

THE DANISH
INSTITUTE FOR
HUMAN RIGHTS

PARALLEL REPORT TO
THE UN COMMITTEE
ON THE RIGHTS OF
THE CHILD

DENMARK 2016

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ABBREVIATIONS

CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
DIHR	Danish Institute for Human Rights
HRCG	Human Rights Council of Greenland
NHRI	National Human Rights Institution

INTRODUCTION

This parallel report is submitted by the Danish Institute for Human Rights (DIHR) for the fifth examination of the Kingdom of Denmark at the UN Committee on the Rights of the Child.

The structure of the parallel report follows the structure in the guidelines prepared for the Committee on the Rights of the Child by Child Rights Connect, “The Reporting Cycle of the Committee on the Rights of the Child: A guide for NGOs and and NHRIs”.

THE DANISH INSTITUTE FOR HUMAN RIGHTS – NHRI OF DENMARK AND GREENLAND

DIHR is Denmark’s national human rights institution (NHRI). DIHR was established in 1987 and is regulated by act no. 553 of 18 June 2012 on the Institute for Human Rights – Denmark’s National Human Rights Institution.

DIHR is an independent, self-governing institution within the public administration and is established in accordance with the UN Paris Principles. DIHR is accredited as an A-status NHRI.

DIHR is also appointed as National Equality Body in Denmark in accordance with EU directives on equal treatment of all persons without discrimination on the grounds of gender, race or ethnic origin. Furthermore, DIHR is designated as the independent mechanism to promote, protect and monitor the implementation of the UN Convention on the Rights of Persons with Disabilities in Denmark and Greenland.

In Denmark, DIHR monitors the human rights situation and publishes annual status reports as well as academic research, analyses and reports on human rights and equal treatment.

Greenland is a self-rule governed part of the Kingdom of Denmark. DIHR is the national human rights institution of Greenland and works in close cooperation with the Human Rights Council of Greenland to monitor the promotion and protection of human rights. The council is a politically independent council established by law with reference to the UN Paris Principles on National Human Rights Institutions.

DIHR’s mandate does not extend to the Faroe Islands.

RECOMMENDATIONS

This report contains recommendations to the government of Denmark and the self-rule government of Greenland on the promotion and protection of human rights in accordance with the CRC.

SOURCES

This report draws upon several sources of relevant information concerning the human rights situation in Denmark and Greenland. The recommendations are based on, primarily:

- Treaty body recommendations
- Recommendations from special procedures or other organisations, such as the Council of Europe
- Parallel reports from DIHR or other stakeholders to UN treaty bodies
- Recommendations from the annual status reports of DIHR
- Recommendations from the status report on Greenland prepared by DIHR in cooperation with the Human Rights Council of Greenland every second year
- Recommendations from independent reports of DIHR and other stakeholders
- Public consultation memos for the Danish government and parliament and the Greenlandic self-rule authorities.

DOMESTIC COOPERATION PARTNERS AND OTHER SUPPLEMENTARY REPORTS

DIHR is a member of the network the Collaborating group on Convention on the Rights of the Child in Denmark (Samarbejdsgruppen om Børnekonventionen).¹

The collaborating group, excluding the National Council for Children (Børnerådet) and DIHR, has submitted a supplementary report, which can be downloaded from the web pages of the various organisations.²

The National Council for Children (Børnerådet) as well as DIHR have submitted their own supplementary reports, due to the special legislative mandate of the two institutions. It is recommended that the report of DIHR be read in conjunction with the reports submitted by the National Council for Children as well as the collaborating group.

1 LIST OF KEY RECOMMENDATIONS

THE KEY RECOMMENDATIONS OF THIS REPORT ARE THE FOLLOWING:

1. That Denmark take steps to repeal the provisions of the Aliens Act requiring that persons obtaining temporary protection status cannot in principle achieve family reunification within the first three years.
2. That Denmark abolish the use of solitary confinement of children and juveniles.
3. That Denmark strictly monitor the development of child poverty in Denmark, using the former poverty line indicator until another viable indicator is found.
4. That Denmark and Greenland develop and implement a national human rights plan of action on the rights of the child.
5. That Greenland regularly document the effects of initiated measures in relation to preventing and combatting neglect and abuse of children and violence towards children and in relation to rehabilitation efforts on substance abuse and addiction in families.
6. That Greenland initiate specific and forceful measures to combat child poverty and continuously monitor the effect of these measures.

2 GENERAL MEASURES OF IMPLEMENTATION

2.1 RESERVATIONS (ART. 4)

It is a general principle in Denmark that the possibility to bring an appeal is restricted in minor cases.³ According to this principle Denmark has maintained its reservation to article 40, paragraph 2 (b) of the Convention on the Rights of the Child (CRC), which limits the right to appeal for children who have been sentenced for minor offences. The Appeals Permission Board may grant the right to appeal, but only if the case is of general public importance or appeal is justified by other particular reasons.

In its Concluding Observations on the fourth periodic report of Denmark the Committee on the Rights of the Child (the Committee) stated, that the Committee remained concerned at the maintenance of this reservation which, in breach of the right to a fair trial, limits the right to appeal for children who have been sentenced for minor offences.⁴

The Danish Government announced in its government platform from 2015 a reform of the juvenile justice system, which will represent a more consequent action towards young offenders.⁵ In February 2017, the Government will present a new law package in this area.⁶

- DIHR recommends that Denmark consider withdrawing the reservation to article 40 paragraph (2) (b) of the Convention, when reforming the Danish juvenile justice system.

