

# Foreningen af Udlændingeretsadvokater

---

FAUADV.DK  
Foreningen af  
Udlændingerets-  
Advokater

Alternative report on Denmark for Committee on the Elimination of Discrimination Against Women 60th Session, 16 February – 6 March 2015

## INTRODUCTION

In advance of Denmark's 8<sup>th</sup> Periodic Report on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women, the Association of Immigration Law Attorneys (FAU) submits the following information to CEDAW.

As lawyers in Denmark, we could provide information on many aspects regarding, for example, gender discrimination cases in the labour market, the issue of men and women in the same prisons etc. However since our main focus is Immigration law, we will restrict ourselves to the issues relating to migrant women in Denmark, and in this regard we highly appreciate the work of the Women's Committee with regard to individual communications under the Optional Protocol since many of these communications relates to foreign women in Denmark.

Furthermore, we would like to welcome the list of issues as of 24 July 2014, which includes a number of issues relating to the situation of foreign women in Denmark, which amongst other includes violence against women, trafficking, family reunification and asylum.

We also very much welcome the latest General recommendation no. 32 on gender-related dimensions of refugee status, asylum, nationality and statelessness women.

We would however like to regret the fact that the Danish Government has declared in public (Daily newspaper Information 22 November 2014) that CEDAW and other UN Human Rights Conventions are not going to be incorporated into national Danish legislation.

In the following, we will like to comment on Gender violence, Asylum and Family reunification.

### I. Gender violence

Under this heading, the Committee asked the Danish Government, among other things, to provide information on:

**“9. Please indicate the measures taken to ensure that foreign married women victims of domestic violence are provided with flexible solutions with regard to their resident permits and whether clear legal guarantees and administrative guidelines for their protection are set.”**

The Government made very little response to this, but from our point of view the problem may not be the rules as such, but rather the need for proof of violence in such cases. Foreign women may not be able to get the needed medical and other proofs of domestic violence before fleeing a violent spouse.

There is a need for these women to have the benefit of the doubt with regard to the assessment of the Immigration Service processing of the cases, by which such women may lose their residence permits. If they have to leave a violent spouse and they are not able to prove the violence, their residence permit will be revoked and they will be asked to leave Denmark/deported back to the country of origin. It is thus a concern that some foreign women may have to stay in a violent marriage, because of the fear that they will be deported if they leave their husband.

# Foreningen af Udlændingeretsadvokater

---

It is thus of great importance that the Danish Government monitor the number of migrant women who lose their residence permit because they leave a husband for the reason of violence. These numbers should also include how many are allowed to stay (with another residence permit) and how many are being deported. In order to compare the situation such figures should be provided as of 2009 to 2014 (the period under review).

## I. Asylum

In the 2009 Concluding Observations the Committee recommended that:

***“The Committee calls on the State party to <...> develop guidelines on the handling of claims of gender-related persecution within Danish asylum law and practice so as to develop a more thorough way of identifying victims of trafficking and gender-based persecution.” (Concluding Observations para 33)***

The Danish authorities have developed no such guidelines on the handling of claims from female asylum seekers in fear of gender related persecution in the country of origin. In the reply to the list of issues (CEDAW/C/DNK//Q/(Add 1, page 31) the Government replied under the heading “gender based persecution and claims” that:

*“It is, however generally accepted that women may suffer particular types of abuse that may give rise to a need for protection.”*

As the Danish Government acknowledges this need it is surprising that no guidelines have been developed in this area in Denmark so far. FAU is of the opinion that such guidelines should be made on the basis of the new CEDAW General recommendation no. 32 on gender-related dimensions of refugee status, asylum, nationality and statelessness women and also include the UNHCR Guidelines No 1; Gender related persecution within the context of Article 1(a) 2 of the Refugee Convention.

---

## II. Family Reunification

***“...the Committee reiterates the concerns expressed in the previous concluding observations that the 24-year-old age limit for the reunification of migrant spouses may constitute an impediment to the right to family life in the State party.”***

(Concluding observations 2009 para 40)

FAU would like to point to the fact that Denmark has received such recommendations several times – also in the context of the new Universal Periodic Review process.

In Denmark, the first time marriage age for a woman is about 32 years and for a man it is almost 35 years. These figures show that women are more affected by the rule of 24 than men, since they marry at a younger age. With regard to migrant women this may affect them even more, because the marriage pattern from many countries suggest that they marry at a younger age than Danish women. Furthermore, native born Danes may live as partners for years without getting married, while cultural norms or religion may prevent couples of another national or ethnic origin in doing so.

It is however argued by the Danish Government, that the 24-year-old age rule was in fact introduced in order to protect young women (especially of a Non-Danish ethnic origin) against forced marriage. But as mentioned in the Government's reply to the list of issues (CEDAW/C/DNK//Q/(Add 1, page 32) the Immigration Service already have another provision in the Aliens Act that allows for the denial of family reunification due to the assumption or suspicion of forced marriage. Consequently, in 2013 the authorities gave 32 refusals on this ground, and 23 for the year 2014 (until the end of August).

# Foreningen af Udlændingeretsadvokater

---

As FAU, we welcome the notion that if marriage is forced between the person living here and the person living abroad, family reunification should be rejected. However, it must be stated, that the ban on family reunification for all people under the age of 24 is disproportional in regards to the goal to be achieved, being the hindering of forced marriages. In fact, this ban gravely affects people under the age of 24, who love each other and want to live together, but are denied the opportunity to do so because of a suspicion that other people their age are forced to marry. This leaves no room for a concrete assessment. This limitation of their rights can no longer be justified with the argument that “we would like to help these people” (those who are forced). The projection of young women according to the specific provision on forced marriage is sufficient which consequently makes the 24-year-old age rule redundant.

The same consideration may be argued with regard to the requirement of the spouses “aggregated ties” with Denmark, which is also mentioned in the Governments reply to the list of issues (CEDAW/C/DNK//Q/(Add 1, page 33).