

**PARALLEL REPORT TO THE UN COMMITTEE ON THE
RIGHTS OF PERSONS WITH DISABILITIES**

DENMARK 2024

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Parallel report to the UN Committee on the Rights of Persons with Disabilities on the combined second and third periodic reports submitted by Denmark on the implementation of the Convention on the Rights of Persons with Disabilities.

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CONTENTS

PREFACE	5
The Role of The Danish Institute for Human Rights	5
Cooperation with the Human Rights Council of Greenland	6
EXECUTIVE SUMMARY	7
Issues of Particular Concern for Denmark	7
Issues of Particular Concern for Greenland	8
Improvements Pertaining to Denmark	8
Improvements Pertaining to Greenland	8
1 IMPLEMENTATION OF THE CRPD IN DENMARK	9
Articles 1-4 – Purpose and General Obligations	9
A National Disability Action Plan (LOI no. 2 litra c)	9
Incorporation	9
Article 5 – Equality and non-discrimination	10
Insufficient Legal Protection Against Discrimination in Danish Law (LOI no. 4)	10
The Equal Treatment Board Burdened with an Increasing Case Load	10
Article 7 – Children with Disabilities	11
Article 9 – Accessibility	11
Accessibly in Building Regulations (LOI no. 9 litra a)	11
Public Transportation (LOI no. 7 litra c)	12
Article 12 – Equal Recognition Before the Law	12
Article 13 – Access to justice	12
Barriers in the Penal System for Victims of Violence with Mental and Cognitive Disabilities (LOI no. 11 litra a)	12
Article 14 – Liberty and Security of the Person	13
Legal Rights for Forensic Psychiatric Patients (LOI no. 12 litra b)	13
Secure Residential Institutions for Children	13
Article 15 – Freedom from Torture or Cruel, Inhuman, or Degrading Treatment or Punishment	14
Coercion and Restraint Measures in Psychiatric Treatment (LOI no. 14 litra a.)	14
Use of Unnecessary Coercion in the Psychiatric Sector	14
Increase in Children Subjected to Coercion in Psychiatry	15
Ethnic Minorities Experience Increased Coercion in Psychiatry	15
Article 16 – Protection Against Violence	15
Protection Against Sexual Assault in Residential Facilities (LOI no. 15 litra b)	15
Violence and threats in social psychiatric residential facilities	16
Criminalization of Sexual Assault Against Persons with Disabilities	16
Article 17 – Protecting the Integrity of the Person	17
Article 18 – Liberty of Movement and Nationality	17
Exemption from Certain Conditions for Obtaining Danish Citizenship	17
Article 19 – Living Independently and Being Included in the Community	18
Freedom of Choice and Social Housing (LOI no. 18 litra a)	18
Increased Institutionalization of Persons with Disabilities (LOI no. 18 litra a and c)	18

Article 23 – Respect for Home and the Family	19
Challenges in Child Placement and Adoption (LOI no. 21)	19
Article 24 – Education	19
Inclusion of Children with Disabilities in Municipal Primary and Lower Secondary Schools (LOI no. 22 litra a, b, d and e)	19
Inclusive Vocational Education and Training (LOI no. 22 litra a)	20
Article 25 – Health	20
Disparities in Life Expectancy for Persons with Mental Disorders (LOI no. 23 litra b)	20
Article 27 – Work and Employment	21
Article 29 – Participation in Political and Public Life	21
Article 31 – Statistics and Data Collection	21
2 IMPLEMENTATION OF THE CRPD IN GREENLAND	22
Article 1-4 – Purpose and General Obligations	22
Greenland’s Disability Policy Action Plan (LOI no. 2 litra c)	22
Article 5 – Equality and Non-Discrimination	22
Greenland’s Inatsisartut Act on Equality and Anti-Discrimination (LOI no. 3 litra a)	22
Article 8 – Awareness	23
Article 9 – Accessibility	23
Enhancing Accessibility in Greenland (LOI no. 7)	23
Article 14 – Liberty and Personal Security	24
article 16 – Freedom from Exploitation, Violence, and Abuse	24
Addressing Sexual Assault Impact on Persons with Disabilities in Greenland (LOI no. 15 litra a)	24
Article 19 – Living Independently and Being Included in the Community	25
Article 25 – Health	25
Strengthening Psychiatric Ward A1 in Nuuk (LOI no. 23 litra a)	25
Article 27 – Work and Employment	26
Article 31 – Statistics and Data Collection	26
Optional Protocol to the Convention on the Rights of Persons with Disabilities	26
ENDNOTES	27

