombudsman and the National Social Appeals Board have the authority to intervene in specific cases. Denmark therefore considers that the existing national institutions aimed at securing children’s rights are sufficient.

Denmark has initiated a number of initiatives aimed at informing children of their rights and avenues of complaint. Work is ongoing on launching a new website for children aimed at informing children of their rights in a language that is understandable to them. In addition, the government recently decided to increase its financial support to the Danish toll free phone line for children “Børnetelefonen” run by the organization “Børns Vilkår”.

³⁸ Reference is made to the answer to recommendation no. 106.38.

³⁹ Reference is made to the answer to recommendation no. 106.38.

⁴⁰ Reference is made to the answer to recommendation no. 106.38.

⁴¹ In all areas of society, Denmark continuously aims to secure a high human rights standard in policy making and law making. The various human rights issues are addressed on a concrete basis and initiatives are developed and implemented by the experts responsible for the area of society concerned. This working method allows for an intensive approach to the promotion and protection of human rights. Denmark does not consider a general national action plan for human rights a necessity in securing an overall high human rights protection.

⁴² Combating domestic violence is of high importance to the Danish Government. In order to reinforce the work in this area, the Government presented a new national strategy on domestic violence in June 2010. Several of the initiatives in the strategy are directed at children in homes with domestic violence.

- 106.50 Acceptée
- 106.51 Acceptée⁴³
- 106.52 Acceptée
- 106.53 Acceptée
- 106.54 Acceptée⁴⁴
- 106.55 Acceptée⁴⁵
- 106.56 Acceptée⁴⁶
- 106.57 Acceptée⁴⁷
- 106.58 Non acceptée⁴⁸
- 106.59 Acceptée⁴⁹
- 106.60 Acceptée⁵⁰
- 106.61 Acceptée⁵¹
- 106.62 Acceptée⁵²

⁴³ Concerning the translation of the treaty body concluding observations based on Denmark's examination in CRC in January 2011, Denmark is in the process of translating the concluding observations into Danish and plans to meet with relevant organisations to discuss the process for follow up on the concluding observations.

⁴⁴ Denmark attaches great importance to combating intolerance and racism. Denmark has taken and will continuously take a number of measures to protect vulnerable groups in society from discrimination and hate crimes and to combat racism, intolerance and xenophobia. In recent years, the Danish 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. The initiatives in both actions plans are in the process of being implemented.

Denmark also attaches great importance to combating hate speech, incitement to hatred etc., and the government has taken several steps to ensure that such cases are effectively investigated and prosecuted. The Danish Criminal Code contains a provision – 266 B – that criminalizes threatening, mocking or degrading expressions aimed at specific groups because of that group's race, colour, religion or sexual orientation.

At the same time, it follows from the Danish Constitution that anyone is entitled to publish his or hers thoughts, yet under responsibility to the courts. In a criminal case regarding hate speech the courts must consider whether a specific expression is protected or whether it violates 266 B in the Criminal Code, and in this regard considerable weight is attached to freedom of expression.

⁴⁵ Reference is made to the answer to recommendation no. 106.54.

⁴⁶ Reference is made to the answer to recommendation no. 106.54.

⁴⁷ Reference is made to the answer to recommendation no. 106.54.

⁴⁸ Denmark finds that effective measures in this field have already been taken. Reference is made to recommendation no. 106.54. As mentioned, Denmark attaches great importance to combating intolerance and racism, hate speech and incitement to hatred. Denmark has taken and will continuously take a number of measures to protect vulnerable groups in society from racism, intolerance and xenophobia and to ensure that cases regarding hate crimes are effectively investigated and prosecuted.

⁴⁹ Reference is made to the answer to recommendation no. 106.54.

⁵⁰ Reference is made to the answer to recommendation no. 106.54.

⁵¹ The recommendation is accepted as Denmark finds that the current rules in the Danish Aliens Act are in full accordance with Denmark's international obligations.

⁵² Reference is made to the answer to recommendation no. 106.54.

