



THE DANISH
INSTITUTE FOR
HUMAN RIGHTS

UPR MID-TERM
REPORT

SECOND CYCLE,
JULY 2018

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**NATIONAL HUMAN RIGHTS INSTITUTION OF DENMARK
UPR MID-TERM REPORT, SECOND CYCLE, JULY 2018
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INTRODUCTION

The Danish Institute for Human Rights (DIHR) is an independent state-funded institution. As Denmark's national human rights institution, the Institute's mandate is to monitor, promote, and protect human rights and equal treatment in Denmark and Greenland. Nationally, the Institute advises the Danish government, parliament, ministries, public authorities and civil society on human rights issues. Furthermore, the Institute produces analyses and research on human rights, and carries out projects to promote equal treatment in Denmark and Greenland. Internationally, the Institute works with national human rights institutions and other stakeholders, enabling them to strengthen human rights and local legal systems. The DIHR also helps private companies assess the impact of their work on human rights.

The Institute has written this report in its capacity as the A-accredited national human rights institution of Denmark. Additionally, the Institute has provided secretarial assistance to Danish civil society's UPR committee in its drafting of the separate NGO mid-term report. Throughout the process, the Institute has maintained positive and constructive cooperation with the Danish Government, including meetings with the Government's inter-ministerial Human Rights Committee. The Institute appreciates that the Danish Government, in its UPR mid-term report, has addressed some of the concerns expressed by civil society and the Institute during the public hearing of the draft report earlier in the process.

The Institute has commented on recommendations both accepted and noted by the Danish Government. The Institute recommends on principle that the Danish Government comments on noted recommendations in its UPR mid-term report to the United Nations Human Rights Council.

UPR no. & country	Recommendations	Government response (DK)	SDG
	Danish Institute for Human Rights (DIHR) comments		
National Action Plan on Human Rights			
121.47 Indonesia	Develop a National Action Plan for Human Rights in order to framework a systematic and comprehensive approach to the promotion and protection of human rights	Noted	Not SDG-mapped
Also covers: 121.46 (GE)	DIHR: Denmark has not developed a national action plan on human rights. The Institute assesses that a national action plan would improve the human rights situation in Denmark by securing a systematic approach to the promotion and protection of human rights in the country. The Institute recommends that the Danish Government takes concrete initiatives to develop a comprehensive national action plan on human rights.		
National Action Plan on Racism			
121.49 Costa Rica	Develop a national plan against racism and discrimination, in accordance with its international obligations	Accepted in principle	10.3
Also covers: 121.25 (MV) 121.48 (DJ) 121.50 (RU) 121.51 (PL) 121.60 (AL)	DIHR: Denmark has not developed a national action plan against racism. In 2016, 140 racially motivated hate crimes and 55 cases of hate speech were reported in Denmark. ⁵ Furthermore, in 2016, 43 % of immigrants and descendants of immigrants of non-western origin in Denmark stated that they had experienced discrimination due to their ethnicity. ⁵ The Institute encourages the Danish Government to take concrete initiatives to develop an extensive and effective national action plan against racism. Additionally, the Institute recommends that the Danish Government signs and ratifies Protocol no 12 of the European Convention on Human Rights and Fundamental Freedoms (general prohibition of discrimination) and the United Nations Convention on Migrants and their Families' Rights.		

Establishment of NHRI in the Faroe Islands

121.41 Poland	To the Faroe Islands: Establish a National Human Rights Institution covering the Faroe Islands according to recommendations made by the UN General Assembly(1994) and the UN Committee on Economic, Social and Cultural Rights (2013)	Accepted	16.a
	DIHR: As of July 2018, a national human rights institution has not been established in the Faroe Islands. Consequently, the Faroe Islands and Denmark do not abide by the 1993 United Nations General Assembly Resolution 48/134 regarding the establishment of national human rights institutions. The Institute encourages the Faroese government to introduce legislation that will establish a national human rights institution in the Faroe Islands in accordance with international recommendations.		