PREFACE

This parallel report by the Danish Institute for Human Rights (DIHR) aims to assist the UN Committee on the Rights of Persons with Disabilities (the Committee) in its consideration of the second and third periodic reports of Denmark and in the dialogue between the Committee and the Danish Government regarding the national implementation of the UN Convention on the Rights of Persons with Disabilities (CRPD).

It covers the implementation of the CRPD in both Denmark and Greenland. Because Greenland is a self-governed part of the Kingdom of Denmark, Inatsisartut, Greenland's parliament, has requested DIHR to function as Greenland's national human rights institution (NHRI). As the other self-governing territory of the Kingdom Denmark, the Faroe Islands, has not made this request, the report does not address the situation of the Faroe Islands.

This report focuses on selected issues and contains recommendations to the Danish Government and the Greenlandic Government on the strengthening of the national human rights protection within the scope of the CRPD. The criteria for selection are relevance to human rights and significance for affected groups. When possible, the report refers to the Committee's List of Issues (LOI) for Denmark.¹

The report is divided into two main sections. The first section concerns the implementation of the CRPD in Denmark. The second section focuses on the implementation of the CRPD in Greenland. Each section is structured according to the final LOI; however, only selected issues from the list have been included. The report also contains several issues that are not recorded on the LOI but that DIHR assesses still need to be addressed.

The Role of The Danish Institute for Human Rights

In 2011, the Danish Parliament appointed the DIHR as the independent mechanism for monitoring, promoting, and protecting the implementation of the CRPD in Denmark in accordance with Article 33(2) of the CRPD.

DIHR was established in 1987 and is regulated by the Danish Parliament 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. It is established and functions in accordance with the UN Paris Principles and is accredited as an A-status NHRI by the International Coordinating Committee of National Human Rights Institutions.

DIHR monitors the human rights situation in Denmark and publishes an annual status report as well as academic research, analyses, and reports on human rights issues.

In relation to the implementation of the CRPD, DIHR conducts monitoring work at different levels. In general, it relies on surveys and statistics provided by DIHR as

well as other organizations and institutions, including ministries, other government agencies, universities, and civil society organizations. The monitoring work further consists of annual updates on the status of our most important recommendations, reports and legal consultation responses, government initiatives, significant decisions from courts and complaint boards, and related knowledge.² Additionally, we maintain an outcome indicator project called The Disability Index, which focuses on the living conditions of persons with disabilities. This index is updated every fourth year.³ In accordance with Article 33(3) of the CRPD, civil society, especially persons with disabilities and their representative organizations, are involved in this monitoring process, ensuring a comprehensive and inclusive approach.

DIHR also interacts with the UN treaty body system and the Universal Periodic Review by submitting parallel reports and contributing to the LOI as well as by being present during the examination of Denmark. Further, DIHR offers a counselling hotline for persons who have experienced discrimination due to their disability, gender, sexuality, gender expression, gender characteristics, gender identity, age, religion, race, or ethnic origin. In 2023, DIHR received 129 cases related to disability.

Cooperation with the Human Rights Council of Greenland

Greenland is a self-governing part of the Kingdom of Denmark. As such, Greenland cannot ratify the convention but has agreed to be bound by the CRPD.

By decision of Inatsisartut – the Parliament of Greenland – DIHR has functioned as the NHRI in Greenland since 2014. Regarding DIHR's mandate in Greenland, DIHR closely collaborates with the Human Rights Council of Greenland (HRCG) to protect and promote human rights in Greenland. The information and recommendations concerning Greenland in the present report have been produced in cooperation with HRCG.