- 106.63 Acceptée⁵³
- 106.64 Acceptée⁵⁴
- 106.65 Acceptée⁵⁵
- 106.66 Non acceptée⁵⁶
- 106.67 Acceptée⁵⁷
- 106.68 Acceptée⁵⁸
- 106.69 Acceptée⁵⁹
- 106.70 Acceptée⁶⁰
- 106.71 Acceptée⁶¹
- 106.72 Acceptée⁶²
- 106.73 Acceptée⁶³
- 106.74 Acceptée⁶⁴
- 106.75 Acceptée
- 106.76 Acceptée⁶⁵
- 106.77 Acceptée
- 106.78 Acceptée
- 106.79 Acceptée⁶⁶
- 106.80 Le Danemark accepte la première partie de la recommandation visant à continuer de garantir la protection efficace des victimes de violence familiale⁶⁷.
- Le Danemark n'accepte pas le reste de la recommandation*⁶⁸.
- 106.81 Acceptée

⁵³ Reference is made to the answer to recommendation no. 106.54.

⁵⁴ Reference is made to the answer to recommendation no. 106.54.

⁵⁵ Reference is made to the answer to recommendation no. 106.54.

⁵⁶ As it is unclear what is meant by the recommendation, Denmark cannot accept it.

⁵⁷ Reference is made to the answer to recommendation no. 106.54.

⁵⁸ Reference is made to the answer to recommendation no. 106.54.

⁵⁹ Reference is made to the answer to recommendation no. 106.54.

⁶⁰ Reference is made to the answer to recommendation no. 106.54.

⁶¹ Reference is made to the answer to recommendation no. 106.54.

⁶² Reference is made to the answer to recommendation no. 106.32.

⁶³ Reference is made to the answer to recommendation no. 106.32.

⁶⁴ Reference is made to the answer to recommendation no. 106.32.

⁶⁵ In Denmark, police officers are required, upon request, to give their name and place of service to a citizen with whom they come in contact as part of their duties - except in certain circumstances, including in cases where the citizen is intoxicated or clearly mentally ill. It is therefore the opinion of the Danish Government that police officers can be properly identified by the citizens and that the recommendation is already implemented.

⁶⁶ Reference is made to the answer to recommendation no. 106.54.

⁶⁷ Reference is made to the answer to recommendation no. 106.45.

⁶⁸ 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.

- 106.82 Acceptée
- 106.83 Non acceptée⁶⁹
- 106.84 Acceptée⁷⁰
- 106.85 Acceptée⁷¹
- 106.86 Acceptée⁷²
- 106.87 Acceptée
- 106.88 Acceptée
- 106.89 Non acceptée⁷³
- 106.90 Acceptée
- 106.91 Acceptée
- 106.92 Acceptée⁷⁴
- 106.93 Acceptée⁷⁵
- 106.94 Acceptée
- 106.95 Acceptée
- 106.96 Acceptée⁷⁶
- 106.97 Acceptée⁷⁷

⁶⁹ Reference is made to the answer to recommendation no. 106.45.

⁷⁰ It is directly stipulated in the Danish Aliens Act, cf. section 19 (8) of the Danish Aliens Act, that if a residence permit has been granted on the basis of marriage or marital cohabitation, and this basis is no longer present, the authorities must pay special regard to whether the marriage or co-habitation has ended as a consequence of the foreigner concerned having been exposed to outrages, abuse or ill-treatment, etc., by the spouse.

The Danish immigration authorities will decide whether revocation or refusal must be assumed to be particularly burdensome owing to the foreigner's personal circumstances. This decision is made on the basis of a specific, individual assessment of the circumstances in each case. Thus Danish legislation ensures clear legal guarantees and administrative guidelines for the protection of immigrants who are victims of domestic violence with regard to their residence permits. Furthermore, all victims of domestic violence have access to support, legal aid and shelters.

⁷¹ Reference is made to the answer to recommendation no. 106.45.