2.2 INCORPORATION (ART.4)

The European Convention on Human Rights is the only incorporated human rights convention in Denmark. In 2012, the Danish Government appointed an expert committee with the task of considering the possibility of incorporating human rights core conventions into Danish law, including the Convention on the Rights of the Child.⁷ The committee consisted of 15 independent experts and government representatives.

In 2014 the committee of experts delivered its report. Four members recommended that no additional conventions were incorporated, five members representing the government did not make any recommendations concerning incorporation, while six members of the committee recommended that six UN human rights conventions be incorporated into Danish law, including CRC. This group emphasized the practical importance of incorporating CRC and the Convention on the Rights of Persons with Disabilities (CRPD) as both conventions protect groups in risk of being exposed to infringements and injustices.

In the autumn of 2014, the Danish government however decided not to incorporate any of the seven UN human rights core conventions which apply to Denmark, due to the government's view that an incorporation might entail moving responsibility for compliance from the Parliament to the courts.⁸

The Danish Parliament ratified in May 2015 the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure, which allows individual children to submit complaints regarding specific violations of their rights under the Convention.

- DIHR recommends that Denmark review its position and incorporates CRC into national legislation.

2.3 NATIONAL PLAN OF ACTION ON THE RIGHTS OF THE CHILD

Denmark has not yet adopted a comprehensive rights-based national plan of action for effective implementation of the Convention or human rights in general. Consequently, there is little governmental focus on how human rights are implemented nor a systematic procedure as to how to follow up on e.g. Concluding Observations and Recommendations received from various UN treaty bodies. The Committee recommended in its Concluding Observations 2005 and 2011, that the Denmark develops a comprehensive policy and a harmonized plan of action for the full implementation of the Convention.

- DIHR recommends that Denmark develop and implement a national human rights plan of action on the rights of the child.

3 CIVIL RIGHTS AND FREEDOMS

3.1 CHILDREN'S RIGHT TO CITIZENSHIP (ART. 7)

Citizenship has an essential importance for all humans, as it ensures the full enjoyment of all human rights in a state. It is therefore important that states take all necessary measures to reduce statelessness, especially among children.

It follows from article 7 in the convention, that children, inter alia, shall be registered immediately after birth and shall have the right to acquire a nationality. Further, it follows that states Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

In Denmark, there are currently living 163 stateless persons under the age of 21 years old.⁹ Stateless children who are born in Denmark are entitled to citizenship by naturalisation if they/their parents reside lawfully in Denmark. In addition, lawfully resident Danish born stateless persons are entitled to naturalise when they are aged between 18-21 years if certain conditions are met. In Denmark, the granting of citizenship to Danish born stateless persons is not regulated by an Act of Parliament, but in a circular by the government.¹⁰ This raises concerns, due to the fact, that there is no existing political consensus on what conditions Danish citizenship should be granted.

- DIHR recommends that Denmark reduce statelessness among children by taking steps to ensure that stateless children born in Denmark are granted citizenship automatically at birth or after application based on criteria laid down by an Act of Parliament; in any case, the authorities should inform parents to stateless children born in Denmark about their children's entitlement to Danish nationality by application.

4 VIOLENCE AGAINST CHILDREN

4.1 PROTECTION OF CHILDREN FROM ABUSE (ART. 19)

The protection of children against abuse is regulated in the Danish Act on Social Services. The act has recently been amended to secure prompt action and immediate intervention in certain cases of abuse ('Overgrebspakken', in English 'The abuse package'). However, the term "abuse" is defined narrowly as only encompassing 'sexually abuse' or 'violent abuse',¹¹ and thus excluding mental abuse and child neglect. The narrow definition of the term "abuse" in this recent amendment is not compatible to the term used in CRC article 19, unfolded in the Committee's General comment no. 13 (2011).

There has been a sharp rise in the number of reports about possible child abuse in recent years. In an inquiry conducted for DIHR the municipalities report an increase in the number of reports from 10 percent as the lowest to more than 200 percent from 2012-2014.¹² The poorest municipalities often have a relatively high percentage of vulnerable children. The efficiency and quality of child protection may be at risk in municipalities with a strained economy combined with a high number of cases of abuse.¹³ The Committee of the Rights of the Child has emphasized the importance of funding to protect children against abuse.¹⁴ In the most recent Concluding Observations to Denmark it was one of the main areas of concern and a recommendation from the Committee that allocation of resources to secure child rights remains high and equitable.¹⁵

Sustainable Development Goals (SDGs), target 16.2., commit all countries to end all forms of violence against Children in 2030.¹⁶

- DIHR recommends that Denmark amend the Social Service Act in order to protect children equally against all forms of abuse.
- DIHR recommends that Denmark conduct an inquiry as to what extent the current allocation of funds among the municipalities sufficiently cater for the local expenses needed to secure efficient protection against abuse of vulnerable children.

5 FAMILY ENVIRONMENT AND ALTERNATIVE CARE

5.1 RIGHT TO FAMILY REUNIFICATION (ART.10, 22)

Due to an increasing number of applicants for international protection, the Danish Parliament in February 2015 passed a bill introducing a new group of beneficiaries of international protection – ‘temporary protection status’. As a rule, this group could not be granted family reunification for the first year.¹⁷ In February 2016, the Parliament amended the Aliens Act and prolonged the waiting period from one to three years. The act provides a few examples of exceptions to the rule, which includes a reference to the CRC Article 3(1) on the best interests of the child, e.g. if an unaccompanied child residing in Denmark applies for family reunification with his/her parents. This exception is however not further elaborated in the preparatory works of the act.¹⁸

The amendment has been strongly criticised by a number of organisations, including United Nations High Commissioner for Refugees (UNHCR).¹⁹ DIHR finds that a three year waiting period violates Denmark’s international obligations. The waiting period in cases with family reunification between children and their parents will constitute particular severe violations with reference to among others CRC Article 10.²⁰

In its Concluding observations on the sixth periodic report of Denmark in 2016, the Human Rights Committee expressed its concern on the Danish restrictions for family reunification of persons who have been granted temporary protection status. The Committee recommended that Denmark consider reducing the duration of residence required of persons under temporary protection status in order for them to obtain family reunification, in compliance with the ICCPR.²¹

The three year waiting period has been implemented and is applied in practice. DIHR is familiar with cases concerning families that are affected by the rule, including a family with a minor child, who has received a rejection to their application for family reunification with reference to the three year rule. The rule is also applied in practice towards unaccompanied children residing in Denmark, who apply for family reunification with their parents residing abroad.