Furthermore, in 2015, DIHR and HRCG were appointed by Naalakkersuisut, the Government of Greenland, as the independent mechanism for monitoring, promoting, and protecting the implementation of the CRPD in Greenland. Thus, DIHR and HRCG cooperate in carrying out the monitoring function in Greenland.

HRCG was established by Inatsisartut Act no. 23 of 3 December 2012 on the Human Rights Council of Greenland and consists of three permanent members and ten members appointed by Inatsisartut.⁴ The permanent members represent the Spokesperson for persons with disabilities, the Spokesperson for children's rights, and the Chair of the Equality Council. HRCG has since the establishment of the Elder spokesperson included this spokesperson in all council meetings on equal footing with the other spokesperson institutions. HRCG is commissioned to participate in the strengthening and consolidation of human rights knowledge and competence in Greenland.

DIHR publishes annual reports on our work in Greenland to Inatsisartut, the Parliament of Greenland.⁵ The annual report provides an overview of DIHR's efforts to promote and protect human rights in Greenland in collaboration with HRCG and other institutions in Greenland. The report is available in Danish and Greenlandic.

The second section of the present report deals with the implementation of the CRPD in Greenland.

EXECUTIVE SUMMARY

Since 2012, the Danish Institute for Human Rights (DIHR) has monitored the conditions of persons with disabilities through the project The Disability Index. This monitoring provide the Committee with an overview of the general development for this group in Denmark.

In 2020, persons with disabilities were considerably worse off compared to the rest of the population in all ten main areas covered by the Disability Index.⁶ Additionally, statistically significant developments occurred from 2012 to 2020 in eight of these indicators:

- 1 indicator showed positive development (employment).
- 4 indicators showed no development (exposure to violence, independent life, social security, and education).
- 3 showed negative development (discrimination, accessibility, and mobility).

In summary, conditions remained the same or significantly worsened in seven out of eight indicators between 2012 and 2020.

Issues of Particular Concern for Denmark

- **Denmark lacks a comprehensive national action plan for persons with disabilities.** Although a new plan is underway, for now it seems that it will only cover the labour market and education. Critical areas, such as health and transportation, will not be covered. DIHR recommends that Denmark adopt a comprehensive action plan with concrete goals for implementing the UN Convention on the Rights of Persons with Disabilities (CRPD) in all societal areas of Denmark.
- **Denmark has been unsuccessful in reducing coercion in Danish psychiatry.** In 2023, a total of 5,925 patients were subjected to coercion – amounting to 1 in 4 psychiatric patients – a figure that has basically not changed for more than ten years. Following criticism by international bodies, Denmark was convicted of human rights violation in 2020 by the European Court of Human Rights. DIHR recommends that Denmark phase out unnecessary coercion by, inter alia, increasing staff and focusing on prevention and patient rights.
- **Denmark moves towards increased institutionalization.** DIHR's 2021 study reveals limited housing choices for persons with disabilities who need extensive support. In addition, there has been a gradual policy shift in recent years towards increased institutionalization of persons with disabilities. DIHR recommends that Denmark promote de-institutionalization by ensuring that persons with disabilities are not obliged to live in a particular living arrangement due their need for personal assistance.

Issues of Particular Concern for Greenland

- **Greenland should adopt a comprehensive and concrete disability policy action plan.** A draft action plan was submitted for public consultation in 2023. However, the plan lacks clarity on implementation, societal challenges, indicator development, and inclusion of civil society. DIHR and the Human Rights Council of Greenland (HRCG) recommend that Greenland specify initiatives, financial framework, and timeframes.
- **Greenland should adopt comprehensive anti-discrimination legislation for persons with disabilities.** Greenland's Parliament, Inatsisartut, adopted a law in May 2024 that imposes a general ban on discrimination, including on the grounds of disability, and calls for the establishment of an Equal Treatment Board. However, the law does not address reasonable accommodation or accessibility. DIHR and HRCG recommend that Greenland ensure that the law, when adopted, will address these rights explicitly.
- **Greenland should enhance data collection on disability.** Despite plans to improve such data collection, execution remains unclear. DIHR and HRCG recommend that Greenland specify initiatives in the action plan concerning data collection and ensures that collected data is categorized by gender, age, disability, and region.