⁷² Reference is made to the answer to recommendation no. 106.45.

⁷³ The reflection period is only relevant for trafficked foreigners, who have to leave Denmark because they (if they have applied for a residence permit) do not fulfill the conditions in the Danish Aliens Act. Furthermore, the different offers of special aid and assistance to trafficked foreigners in the Aliens Act are unconditional of a trafficked foreigner's willingness to participate in criminal investigations or proceedings. The foreigner's "cooperation in planning the prepared return" does not mean cooperation with the police regarding criminal investigations, but that the foreigner accepts the offered aid and assistance and signs necessary applications for travel documents etc. and if possible provides the authorities with information needed in order to establish necessary contacts in the country of origin.

⁷⁴ The distribution and production of child pornography is already criminalized, and the Criminal Code also provides for the prosecution of Danish citizens or other persons living in Denmark who sexually abuse children abroad.

⁷⁵ Reference is made to the answer to recommendation no. 106.92.

⁷⁶ Reference is made to the answer to recommendation no. 106.37 and 106.54.

⁷⁷ The Danish Court Administration initiated preparations of a public database on case law in the

- 106.98 Acceptée⁷⁸
 106.99 Acceptée⁷⁹
 106.100 Non acceptée⁸⁰
 106.101 Acceptée⁸¹
 106.102 Acceptée⁸²
 106.103 Non acceptée⁸³

autumn of 2010. It is expected that the database from the outset will contain case law from the Danish Supreme Court, the High Courts and the Maritime and Commercial Court, which will then be available to the public at no expense. All case law will be anonymised according to Danish law in order to protect the persons involved.

Denmark has a comprehensive legislation in place to ensure the fundamental principle of openness in public administration. Reference can especially be made to the Access to Public Administration Files Act. Subject to some exceptions, e.g. concerning the protection of privacy, the Act gives right of access to documents of the public administration, inter alia case law and internal guidelines for the consideration of specified classes of matters. When giving access to public administration files a reasonable fee may be required for transcripts and office copies.

The Danish Parliament is currently considering a proposal for a revision of the Access to Public Administration Files Act put forward by the Danish government. The proposal inter alia introduces a new right of access to so-called overviews of practice. In addition, the proposal obliges the ministerial departments, subordinate agencies and directorates, independent councils and boards as well as the central administration in municipalities and regions to provide information on their Internet websites – free of charge – to the general public about their activities (e.g. overviews of practice).

⁷⁸ In 2008, the Danish Parliament adopted an amendment to the Danish Administration of Justice Act which aims at restricting the number of people held in detention for extended periods of time. The rules include specific limits on the duration of the detention period which can only be extended when certain strict requirements have been met. Denmark will consider the need for additional measures to restrict the use of lengthy pre-trial detention.

⁷⁹ The lowering of the age of criminal responsibility from 15 to 14 is in accordance with the recommendations of the Committee on the Rights of the Child.

⁸⁰ Minors are as a rule placed outside the prison system. They can, however, be placed in the prison system if for example the charge against the minor concerns a particularly gross or dangerous crime. Minors will in that case as a rule be placed in a special unit for juveniles or in a local prison having social intercourse with other young offenders. If social intercourse with other young offenders is not possible, the staff must consider if it is in the young offender's interest to have social intercourse with older inmates in order to avoid social isolation. The staff has to be particularly aware that the young offender is not exposed to negative influence from older inmates and that the social intercourse will benefit the young offender.

Solitary confinement may only be initiated or continued for persons under the age of 18 if exceptional circumstances require it and for a maximum of 4 weeks, unless the charge concerns offences against the independence and security of the State or offences against the Constitution and the supreme authorities of the State, terrorism, etc. In 2009, no person under the age of 18 was held in solitary confinement in connection with remand custody.

⁸¹ Denmark accepts the first part of the recommendation as the Danish government has already taken several steps to resolve the problem of prison overcrowding and has committed itself to addressing this problem in the future.