- DIHR recommend that Denmark take steps to repeal the provisions of the Aliens Act requiring that persons obtaining temporary protection status cannot in principle achieve family reunification within the first three years.

5.2 CHILDREN PLACED IN CARE OUTSIDE THEIR HOME (ART. 9, 20)

In the period from 2001 to 2010, an annual average number of between 14,000 and 15,000 children aged between 0-17 years lived in care outside their home.²² Since then there has been a decline in the annual numbers of placements. In 2014, a total number of 11,127 children and young people were placed into care.²³

A study from 2010 shows that children placed into residential care institutions experience exclusion and other social difficulties in their adult life. The study also shows that children who are placed in residential care experience difficulties due to the fact that they often have to change from one care institution to another. The same study also points to the composition of the children placed into residential care as another source for difficulties. In Denmark, children risk placement in care with other children who may have quite different backgrounds and very different problems to deal with. For example, anxious children can be placed together with violent children or children with aberrant behaviour, which risk worsening their symptoms.²⁴

A study from 2014 shows that children and young people placed into foster families in general are more satisfied with their placement, than children and youth who are placed into residential care institutions. Further, the study shows that children and young people in foster families feel, inter alia, more supported and cared about.²⁵

However, children placed in care outside their home are among the most vulnerable group in the child population,²⁶ and children with disabilities placed in residential care institutions face other difficulties. This group lacks specialised residential care institutions and staff with qualified educational background. Children from minority backgrounds placed in Danish foster families or residential care institutions may also face difficulties, due to a lack of understanding of the children's cultural and religious background, and thus no attention is paid to these circumstances.²⁷

- DIHR recommends, that Denmark ensure a sufficient number of qualified and specialized placement facilities for children with specific problems, including that special attention is paid to children's cultural and religious background and their special needs.

6 DISABILITY, BASIC HEALTH AND WELFARE

6.1 CHILDREN WITH DISABILITIES AND EDUCATION (ART. 23, 28)

Children with disabilities experience difficulties in the Danish educational system. There are issues with inclusion in the Danish primary schools for children with disabilities. According to the Disability Policy Action Plan 2013, 96 percent of all pupils should attend regular primary school in 2015.²⁸ Legislation was passed to this end,²⁹ but the goal is yet to be achieved.

A 2009-study showed that 64 percent of primary school pupils with disabilities take their final exam, whereas that number is 91 percent for children without a disability.³⁰ Similarly, a study from 2014 showed, that 73 percent of children with disabilities attended upper secondary educations. For children with no disabilities, the total number was 92 percent.³¹

There are also issues regarding due process. Firstly, children in need of more than 9 hours of special education per week may complain to the Special Education Board. Thus, the right to complain does not apply to children who need less than 9 hours of special education per week.³² Secondly, in the complaints that the Board received in 2015, procedural errors were found in 78 percent of the 289 cases. That number was 43 percent in 2012, 70 percent in 2013 and 76 percent in 2014. The most common error was lack of reasons.³³

- DIHR recommends that Denmark continue to work towards further inclusion of children with disabilities and amend the legislation in order to ensure that increased inclusion is followed by adequate support and accommodation in order to facilitate effective education.
- DIHR recommends that Denmark amend the legislation to ensure that all children with disabilities can complain to an independent authority if they do not receive adequate educational support.

6.2 BAN ON DISCRIMINATION BASED ON DISABILITY (ART. 23)

Currently, under Danish law, there is no ban on discrimination based on disability outside the labour market. This means e.g., that private schools can decline to admit children because of their disability or that a restaurant can turn away a family, if the child is in a wheelchair. Nor is there a general duty of adequate compensation or accessibility. Denmark thus fails to fulfil its duties under the United Nations Convention on the Rights of Persons with Disabilities (in particular Articles 5 and 9), which Denmark ratified in 2009.

- DIHR recommends that Denmark adopt new legislation providing an express ban on discrimination of persons with disabilities, including children, outside the labour market, imposing also a duty on inter alia service providers to make reasonable adjustments for persons with disabilities in relation to access to services.

6.3 CHILDREN WITH IRREGULAR MIGRATION STATUS AND THE RIGHT TO HEALTH (ART. 22, 24)

The number of irregular migrants in Denmark is unknown; however, a few years ago the number was estimated to be somewhere between 20,000 and 22,000.³⁴ Today, the number may be higher. In Denmark, unregistered migrants only have limited access to healthcare. Acute hospital treatment is free and available to all regardless of migration status, while access to all non-acute health services requires registration with the immigration authorities.

In 2015, DIHR published a study on the health care rights of irregular migrants in Denmark focused mainly on access to health services for pregnant women and children.³⁵ DIHR found that pregnant women with irregular migration status have very limited access to ante- and postnatal care and that children with irregular migration status primarily had access to acute hospital treatment. DIHR concluded that Danish health legislation and practice need to be changed to ensure compliance with international human rights obligations and standards, especially the Convention of the Rights of the Child.