In terms of legal developments, DIHR wishes to highlight the following improvements since the Committee's review in 2014.

Improvements Pertaining to Denmark

- The adoption of a law prohibiting discrimination based on disability in all areas of society in 2018.
- The adoption of a law providing for reasonable accommodation in public and private daycare and elementary schools in 2020.
- The adoption of a 10-year plan for the psychiatric sector and mental health in 2022 and a follow-up agreement on better mental health services in 2023.
- The expansion of the protection against hate crimes and hate speech to include disability in 2021.
- The expansion of the right to vote in and run for national, regional, municipal, and EU Parliamentary elections for persons who have been fully or partially deprived of their legal capacity in 2016 and 2018.
- The adoption of a law imposing accessibility requirements on products and services (based on EU Directive 2019/882) in 2022.

Improvements Pertaining to Greenland

- The adoption of a law providing a general protection against discrimination including on grounds of disability in 2024.
- The expected adoption of a national action plan for disability in 2024.
- The adoption of a law providing support to persons with disabilities in 2019.
- The adoption of a law establishing a national spokesperson for persons with disabilities, Tilioq, in 2017.

1 IMPLEMENTATION OF THE CRPD IN DENMARK

ARTICLES 1-4 – PURPOSE AND GENERAL OBLIGATIONS

A National Disability Action Plan (LOI no. 2 litra c)

In 2014, the Committee recommended that Denmark review its national disability action plan from 2013. However, this review never took place, and the 2013 action plan has since expired. Thus, there is currently no national disability action plan in Denmark.

In its Universal Periodic Review (UPR) of 2021, the UN recommended that Denmark adopt a comprehensive action plan for the implementation of the UN Convention on the Rights of Persons with Disabilities (CRPD). However, Denmark declined and noted that it does not see the added value of an action plan.

In 2022, the newly formed government published an official government platform in which it stated its ambition for a new action plan for persons with disabilities. However, as it stands, the action plan will only cover the labour market and education.⁷ This work has not yet come to fruition.

Acknowledging the interconnection and system-wide challenge of breaking down barriers for persons with disabilities, DIHR recommends that Denmark:

- Develop and adopt a comprehensive action plan with concrete and measurable targets for the implementation of the CRPD in Denmark. The action plan should not be limited to select areas such as the labour market or education.

Incorporation

The European Convention on Human Rights is the only international human rights convention incorporated into Danish law thus making it an explicit part of Danish legislation. None of the UN human rights conventions are incorporated into Danish law. During the Committee's last examination of Denmark, the Danish Government was recommended to incorporate the CRPD into domestic law. According to Denmark's report to the Committee, the CRPD is an element of Danish law and must, as such, be observed by all authorities applying its legislative provisions, including state, regional and municipal authorities. Danish case law, however, shows reluctance by courts to take the CRPD into account in their judgments.

DIHR recommends that Denmark:

- Incorporate the CRPD into Danish law.

ARTICLE 5 – EQUALITY AND NON-DISCRIMINATION

Insufficient Legal Protection Against Discrimination in Danish Law (LOI no. 4)

The Disability Index shows that the share of persons with disabilities who have experienced discrimination due to age, gender, ethnicity, disability, religion, sexual orientation, or appearance or due to the disability of a cohabitant, child, or parent has increased significantly from 2012 to 2020.

In 2018, the Danish Parliament adopted a new law providing protection against discrimination based on disability outside the labour market. Until then, the prohibition against discrimination based on disability had only applied within the labour market.

While this was a positive step forward, the law explicitly states that it does not impose any obligation to provide reasonable accommodation or accessibility. The only exception is that children and youth with disabilities have a right to reasonable accommodation in daycare and public and private elementary schools.⁸ This is a critical flaw in the legal protection against discrimination based on disability and fails to reflect Article 2 of the CRPD, which states that denial of reasonable accommodation is a form of discrimination.

DIHR recommends that Denmark:

- Amend section 3 of the Danish Disability Discrimination Act to impose a general obligation for reasonable accommodation and accessibility.