With regard to the second part of the recommendation reference is made to the answer to recommendation no 106.37.

⁸² The recommendation is accepted with regard to non-discrimination.

⁸³ Denmark does not accept the recommendation, which is based on a misunderstanding. The rules regarding spousal reunification in the Danish Aliens Act do not regulate the right to marry. It is furthermore the Danish Government's opinion that the current rules regarding spousal reunification in the Danish Aliens Act are in accordance with Denmark's international obligations.

- 106.104 Acceptée⁸⁴
 106.105 Acceptée⁸⁵
 106.106 Acceptée⁸⁶
 106.107 Acceptée⁸⁷
 106.108 Acceptée⁸⁸
 106.109 Acceptée⁸⁹
 106.110 Acceptée⁹⁰
 106.111 Acceptée
 106.112 Acceptée
 106.113 Non acceptée⁹¹
 106.114 Non acceptée⁹²
 106.115 Acceptée⁹³
 106.116 Acceptée⁹⁴

Exemptions from the requirements – that normally have to be fulfilled to obtain spousal reunification – are granted if Denmark’s international obligations require this. The consideration of family unity is directly mentioned in the legislation regarding family reunification. In June 2011, the Danish Parliament adopted a bill submitted by the Government in March 2011. The new act is going to reform the legislation regarding spousal reunification and modernize the 24-year requirement. The new rules will enter into force 1 July 2011.

⁸⁴ The family plays a central part in Danish society, and Danish legislation seeks to promote family life. Being a democratic state, Denmark leaves it to the individual citizen to decide how to organize his or her family life. Thus, a family may establish itself within the concept of marriage, registered partnership or cohabitation, or a family may consist of a couple not living together or of one single person. The different possibilities for establishing family life form the basis of childhood and the formation and well-being of children.

⁸⁵ According to Danish law, a child and his or her parents have the right to obtain and maintain regular contact with each other, provided that this is in the best interests of the child. This also applies when a parent is living abroad. The Hague Convention of 1980 on the civil aspects of international child abduction has established an international cooperation, through which a parent living in a contracting state may forward an application on contact to the competent Danish authority.

⁸⁶ Reference is made to the answer to recommendation no. 106.104.

⁸⁷ Reference is made to the answer to recommendation no. 106.54.

⁸⁸ Reference is made to the answer to recommendation no. 106.54.

⁸⁹ Reference is made to the answer to recommendation no. 106.54.

⁹⁰ Reference is made to the answer to recommendation no. 106.54.

⁹¹ As it is unclear what is meant by the recommendation, Denmark cannot accept it.

⁹² Denmark cannot accept the recommendation, as it is based on a factual misunderstanding.

The Danish Immigration Service already provides for the healthcare treatment of asylum seekers – including rejected asylum seekers. Asylum seekers under the age of 18 are entitled to the same healthcare as children who are residents of Denmark. In the case of adult asylum seekers, the Immigration Service covers the expenses for healthcare provided that the treatment is necessary, urgent and alleviating/soothing. In addition, all persons – including asylum seekers and illegal immigrants – staying in Denmark are entitled to free emergency hospital treatment, for example in cases of an accident, sudden illness and birth or worsening of chronic illnesses, etc. under the same conditions as persons residing in this country.

⁹³ The citizenship policy corresponds with the Convention on the Reduction of Statelessness. Moreover, a number of initiatives have been initiated to ensure future compliance with the convention.

106.117 Non acceptée⁹⁵

106.118 Acceptée⁹⁶

106.119 Le Danemark **n'accepte pas** la première partie de la recommandation (concernant les amendements à la loi danoise relative aux étrangers).

*Le Danemark **accepte** la seconde partie de la recommandation (visant à fournir aux mineurs non accompagnés la protection et l'assistance dont ils ont besoin)*⁹⁷.