- DIHR recommends that Denmark ensure the right to antenatal and postnatal treatment for all pregnant women/women who have given birth regardless of migration status and ensure that all children regardless of migration status have the same right to health services, including the right to child health examinations and immunization programmes for children, etc.

6.4 UNACCOMPANIED CHILDREN (ART. 22)

In 2015, a total number of 2,144 unaccompanied children arrived in Denmark and applied for international protection. As of 31 August 2016, the number was

1.044. In 2015 a total of 21.316 persons applied for international protection in Denmark, and this number was 4.969 as of 31 August 2016.³⁶

In Denmark, unaccompanied children must meet the same requirements as other applicants for international protection when assessed if they can be granted protection. However, unaccompanied children are considered a particularly vulnerable group and special procedures have therefore been established for processing their cases. For instance, in these procedures, it is assessed if the child is sufficiently mature to undergo an asylum procedure.

Unaccompanied children, who are not eligible for international protection, can be granted a residence permit if they will be in an emergency situation, upon return to their country of origin. For instance, this could be the case where he/she has no family or access to public care in his/her country of origin and would be left to fend for him/herself. This residence permit can only be granted until the child turns 18 years. After the young person has turned 18 years, he/she as a rule is to be returned, unless very special circumstances apply. In exceptional cases he/she can be granted a residence permit, e.g. due to entering Denmark at a very young age, a strong affiliation to Denmark, a very poor affiliation to his/her country of origin and because he/she is integrated into Danish society.³⁷

- DIHR recommends that Denmark examine the consequences of granting a residence permit until the 18th year in relation to the development and wellbeing of unaccompanied children, given that the permit is in principle withdrawn once they reach the age of 18. On that basis it is recommended that it is considered whether the regulation should be amended.

6.5 CHILDREN AS NEXT OF KIN (ART. 3, 19)

In the past years, there has been a growing acknowledgement that children may need extra support and protection when their next of kin suffer from serious somatic or psychiatric illness, have a substance abuse problem or are imprisoned. Recent analyses show that children living under such conditions often feel isolated, lonely and under stress.³⁸

In its General Comment on the right to health the Committee emphasizes the need to attend to children living under enhanced risks due to stressful situations in their family life.³⁹ Moreover, children should be protected against all forms of violence, including non-physical and non-intended harm.⁴⁰ The State, furthermore, must secure that professional staff, including health and social personnel, are aware how to involve children in all matters relating to them.⁴¹

Several programmes over time have recommended and developed schemes to inform, protect and involve children with severe next of kin problems, including

substance abuse, somatic and mental illness. In 2015 the health agreements ('sundhedsaftaler') between regional (health) authorities and municipalities were renewed for the years 2015-18. The instruction for these agreements includes a requirement to focus on children in families in which a parent suffer from severe somatic or psychological illness. Substance abuse is not mentioned. There are, furthermore, marked differences in how the regions implement their local agreements with the municipalities. The region of Copenhagen aims to develop guidelines to identify children who are next of kin to patients with severe illnesses of all kinds, including children of parents with substance abuse, in order to detect their needs and secure they get the necessary support from the social administration in their municipality. Other regions are much less ambitious when it comes to catering for the needs of children next of kin.⁴²

- DIHR recommends, that Denmark amends the current legislation in order to ensure that staff in the health care system are obliged to provide to children, as next of kin to parents with serious illness or alcohol/drug abuse, age-relevant and sufficient information about their parent's situation.
- DIHR recommends that the health agreements between regions and municipalities determine which authority is responsible for coordination and provision of support to children whose parents are undergoing long-term treatment in the health care system.

6.6 STANDARD OF LIVING (ART. 27)

In June 2013, the former Government introduced an official poverty line.⁴³ The official poverty line was introduced in continuation of the launch of an expert committee report on this issue.⁴⁴ According to the report 42.200 people were considered poor in 2013; a fourth of these being children under the age of 18 years. The former Government abolished the so-called "poverty benefits"; the start benefits, the 'cash benefit ceiling' and the so-called "450-hours-rule" in December 2011. The 450-hours-rule entailed that married couples where either one or both spouses were recipients of cash benefits each had to fulfil a requirement of 450 hours of regular and unsupported work within the last 24 months in order to maintain the right to cash benefits.

However, in September 2015 the present Government repealed the official poverty line, finding it too narrow and rigid as poverty is more complex.⁴⁵ The Government has in 2015 and 2016 introduced specific integration benefits,⁴⁶ a new 'cash benefit ceiling' and a 225-hours rule in order to economically prompt people to get a job.⁴⁷ The 225-hours rule means that after having received cash-benefits in one year, the recipients have to prove 225 hours of work in the past 12 months. The Government has estimated – according to the abolished poverty

line - that the number of poor children statistically might increase with 7.000 children between 2-17 years as a result of the new reforms.⁴⁸ Almost two thirds of the total number of 11.800 person (including the 7.000 children) are likely to be immigrants or descendants from non-Western countries, the amendments thus having – in particular – consequences for children of immigrants or descendants from non-Western countries. The 'cash benefit ceiling' entered into force October 2016. New information from the Ministry of Employment shows that 43.500 children under the age of 18 live in families having their benefits reduced as a consequence of the 'cash benefit ceiling', 18.000 of these children having a non-Western background.⁴⁹

Already in January 2013 reforms on early retirement pension and flex job were implemented, implying among other things that persons under 40 years as a main rule are no longer referred to early retirement pension.⁵⁰ In the period of 2013-2016 the number of persons obtaining early retirement pension has decreased significantly from 243,000 to 217,000. These amendments mean that children in affected families risk being brought up in low-income families.⁵¹

In its Concluding Observations to fourth periodic report of Denmark the Committee urged Denmark to provide support to economically disadvantaged families and to guarantee the right of all children to an adequate standard of living.⁵²

- DIHR recommends that Denmark strictly monitor the development of child poverty in Denmark, using the former poverty line indicator until another viable indicator is found.