Legislation to Combat Discrimination and Promote Equal Treatment

121.64 Bulgaria	Expressly prohibit discrimination against persons with disabilities as well as religious belief, sexual orientation, or age, outside the labour market	Accepted in principle	10.3, 16.b
Also covers: 121.65 (LB) 121.66 (CA) 121.68 (RS) 121.76 (IR)	<p>DIHR: Denmark has recently adopted legislation to combat discrimination against persons with disabilities outside the labour market. However, national civil legislation prohibiting discrimination outside the labour market on grounds of religion, sexual orientation, gender identity, and age is still lacking.</p> <p>The Institute welcomes the new ban on discrimination on the grounds of disability outside the labour market, despite the fact that the Institute believes it lacks several components, including a requirement for reasonable accommodation of persons with disabilities. Therefore, the Institute assesses that Denmark has not enacted sufficiently comprehensive equality legislation providing effective remedies and addressing discrimination on all grounds. The Institute recommends that the Danish Government effectively prohibit discrimination on the grounds of religion, sexual orientation, gender identity, and age, outside the labour market. In addition, the Institute recommends that the Danish Parliament amend the 2018 act on prohibition against discrimination on the grounds of disability by including an obligation to provide reasonable accommodation.</p>		

Combat Hate Crimes

121.52 Poland	Develop a national plan for combating hate crimes in order to ensure continuity and sustainability	Accepted in principle	10.3, 16.1
Also covers: 121.58 (TN) 121.61 (CA) 121.95 (BH) 121.127 (AZ) 121.146 (CI) 121.149(MY) 121.150 (MA) 121.151 (SG)	<p>DIHR: Denmark does not have a national action plan for combating hate crimes. In 2016, 274 hate crimes were registered in Denmark, whereof 88 were religiously motivated and 45 sexually motivated.⁵ According to the Danish National Police’s own figures, the number of registered hate crimes increased by 38.4 % from 2015 to 2016.⁵</p> <p>Several positive initiatives to combat this development are currently in place, such as the police’s participation in partnership programs with stakeholders, and the introduction of an in-service training course on hate crime. Nonetheless, the Institute finds the increase in the number of registered hate crimes disturbing, and calls for further initiatives to combat this negative development. It is particularly important to address the issue of hate crimes that are not reported to the police, consequently not registered and adequately investigated by the authorities.</p> <p>The Institute recommends that the Danish Government prioritises the combat against hate crimes, including allocating the necessary funds and developing a national action plan to combat hate crimes. Moreover, the Danish Government is encouraged to enhance efforts to enforce the United Nations Human Rights Council’s resolution 16/18.</p>		

Disabled Persons’ Rights

121.26 Djibouti	Explicitly prohibit discrimination against persons with disabilities and discrimination based on religious belief	Accepted in principle	10.3, 16.7
Also covers: 121.27, (AL) 121.28 (MV)	<p>DIHR: Persons with disabilities continue to be a vulnerable group facing discrimination in Danish society. A survey from 2013 showed that 24 % of citizens with severe physical disabilities, and 39 % of those with a severe mental illness had experienced discrimination due to their disability.¹⁰ Challenges also remain within the legal framework and administrative practice. Interpreting the constitution of 1953 in a January</p>		

	<p>2018 judgement, the Danish Supreme Court ruled that citizens under guardianship could continue to be deprived of the right to vote and stand for parliament.</p> <p>The Institute sees the deprivation as an unjustified limitation on the fundamental democratic rights of citizens under guardianship. Additionally, the Institute assesses that there is reason to believe that since 2015, the Danish Naturalization Committee has contravened the United Nations Convention on the Rights of Persons with Disabilities, in its obligation to grant disabled persons exemption from requirements for citizenship, which they are unable to fulfil due to their disability.¹ In relation to disability, the Institute recommends that the Danish Government amend national legislation so persons with disabilities do not experience limitations on their democratic rights or institutionalized discrimination due to their disabilities. For discrimination based on religious beliefs, please refer to recommendation 121.52 (Combat Hate Crimes) above.</p>		
121.130 Mexico	Repeal the provisions that allow persons with disabilities to be subject to medication and psychiatric treatment without their consent	Noted	16.10
	<p>DIHR: Denmark continues to allow persons with disabilities to be subject to medication and psychiatric treatment without consent.¹ Between 2011 and 2016, around 7.8 % of those hospitalized in psychiatric facilities received tranquillizing medicine by compulsion.²</p> <p>The Danish Institute for Human Rights is concerned about the number of cases of coercive treatment of persons admitted to psychiatric institutions. The Institute thus recommends that the Danish Government amend legislation and guidelines on the use of coercive measures, in order to limit the use of coercive measures in psychiatric institutions.</p>		