The Equal Treatment Board Burdened with an Increasing Case Load

The Equal Treatment Board handles complaints about discrimination within and outside the labour market in Denmark, including on the grounds of disability.

However, the processing time for settling complaints has increased substantially, which has impeded effective enforcement of the right to equal treatment for persons with disabilities. Thus, the board has seen an increase in processing time from an average of 31.1 weeks in 2019 to 71.9 weeks in 2023.⁹

According to the board, the increased case-processing time is the result of more cases being brought to the Board than the Board can decide with the resources it has at its disposal.

DIHR recommends that Denmark:

- Take appropriate measures to ensure that the Equal Treatment Board has sufficient resources to ensure that case-processing time is greatly reduced to ensure effective enforcement of the right to equal treatment for persons with disabilities and others.

ARTICLE 7 – CHILDREN WITH DISABILITIES

According to DIHR, children with disabilities are particularly vulnerable in social welfare settings. Research has demonstrated that these children perform poorer academically and have higher rates of absenteeism from school.¹⁰ In addition, the municipalities experience significant challenges in, inter alia, creating effective measures and ensuring a coherent and coordinated effort in relation to vulnerable children with disabilities.¹¹ Meanwhile, children with mental disabilities experience that the municipalities do not involve them enough.¹²

On 1 January 2024, a new act on children's welfare came into effect.¹³ The overall goal of the act is to consolidate a contemporary view of children as bearer of rights and to attach greater significance to their voice.

It is a basic principle in the Children's Act that children and young people must be consulted on an ongoing basis before decisions are made about the child (section 5 of the Act). However, the municipality may refrain from speaking or having other direct contact with the child in exceptional circumstances. According to the Act's preparatory works, such exceptional circumstances may be present, if the child, inter alia, has a severe mental disability.

DIHR recommends that Denmark:

- Ensure that children with mental disabilities are directly consulted in matters regarding them. If necessary, they should be provided with assistance appropriate to their age and disability in accordance with Article 7(3) of the UN Convention on the Rights of Persons with Disabilities.

ARTICLE 9 – ACCESSIBILITY

Accessibly in Building Regulations (LOI no. 9 litra a)

In July 2017, the Danish Ministry of Transport, Building and Housing amended the accessibility requirements for buildings in the Danish Building Regulations. The amendment repealed the requirement that all outer doors to single-family houses must be accessible. Instead, it is now sufficient that one outer door is accessible, and the municipality may grant an exemption from this requirement in certain situations.¹⁴ This amendment has been criticized for being a significant deterioration of the accessibility requirements for housing and thus a serious retrograde step for the right to accessibility for persons with disabilities.¹⁵

DIHR recommends that Denmark:

- Change the accessibility requirements for buildings in the Danish Building Regulations so that single-family households are once again fully subject to the provision in the Building Regulations, which prescribe that all external doors must provide level access to the ground floor of a building.

Public Transportation (LOI no. 7 litra c)

The Disability Index shows that the percentage of persons with disabilities who can use public buses and trains without any difficulty has dropped from 67 % in 2016 to 62 % in 2020.

In the report “Buses for all” from 2021, DIHR concluded that the public bus transportation system in Denmark does not ensure sufficient accessibility for persons with disabilities.¹⁶ The report shows that five out of six public transport companies refuse to help persons with disabilities get on the bus. DIHR also finds that this lack of accessibility may constitute a barrier to participating in all aspects of life.

DIHR recommends that Denmark:

- Take steps to introduce a duty for the public transport companies to ensure the right of persons with disabilities to use mainstream public bus transport, including assistance from the bus driver.

ARTICLE 12 – EQUAL RECOGNITION BEFORE THE LAW

According to Section 29 of the Danish Constitution, individuals who have been stripped of their legal capacity are not eligible to vote in national parliamentary elections.

In 2019, an amendment was made to the Danish Guardianship Act. This amendment permits only partial deprivation of legal capacity. The advantage of partial deprivation over full deprivation is that it is less invasive and enables the individual concerned to participate in national parliamentary elections.