7 EDUCATION, LEISURE AND CULTURAL ACTIVITIES

7.1 DANISH AS A SECOND LANGUAGE (ART. 28-29)

Pupils with Danish as a second language in primary and lower secondary schools are generally performing worse in reading, math and science, compared to other Danish children, who do not have Danish as a second language.⁵³ Pupils, with Danish as a second language, are not offered the help they need, and are often referred to special classes for pupils with needs of special education.⁵⁴ This may be a result of the fact, that teachers are not educationally qualified to identify the difference between the need of language teaching and the need for special education.⁵⁵ Moreover, the reform of teacher's education in 2013 included a deletion of Danish as a second language as a particular subject and instead included in a theme about the teachers' basic professional competencies.

- DIHR recommends that Denmark ensure that bilingual pupils with Danish as a second language are offered adequate teaching in Danish when necessary. Moreover, that the teaching of these pupils is conducted by teachers, who are well educated in this subject.

7.2 MOTHER TONGUE TEACHING (ART. 28-29)

In Denmark, children from other EU member states, Iceland, Lichtenstein, Norway or Greenland are entitled to receive free classes in their mother tongue. It is up to the municipality in question to decide on whether to offer children of parents from other countries classes in their mother tongue.⁵⁶ However, all pupils with a mother tongue other than Danish face challenges in their education, as their achievement are measured inferior, when compared to native Danish speaking children.⁵⁷

- DIHR recommends that Denmark examine what effect the lack of mother tongue teaching has on the education of children from countries not included under the act, including the effect on the children's ability to respect and understand their own cultural identity, language and values.

7.3 BULLYING IN SCHOOL (ART. 28-29)

A study shows that only 57 percent of public schools have developed an anti-bullying strategy and many schools are not aware of the obligation.⁵⁸ The Danish public primary and lower secondary schools are obligated, by an administrative order, to device a so called 'core value guideline' on what is considered to be the core values of the school.⁵⁹ It follows from the preparatory works to the Act on primary public schools, that the schools are obligated to incorporate an overall anti-bullying strategy in the schools core value guidelines.⁶⁰ The obligation to device anti-bullying strategies is thus written in the preparatory works and not in any administrative orders or acts. Today 81 percentage of pupils in Danish schools attend public schools. There are no explicit obligation for private schools to take preventive measures against bullying at school.

In 2016 The Minister for Children, Education and Equality has proclaimed that a compliant mechanism for children who experience that their school is inefficient in preventing bullying will be created. Moreover, an anti-bullying campaign targeted the different actors around pre-primary, primary and secondary schools, has set goals for preventive and intrusive anti-bullying work at schools.

- DIHR recommends that Denmark take measure to ensure that all public schools develop the obligatory anti-bullying strategies.
- DIHR recommends that Denmark take measure to ensure that all private schools become obliged to develop anti-bullying strategies in line with the obligation of public schools.

7.4 EDUCATING CHILDREN IN HUMAN RIGHTS (ART. 29)

In 2014, a new curriculum for the Danish primary and lower secondary public school was adopted ('Forenklede Fælles Mål')⁶¹. The curriculum has an increased focus on human rights and children's rights. However, the increased focus on human rights is not reflected in the Teacher Education curriculum yet, and a study made by DIHR shows, that neither the school teachers nor lectures at teacher educations feel that they are in possession of professional qualifications to carry out human rights education.⁶²

- DIHR recommends that Denmark take measure to ensure compliance between the school and teacher education curricula in relation to human rights education.
- DIHR also recommends that The Ministry of Children, Education and Gender Equality strengthen the focus on human rights education on the official online learning portal (EMU) and in the activities of the ministries corps of learning consultants.

8 SPECIAL PROTECTION MEASURES

8.1 JUVENILE JUSTICE (ART. 37, 40)

The minimum age of criminal responsibility is 15 years. From 1 July 2010 to 1 March 2012, it was lowered to 14 years. Denmark has no specialized juvenile courts. From 2006-2015 criminal offenses committed by young offenders have been reduced by almost half.⁶³

8.2 CHILDREN IN SOLITARY CONFINEMENT

The Danish Administration of Justice Act allows the placement of remand prisoners in solitary confinement for a period of up to four weeks for 15 – 17 year old children. During the last five years, the use of solitary confinement during remand custody has been very limited.

Furthermore, solitary confinement can be conducted as a disciplinary measure for convicted minors for a period of up to 28 days. From 2009 to 2013 solitary confinement as a disciplinary measure for 15-17-year olds was conducted 158 times. In most of these cases the children had limited access to contact with other inmates.⁶⁴ October 2014 The Danish Prison and Probation Service has instructed Danish prison institutions to particularly draw attention on reducing the use of solitary confinement as punishment towards young detainees.⁶⁵

In 2016, Denmark has received recommendations from the Committee against Torture and the UN Human Rights Committee to bring its legislation and practice on solitary confinement into line with international standards by abolishing solitary confinement of minors.⁶⁶

Denmark received similar recommendations during the Universal Periodic Review on 21 January 2016.⁶⁷ Denmark noted that it does not plan to introduce an absolute ban on solitary confinement of persons under 18, but that the conditions for the use of this measure are strict.⁶⁸

- DIHR recommends that Denmark abolish the use of solitary confinement of children and juveniles.