Solitary Confinement of Minors

121.129 Mexico	Review the detention in solitary confinement of persons under 18 years of age, to ensure that no child is held in ordinary prisons for adults	Accepted in part	16.2
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Also covers: 121.132 (HN) 121.133 (NA) 121.134 (PL) 121.135 (SI) 121.136 (TH)	<p>DIHR: Denmark continues to imprison minors for criminal offences and has not prohibited solitary detention of persons under 18 years of age. On average, 8.8 children or young people under the age of 18 were confined in prisons or detention centres in Denmark in 2017.¹ The United Nations Committee on the Rights of the Child noted in its recommendations to Denmark in 2017, a decrease in the number of cases of solitary confinement of children on remand. Nevertheless, the committee recommended that Denmark should abolish the option of placing children in solitary confinement.¹ In 2015, the United Nations Committee Against Torture was of a similar opinion.⁹</p> <p>The Institute notes that even though the total use of solitary confinement has remained reasonably stable over the past ten years, it is becoming more common for prison staff to use solitary confinement as a disciplinary measure.¹ The Institute recommends that the Danish Government revise the legislation and prohibit solitary confinement of minors.³ The Institute also encourages the Danish Government to effectively observe the prohibition of confining underage offenders with adults. Furthermore, the Institute is concerned that underage offenders convicted of serious crimes involving risk of injury to others may no longer serve non-custodial sentences in their own home.¹ Moreover, the Institute recommends that the Danish Government fully implements the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.</p>		
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General Rights in the Asylum Procedure

121.177 Namibia	Ensure that the best interests of the child are fully considered when deciding on asylum applications	Accepted	Not SDG-mapped
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	<p>DIHR: Denmark received 3,500 asylum seekers in 2017 of which 470, or 13 %, were unaccompanied children.⁶ The nationalities of the latter group were primarily of Afghani, Moroccan, and Syrian origin. Consequently, the significant decline in the overall number of asylum applications in 2016 (6,266) from the historically high number in 2015 (21,316) continued in 2017.⁶</p>		
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Several initiatives relevant to children's interest have been taken within the Danish asylum system. The Institute particularly welcomes the 2017 launch of a monitoring mechanism focused on the accommodation of unaccompanied children. Additionally, the Institute supports improvements in the asylum complaint procedure, and that the Refugee Appeals Board and the Immigration Appeals Board have taken over a number of tasks from the Ministry of Immigration and Integration. Despite these positive initiatives, the Institute still finds several human rights challenges within the Danish asylum procedure, especially regarding the rights of children.

According to Danish law, an unaccompanied child asylum seeker is defined as a person under 18 years of age who applies for asylum without being accompanied by his/her parents or another adult able to act on behalf of the parents.⁶ The United Nations Committee on the Rights of the Child has recommended that Denmark should guarantee unregistered children and unregistered pregnant women full access to healthcare services.¹ The Institute has also previously recommended such legislative amendments, however, the Danish Government is yet to introduce legislation securing healthcare for these particularly vulnerable groups.¹ The institute also sees the accommodation of unaccompanied children asylum seekers as problematic, especially the children's lack of contact with their immediate family and the risk of traumatizing the children as a result of placing them in often troubled asylum centres for prolonged periods of time. The Institute has addressed this issue directly with the Ministry of Immigration and Integration.⁶

Another problematic issue is the treatment of children not mature enough to undergo the asylum proceedings but who cannot receive residence permits on other grounds. The Institute recommends that the Ministry for Immigration and Integration ensure that temporary social measures are taken to accommodate this group and that psychological maturity assessments are included in the overall age assessment.

The Institute further notes the situation of children born stateless in Denmark. 528 persons under the age of 18 lived in Denmark in 2017 without citizenship, despite being born in Denmark and entitled to Danish citizenship under Danish law and United Nations conventions. The Institute recommends that this group receive citizenship. Finally, the Institute encourages the Danish Government to implement the United Nations Convention on the Rights of the Child systematically.

Family Reunification

121.185 Greece	Take further steps in order to protect the right to family reunifications for refugees, giving emphasis to child rights	Noted	Not SDG-mapped
Also covers: 121.187 (PT) 121.188 (TR) 121.189 (AR) 121.190 (BH) 121.191 (BR) 121.192 (IE)	<p>DIHR: In recent years, Danish legislators have tightened the rules for family reunification in order to make it less attractive to come to Denmark and in an apparent attempt to enhance integration efforts for reunited families.⁷ Notably, the conditions for qualifying for permanent residency have also been made stricter, which in turn has made it more difficult for applicants to achieve family reunification and citizenship.¹ The Institute especially considers the introduction of an integration requirement and a ban on family reunification if individuals live in certain residential areas as human rights challenges.</p> <p>In November 2017, the Danish Supreme Court ruled in favour of the Government and accepted the so-called three-year rule in the Danish Aliens Act after which persons with temporary protection status in Denmark, including war refugees, must wait three years before they can achieve family reunification. The Institute considers the rule in breach of the European Convention on Human Rights, and intervened in the case in support of the applicant. The case has now been brought before the European Court of Human Rights. When the United Nations Committee on the Rights of the Child examined Denmark's efforts to comply with the United Nations Convention on the Rights of the Child in 2017, the committee recommended that Denmark should abolish the three-year rule.¹</p> <p>The Institute aligns itself with the committee's recommendation and generally encourages the Danish authorities to take further steps in order to protect the right to family reunification for refugees, especially giving emphasis to children's rights. Furthermore, the Institute encourages the Danish Government to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.</p>		