However, in practice, the use of partial deprivation of legal capacity has been limited, and most legal capacity deprivations are still full.¹⁷

DIHR recommends that Denmark:

- Investigate the extent and reasons for the limited use of partial deprivation of legal capacity and ensure that the deprivation of legal capacity is always kept to the absolute minimum necessary.

ARTICLE 13 – ACCESS TO JUSTICE

Barriers in the Penal System for Victims of Violence with Mental and Cognitive Disabilities (LOI no. 11 litra a)

A 2020 report from DIHR found that persons with disabilities are exposed to physical, psychological, or sexual violence to a greater extent than others. One in five reports of violent and sexual crimes (21%) concern victims with mental or cognitive disabilities.¹⁸

Furthermore, the study showed that victims of violence with psychological and cognitive disabilities need to be better accommodated and supported to be able to exercise their rights as victims of violence in criminal justice cases. This may entail that victims with a psychological or cognitive disability in practice can risk experiencing a criminal procedure that is not accessible to them. In addition, the procedure does not

always make necessary accommodations nor provides adequate access to support and guidance based on their individual needs.

DIHR recommends that Denmark:

- Ensure that the access to guidance and appointment of legal advocates and adjustments to criminal procedure, such as reporting requirements, are to a greater extent based on the victim's vulnerability and need for support rather than solely or primarily based on the nature of the reported crime.

ARTICLE 14 – LIBERTY AND SECURITY OF THE PERSON

Legal Rights for Forensic Psychiatric Patients (LOI no. 12 litra b)

By Danish law persons with a mental illness cannot be held responsible for a criminal offence if they were of unsound mind at the time of the offence. However, they may be sentenced to a psychiatric measure, such as placement or treatment. A study by DIHR in 2019 showed that over the past 40 years, the number of forensic patients subjected to a psychiatric measure has increased almost tenfold. At the time of publication in 2019, more than 4,000 forensic psychiatric patients were placed in a psychiatric ward or receiving treatment, often for minor offenses.¹⁹ In addition, the trend is towards longer psychiatric measures overall. The report concluded that a sentence to placement or treatment is often considerably longer than a sentence to ordinary punishment for the same crime would be. Furthermore, sentences to psychiatric measures are often extended on the grounds of treatment needs, rather than on the grounds of new criminal activity or the risk of recidivism. Thus, forensic psychiatric patients are not sufficiently protected from excessively long or intrusive measures.

DIHR recommends that Denmark:

- Ensure psychiatric measures are only used in cases concerning crimes that would lead to imprisonment in the ordinary penal system.
- Ensure the duration of a psychiatric measure is not considerably longer than the duration of a prison sentence, had it been imposed in the ordinary penal system.

Secure Residential Institutions for Children

In Denmark, children and young people can be placed in secure residential institutions on grounds related to either crime, social challenges, or immigration issues. The secure residential institutions primarily serve as alternatives to confinement together with adults and hence have several similarities with prisons.

A significant proportion of children and young people in secured residential institutions are characterized by having a disability in the sense of the CRPD, as they are often characterized by, among other things, cognitive functional impairments (autism, ADHD, low IQ), psychological vulnerabilities, and severe self-harming behavior.²⁰

A DIHR report from 2020 found that there has been a significant increase in the number of children and youth placed in secured residential institutions on welfare grounds.²¹ The report concludes that particularly children and youth in placement on welfare grounds risk arbitrary and disproportionate interferences with their

fundamental human rights, as the large group of youth detained for crime-related reasons has determined the way the secure residential institutions have been set up.

DIHR recommends that Denmark:

- Take steps to amend relevant legislation to ensure that children and youth cannot be placed under prison-like conditions when the placement is made on welfare grounds.
- Collect and make available more substantial knowledge and more solid data on children and youth placed in secure residential institutions.

ARTICLE 15 – FREEDOM FROM TORTURE OR CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT

Coercion and Restraint Measures in Psychiatric Treatment (LOI no. 14 litra a.)