8.3 REMAND IN CUSTODY OF CHILDREN

The Danish Administration of Justice Act permits the placement of 15 – 17 year olds in pre-trial detention for up to eight months. This limit is subject to further extension in cases which the court considers to be exceptional circumstances. The conditions for extension are not further specified.

During the Universal Periodic Review 21 January 2016 it was recommended that Denmark introduce alternative measures to pre-trial detention for children wherever possible, and develop clear rules for the treatment of children in police custody and monitor their effective implementation in practice. Denmark accepted the recommendation and noted that the Danish Administration of Justice Act already contains alternative measures to pre-trial detention.⁶⁹

In 2011, the Committee on the Rights of the Child recommended that Denmark amend the Administration of Justice Act to clearly define the conditions for pre-trial detention and to, as far as possible, limit its duration.⁷⁰

- DIHR recommends that Denmark impose an upper time limit for the duration of pre-trial detention of children.

8.4 ABOLISHMENT OF THE MAXIMUM PRISON SENTENCE OF 8 YEARS IN CASES INVOLVING CHILDREN

In 2010, the maximum prison sentence of 8 years in cases involving persons under 18 years of age was abolished. The abolishment received critique from a broad range of parties, including the Danish Prison and Probation Service and the Prison Association, which noted that long sentences may be harmful to young people. The DIHR noted a.o. that the abolishment contravened international standards of restorative justice and rehabilitation. Children may still not receive sentences of life imprisonment.

In 2011, the Committee on the Rights of the Child recommended that Denmark consider repealing the abolishment of the upper limit of eight years for prison sentences issued to persons below the age of 18.⁷¹

- DIHR recommends that Denmark impose a maximum prison sentence of 8 years in cases involving persons under 18 years of age.

9 GREENLAND

The following topics and recommendations have been prepared in cooperation with the Human Rights Council of Greenland.

9.1 GENERAL MEASURES OF IMPLEMENTATION (ART. 4)

9.1.1 INFORMATION AND KNOWLEDGE

There is, in general, a lack of up to dated studies and research on children's welfare and rights. The available data is not regularly and systematically analysed which in turn leaves those working on children's rights with information gaps and uncertainty on whether there has been positive development or a digression on one or more areas. In 2011, the Committee on the Rights of the Child urged Denmark to strengthen statistical systems and analysis on the implementation of the Convention in Greenland, and to ensure data is systematically collected and used to inform policy and programmes in relation to poverty, violence and abuse.

- DIHR and HRCG recommend that Greenland take steps to regularly and systematically analyse data relating to the situation of children in Greenland.

9.1.2 NATIONAL ACTION PLAN ON IMPLEMENTATION OF HUMAN RIGHT STANDARDS

The self-rule government of Greenland is in the process of incorporating UN Convention on the Rights of the Rights of the Child. However, there is no focus on how human rights standards as such are implemented nor a systematic procedure as to how concluding observations and recommendations received by UN treaty bodies are followed up on. Introduction of a national action plan on implementation of and follow-up on human rights in Greenland is necessary to ensure a proper identification of human rights problems and transparency in implementation and follow-up. A national action plan enables an effective horizontal and vertical protection and promotion of the rights of the child.

- DIHR and HRCG recommend that Greenland develop a human rights action plan based on a broad and participatory process involving civil society and other relevant stakeholders.

9.2 GENERAL PRINCIPLES

9.2.1 BEST INTERESTS OF THE CHILD (ART. 3), APPROPRIATE STANDARDS FOR INSTITUTIONS, SERVICES AND FACILITIES RESPONSIBLE FOR THE CARE OR PROTECTION OF CHILDREN

Despite positive development in legislation and policy to promote and protect the right of the child institutions, services and facilities responsible for the care or protection of children do not fully conform to human rights standards. This is in particular the case in such areas as social and health services, where the number of professional staff with appropriate knowledge of the right of the child and knowledge of rules that apply to case handling in public administration is very low. A number of studies and reports conclude that local authorities have difficulty in implementing and complying with the standards set by legislation.⁷²

- DIHR and HRCG recommend that Greenland strengthen its inspections of local authorities to ensure the appropriate number professional staff handling cases involving children and their families.
- DIHR and HRCG recommend that Greenland and the local authorities strengthen the education of professionals to ensure the rule of law in the case handling in public administration.

9.3 VIOLENCE AGAINST CHILDREN

9.3.1 ABUSE AND NEGLECT (ART.19)

A study shows that a significant number of Greenlandic children do not thrive due to sexual and physical abuse or neglect by parents who are suffering from alcohol or due to parents' lack of economic, personal and social resources.⁷³ The study concluded that one third of the respondents have had sexual experiences without their consent. Abuse of alcohol was the predominant reason in 42 percent of the cases.⁷⁴ Another study shows that 27 percent of all Greenlandic children are subject to neglect in some or to a serious degree.⁷⁵ The study identifies passive psychological negligence in care of children due to parents' lack of ability to provide security, care and love.⁷⁶

In its response to the draft report of the Working Group on the Universal Periodic Review of the Kingdom of Denmark in January 2016, Greenland accepted to take necessary measures in order to prevent and combat sexual exploitation and abuse of vulnerable people and to take steps to promote protection of the child against violence and to assist families in rehabilitation efforts on substance abuse and addiction. Greenland noted that it had adopted an action plan to prevent and combat sexual violence and abuse of vulnerable people, which is currently being implemented. An action plan for preventing

substance abuse has been launched and rehabilitation centres would be established in all municipalities.^{77 78}

- DIHR and HRCG recommend that Greenland regularly document the effects of initiated measures in relation to preventing and combatting neglect and abuse of children and violence towards children and in relation to rehabilitation efforts on substance abuse and addiction in families.