Evidence-based Evaluation of Anti-Terrorism Legislation

121.197 Netherlands	Carry out an inclusive, evidence-based evaluation of the Danish anti-terrorism legislation, as previously recommended	Accepted in principle	Not SDG-mapped
Also covers: 121.40 (HU)	<p>DIHR: Since 2001, Denmark has introduced several wide-ranging amendments to its anti-terror legislation. Namely, the two packages of anti-terror legislation from 2002 and 2006, and the legislative response to the February 2015 terrorist attacks in Copenhagen have resulted in significant toughening of the Danish legislative framework. The Institute recognises that terrorism is within the category of threats to national security that can justify limitations to human rights to a certain extent if necessary in a democratic society.</p> <p>However, the Institute finds that strict monitoring and evaluation of the anti-terrorism legislation and how it is applied in practice is necessary in order to avoid unjustified or unnecessary limitations on personal liberty based on security concerns. The Institute particularly wants to address the topic of Danish authorities and security services logging of personal data due to investigation and prevention of crime considerations. The European Union Court of Justice has determined that national rules concerning logging of data are only compatible with European Union law if the logging is strictly necessary. Furthermore, the Court has considered logging that allows for precise conclusions to be drawn concerning the private lives of the persons whose data is logged, as being equally sensitive in terms of interference with the right to privacy as the actual content of the communication. The Institute sees the protection of personal data as a key human right in an open, liberal democracy. The Institute is concerned that until April 2018, Danish security services kept data outside the normal regulatory framework, resulting in logged data not being deleted accordingly.</p> <p>Furthermore, the Institute considers – as it has previously recommended to various Danish Governments – that a general, inclusive and evidence-based evaluation of the Danish anti-terrorism legislation is both necessary and overdue. The Institute notes that the last major amendments comprising 12 new anti-terror initiatives were introduced in the beginning of 2015 and phased in over a period of three years, ending in the spring of 2018. Consequently, the Institute recommends that the Danish Government take concrete steps to initiate an assessment of the entire Danish anti-terrorism legislation and in particular, how the legislation is applied in practice. The Institute notes that the Danish Government previously indicated to the Danish parliament that it could be relevant to undertake such a broad assessment when the new counter-terrorism measures introduced in 2015 had been applied for some years.</p>		

Greenland

121.118 Iceland	That Greenland reform and upgrade municipal competences and accountability in order to apply constructive measures and to promote protection of the child against violence, and to assist families in rehabilitation efforts on substance abuse and addiction	Accepted	3.5, 16.2
<p>DIHR: Greenland continues to face significant challenges in relation to children’s rights and welfare. Poverty, various forms of physical abuse, and mental maltreatment are significant societal problems. As part of a negative cycle, Greenland has one of the world's highest suicide rates with a rise in recent years in the number of young people under the age of 20 committing suicide.⁸</p> <p>Increased awareness and focus on the conditions for vulnerable children has been on the rise among the general public and politicians alike, and progress has been made. One of the key issues in the Greenlandic home rule election campaign in 2018 was vulnerable children and young people. Even so, the Greenlandic authorities have consistently reported that a significant number of vulnerable children and young people still do not receive the necessary support from the authorities if exposed to abuse and violence.</p> <p>The Institute recommends that Greenlandic and Danish authorities strengthen local capacity responsible for dealing with cases of physical and mental violence, or the abuse or sexual exploitation of children and young people. Furthermore, the Institute recommends that Denmark and Greenland remove the territorial reservation on Greenland for the Council of Europe’s Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. The Institute also recommends that the Greenlandic and Danish authorities in cooperation with local municipalities take initiatives to combat poverty by targeted actions aimed at vulnerable families with children across Greenland.</p>			

SOURCES

1. [DIHR: Annual report 2017-18](#)
2. [DIHR: Status report 2016-17](#)
3. [DIHR: Status report 15-16 on children](#)
4. [UPR database: Upr.humanrights.dk](#)
5. [Danish Police 2016 report on hate crimes](#)
6. [DIHR Status on asylum 2018](#)
7. [DIHR Status on family reunification 2018](#)
8. DIHR figures. contact POC.
9. [Un Committee Against Torture: Concluding Observations On The 6th & 7th Periodic Reports Of Denmark](#)
10. [Vive - The Danish Center For Social Science Research](#)

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