106.120 Acceptée⁹⁸

106.121 Non acceptée⁹⁹

106.122 Acceptée

106.123 Non acceptée

106.124 Non acceptée¹⁰⁰

106.125 Non acceptée¹⁰¹

106.126 Non acceptée¹⁰²

⁹⁴ Family reunification with children is granted upon application if the conditions stipulated in the Danish Aliens Act have been met – residence permits are therefore granted in as many cases as possible according to the Danish Aliens Act. It is Danish Governments opinion that the rules in the Danish Aliens Act are in accordance with Denmark's international obligations.

⁹⁵ Denmark cannot accept the recommendation, as it is based on a factual misunderstanding. According to section 7 of the Danish Aliens Act a residence permit will be issued – upon application – 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. Decisions are made after a concrete and individual assessment of the information in the applicant's case in conjunction with background information on the conditions in the applicant's country of origin. Reference is also made to the answer to recommendation no. 106.118.

⁹⁶ Pursuant to section 31 in the Danish Aliens Act a foreigner may not be returned to a country where he/she will be at risk of the death penalty or of being subjected to torture or inhuman or degrading treatment or punishment, or where the foreigner will not be protected against being sent on to such country. The safeguard against refoulement is absolute.

⁹⁷ Denmark regards unaccompanied minors as vulnerable, and the Danish Aliens Act therefore contains special rules regarding these foreigners.

⁹⁸ Prior to the return of a foreigner who has been expelled after he/she was granted a residence permit as a refugee the Danish authorities decides whether the foreigner can be returned. Reference is made to the answer to recommendation no. 106.118.

If the foreigner cannot be returned, the authorities must also decide whether the foreigner should be granted asylum again – or stay in Denmark without a residence permit (exceptional leave to remain).

⁹⁹ Reference is made to the answer to recommendation no. 106.84.

¹⁰⁰ Denmark cannot accept the recommendation if this implies the introduction of a special residence permit for trafficked foreigners. According to the Danish Aliens Act, a residence permit cannot be granted only for the reason that a foreigner has been exposed to trafficking. This applies to both adults and minors. However, a trafficked foreigner, who risks persecution in his/her home country, can be granted asylum. In each individual case the asylum authorities make an assessment of whether the foreigner is in a concrete and individual risk of persecution or need of protection. If significant humanitarian considerations warrant it, for example serious illness, residence permit can be granted on humanitarian grounds. Residence permit can also be granted if exceptional reasons make it appropriate.

¹⁰¹ It is the Danish Government's opinion that the current rules in the Danish Aliens Act are in accordance with Denmark's international obligations.

- 106.127 Non acceptée¹⁰³
106.128 Acceptée¹⁰⁴
106.129 Non acceptée¹⁰⁵
106.130 Non acceptée¹⁰⁶
106.131 Acceptée
106.132 Non acceptée
106.133 Non acceptée¹⁰⁷
-

¹⁰² The rules stipulated in the Danish Aliens Act offer sufficient protection in accordance with Denmark's international obligations.

¹⁰³ Denmark does not accept the recommendation according to which further steps must be taken. Reference is made to the answer to recommendation no. 106.103.

¹⁰⁴ It is the opinion of Denmark that non-Danish residents already fully enjoy their basic human rights, including access to justice.

¹⁰⁵ Reference is made to the answer to recommendation no. 106.103.

¹⁰⁶ Denmark finds that the current rules in the Danish Aliens Act are in full accordance with Denmark's international obligations.

Reference is made to the answer to recommendation no. 106.103.

¹⁰⁷ The Government has recently prepared a report on the experiences related to the so-called anti-terrorism packages and has found no reason to propose changes on the basis of legal protection. In connection with the preparation of the report, the Danish Ministry of Justice received statements from the Security and Intelligence Service, the Director of Public Prosecutions and the National Police. Furthermore, other relevant ministries contributed to the report. As it is stated in Denmark's national UPR report, civil society criticized the report. The Government will take the criticism from civil society into consideration in its continued efforts to guarantee that the terror legislation provides a basis for effectively combating terrorism without compromising the fundamental rights of the citizens.