9.4 FAMILY ENVIRONMENT AND ALTERNATIVE CARE

9.4.1 PARENTAL RESPONSIBILITIES (ART.18), Children deprived of their family environment (ART.20)

In a report, compiled by Naalakkersuisut (the self-rule government of Greenland), it was estimated that 4.2 percent of children and young people were placed in alternative care. Greenland has therefore the largest number of children placed in care outside their home among the Nordic countries.⁷⁹ The report identifies furthermore, that out of 642 cases involving children removed from their parents, 500 cases do not have the compulsory action plans the legislation demands. The main reason behind lack of compulsory action plans is the caseworker's high workload. The consequence of caseworkers' high workload also entails that the local authorities react late to new cases and that there is insufficient resources to respect the view of the child.⁸⁰

- DIHR and HRCG recommend that Greenland strengthen local authorities' ability and resources to be able to take action according to legislation and to take swift action in cases where children and young people need to have alternative care, as well as ensure that caseworkers have the time and resources to involve and respect the view of the child.

9.5 DISABILITY, BASIC HEALTH AND WELFARE

9.5.1 DISABLED CHILDREN (ART.23)

Naalakkersuisut has presented a bill to Inatsisartut on an Act on Support to Children, which is due to be adopted in spring 2017 by Inatsisartut (Greenland's Parliament). The act entails a number of provisions to protect and promote the rights of disabled children. The bill, however, does not take specific consideration of children who do not have so called "extensive disabilities". Disabled children who do not have extensive disabilities, are covered by the general provisions of the legislation, which means that this group of disabled children's specific needs are not necessarily accommodated by the proposal.⁸¹ The bill has thus no specific provisions to support disabled children.

- DIHR and HRCG recommend that Greenland make the necessary amendments to the bill on Support to Children in order ensure that the needs of disabled children with no extensive disabilities are also accommodated.

9.5.2 STANDARD OF LIVING (ART.27, paras.1-3)

Poverty affects children and their future ability to participate in society on equal footing with others. According to a study from 2013, 11.7 percent of Greenlandic children lived in relative poverty in 2010.⁸² In another study from 2015, 12 percent of the children responded that they always or often went hungry to bed or to school. Children living in remote settlements (bygder) are in particular vulnerable to poverty. While eight percent of the children in Nuuk responded that, they either always or often went hungry to bed or school, the share of children from the settlements was 17 percent.⁸³ A major factor for children living in poverty seems to be that 40 percent of the families (2010 figures) are unemployed.⁸⁴

UN Committee on Economic, Social and Cultural Rights recommended in 2013 Naalakkersuisut to combat poverty in remote towns and villages by promoting education.⁸⁵

- DIHR and HRCG recommend That Greenland initiate specific and forceful measures to combat child poverty and continuously monitor the effect of these measures.

9.6 EDUCATION, LEISURE AND CULTURAL ACTIVITIES

9.6.1 EDUCATION (ART.28) AND AIMS OF EDUCATION (ART.29)

Lack of educated and professional teachers is one of the main challenges, Greenland's primary schools faces. Lack of professional teachers is the main reason for the considerable difference between children from towns and children from settlements. Children from towns do better in scholastic aptitude and they seek secondary education more often than their peers from smaller towns and settlements.⁸⁶ While 80 percent of the teachers in towns are professionals, this is true of only 40 percent of the teachers in settlements.⁸⁷

An evaluation in 2015 of the Act of Primary Education identified that the schools had difficulties in implementing core principles in practise.⁸⁸ For instance, the Primary School act emphasises that teaching has to be planned in accordance with the individual learning needs of each child. This is in particularly important for children who have special learning needs due to trauma or negligence of care. The evaluation showed, however, that children with special needs were not accommodated.⁸⁹

- DIHR and HRCG recommend that Greenland follow up on recommendations made by Denmark's Evaluation Institute – EVA in 2016 and, in particular, take steps to ensure an effective implementation of the Act on Primary Schools.

END NOTES

¹ The collaborating group consists of 15 organisations and institutions: Amnesty International, Børnerådet, Børnesagens Fællesråd, Børns Vilkår, Dansk Ungdoms Fællesråd, Danske Handicaporganisationer, Det Danske Spejderkorps, DUI – Leg og Virke, Foreningen Grønlandske Børn, Institut for Menneskerettigheder, DIGNITY, Red Barnet, Red Barnet Ungdom, Ungdommens Røde Kors og UNICEF Danmark.

² E.g. the webpages of: Amnesty International, Børnesagens Fællesråd, Børns Vilkår, Danske Handicaporganisationer, DIGNITY, Red Barnet, Red Barnet Ungdom, Røde Kors and UNICEF Danmark.

³ The Administration of Justice Act – Consolidated Act no. 1255 of 16 November 2015, section 902.

⁴ The Committee on the Rights of the Child, Concluding Observations to the fourth periodic report from Denmark of 7 April 2011, CRC/C/DNK/CO/4, rec 11.

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⁶ The Government’s annual catalogue on new law initiatives for the parliamentary session 2016/17 “Lovgivning, Folketingsåret 2016/2017”, launched October 2016, available in Danish at www.stm.dk/multimedia/Lovprogram_2016-2017_web.pdf.

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⁸ The Kingdom of Denmark’s response to the recommendations set out by the UN Human Rights Council in the Universal Periodic Review on 21 January 2016, 121.5-121.10, 4 April 2016.

⁹ Statistics Denmark: <http://www.dst.dk/da/Statistik>.

¹⁰ Circular no. 10873 of 13 October 2015 on naturalisation, section 26, (Cirkulæreskrivelse om naturalisation nr. 10873 af 13. oktober 2015 § 26), available in Danish at:

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www.ft.dk/Rlpdf/samling/20121/lovforslag/L181/20121_L181_som_fremset.pdf

¹² DIHR, 'Protection of Children', 2016, available in Danish with a summary in English at DIHR's homepage from 4 November 2016.

¹³ Hans Skov Kloppenborg and Jesper Wittrup: "Vulnerable children – who are they, where do they live and how do they perform in school?", 2015, KORA, The Danish Institute for Local and Regional Government Research.

¹⁴ General Comments No. 13, sec. 31, sec 41 (e) and 42 (a) iii.

¹⁵ The Committee on the Rights of the Child, Concluding Observations to the fourth periodic report from Denmark of 7 april 2011, CRC/C/DNK/CO/4, rec 22.

¹⁶ The Resolution "Transforming our world: the 2030 Agenda for Sustainable Development" containing 17 Sustainable Development Goals was adopted at the UN's 70th General Assembly.

¹⁷ Act no. 153 of February 2015, amending the Aliens Act.

¹⁸ The Aliens Act, Consolidated Act No. 412 of 9 May 2016 with amendments (Udlændingeloven, lovbekendtgørelse nr. 412 af 9. maj 2016 med senere ændringer), sections 9 and 9 c (1), available in Danish at:

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³⁸ Danish Health Authority (Sundhedsstyrelsen): Recommendations for healthcare professionals meeting with next of kin, 2012. S. 37., available in Danish at: <https://sundhedsstyrelsen.dk/~media/F6CCABEE93BA4600B47B44C45510D79F.ashx>. Anne Marie Dencker: Children as next of kin: Børn som pårørende: Evaluation of an educational project for doctors and nurses, available in Danish at: <http://www.cancer.dk/dyn/resources/File/file/7/5117/1446643289/boern-som-paroerende-pdf.pdf>. The Danish Cancer Society (Kræftens bekæmpelse): Projekt OmSorg. 2015. The National Board of Health and Welfare (Socialstyrelsen), www.tvaerfagligindsats.dk/. Danish Health Authority (Sundhedsstyrelsen): Children from families with alcohol problems – good practise from the municipalities "Børn i familier med alkoholproblemer – gode eksempler fra kommunal praksis. 2011, p. 10, available in Danish at: <http://www.sst.dk/~media/BA508B21E80B42AC9B8280DB177EFAE8.ashx> Drinking and failure – drinking results in violence and abuse (Druk og svigt- Druk fører til vold og overgreb), 2012, available in Danish at: <http://www.boernogunge.dk/internet/boernogunge.nsf/0/E4918D6D55E93DD4C12579FA002E1DE1?opendocument>.

³⁹ CRC General Comment 15: on the Right of the Child to the Enjoyment of the Highest Attainable Standard of Health, CRC/C/GC/15 (2013), pkt. 39.

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⁴¹ CRC General Comment 12: The Right of the Child to be Heard, CRC/C/GC/12 (2009), pkt. 25, 27 og 49.

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⁴⁴ "A Danish poverty limit – analyses and suggestions to calculation methods", June 2013, "En dansk fattigdomsgrænse – analyser og forslag til opgørelsesmetoder", juni 2013, available in Danish at link: www.ft.dk/samling/20121/almdel/sou/bilag/263/1257640.pdf.

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⁴⁶ Act No. 1000 of 30 August 2015, amending the Act on Active Social Policy, The Act of active Employment, Act of Integration and different other acts (Lov nr. 1000 af 30. august 2015 om ændring af lov om aktiv socialpolitik, lov om en aktiv beskæftigelsesindsats, integrationsloven og forskellige andre love), available in Danish at: <https://www.retsinformation.dk/Forms/R0710.aspx?id=174123>.

⁴⁷ Act No. 296 of 22 march 2016, amending the Act on Active Social Policy, The Individual Housing Assistance Act, Act of Integration and different other acts, (Lov nr. 296 af 22. marts 2016 om ændring af lov om aktiv socialpolitik, lov om individuel boligstøtte, integrationsloven og forskellige andre love), available in Danish at: <https://www.retsinformation.dk/Forms/R0710.aspx?id=179257>.

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⁶⁹ The Kingdom of Denmark's response to the recommendations set out by the UN Human Rights Council in the Universal Periodic Review on 21 January 2016.

⁷⁰ The Committee on the Rights of the Child, Concluding Observations to the fourth periodic report from Denmark of 7 april 2011, CRC/C/DNK/CO/4, rec 66.

⁷¹ Ibid.

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⁷⁵ Christensen E., Kristensen Lise G. and Baviskar S., "Children in Greenland – A Mapping of 0-14 Year Old Children and their Families Welfare" (Børn I Grønland, en kortlægning af 0-14 årige børns og familiers trivsel) the Danish National Centre for Social Research – SFI (Det Nationale Forsknings Center for Velfærd-SFI) 2008.

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⁷⁹ "Assessing Action Plans for Children and Youth Placed in Alternative Care" (Afdækning Handleplaner Anbragte Børn og Unge) Department for Family and Justice, Government of Greenland, (Departementet for Familie og Justitsvæsen, Grønlands Selvstyre), 2015, Available at: <http://naalakkersuisut.gl/~media/Nanoq/Files/Publications/Familie/DK/Rapport>

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