The use of coercion and restraint measures in psychiatric treatment at hospitals has increased in the last decade, finding a plateau the last couple of years.²² In the same period the number of psychiatric patients exposed to coercion has remained at a stable, but high, level. In 2023, a total of 5,925 patients were exposed to coercion in psychiatry, corresponding to 1 in 4 psychiatric patients.²³ This means that patients exposed to coercion today on average experience more coercion than ten years ago.

In 2020 the European Court of Human Rights convicted Denmark of violating a patient's human rights in a case of forced fixation. The Council of Europe's Torture Prevention Committee as well as the UN's Disability Committee and Committee Against Torture have also criticized the Danish use of coercion on several occasions.

DIHR recommends that Denmark:

- Phase out all coercion that is not strictly necessary and is used in place of care, nursing, and treatment in psychiatry. This should be done by, inter alia, increasing staff and therapeutic resources and by focusing more patients' rights and on the prevention of coercion.

Use of Unnecessary Coercion in the Psychiatric Sector

Cases against Denmark at the European Court of Human Rights highlight the significant problem of coercion. Notably, the *Aggerholm v. Denmark* case involved a psychiatric patient who was restrained for nearly 23 hours, violating Article 3 of the European Convention on Human Rights. Subsequently, Denmark has agreed to several settlements, underscoring the need for reforms to protect patients' rights and address systemic challenges.²⁴

A 2024 report from DIHR highlights the inadequate protection of the fundamental rights of psychiatric patients in Denmark, particularly when coercion is involved. In cases of violations of Article 15 of the CRPD and Article 3 of the European Convention on Human Rights, access to redress for that violation is essential. However, the Psychiatric Patient Complaints Board, which decides complaints on unlawful coercion, lacks effective ways of responding to illegal coercion. Namely, the board may only

pronounce criticism of the ward in question. Patients must bring their case to court to receive financial compensation, which is a barrier for effective redress.²⁵

DIHR recommends that Denmark:

- Provide the Psychiatric Patient Complaints Board with a competence to grant compensation to patients who have experienced illegal coercion.

Increase in Children Subjected to Coercion in Psychiatry

The number of children exposed to coercion in Danish psychiatry is slightly rising. In 2023, 342 children were subjected to coercion at least once, while in 2018 the number was 317 children. Children who are subjected to coercion are also subjected to coercion several times. In recent years, there has been a significant increase in the frequency of coercion. In particular, the use of belt restraints, sedatives, and physical restraints is on the rise.²⁶

DIHR recommends that Denmark:

- Take measures to reduce the use of coercive measures against children in psychiatry.

Ethnic Minorities Experience Increased Coercion in Psychiatry

A study conducted by DIHR in 2020 shows that a patient of non-Western origin has approximately a 40% increased likelihood of being subjected to coercion within the psychiatric system compared to a patient of Danish origin.²⁷ This pattern has been consistent throughout the period 2005-2018. Derogatory attitudes, language barriers, and prejudices can contribute to explaining the increased coercion against ethnic minorities in psychiatry.

DIHR recommends that Denmark:

- Ensure the reduction of coercion towards ethnic minorities and ensures better data on this area.

ARTICLE 16 – PROTECTION AGAINST VIOLENCE

The Disability Index shows that 27% of persons with disabilities had been subject to violence in 2020 (either physical, economical, or sexual violence or mental abuse), while the figure for the population as a whole was 17%. Persons with severe physical or mental disabilities are the most vulnerable individuals in a population, making them two times more exposed to physical violence, three times more exposed to mental abuse, and four times more exposed to sexual violence than persons with no disability.

Protection Against Sexual Assault in Residential Facilities (LOI no. 15 litra b)

A study conducted by DIHR in 2022 showed that the risk of being subjected to rape is seven times higher for residents in residential care than for other groups in the population.²⁸ The report identified several problems with the way Denmark protects persons with disabilities living in sheltered residences and persons with disabilities in general from sexual assault. Among other things, the report found that not only can

sexual assault in sheltered residences go undetected for a long time and authorities' response to suspicion or knowledge of assault can be lacking, but persons with disabilities do not have access to the same trauma treatment as others.

DIHR recommends that Denmark:

- Increase the safety of persons living in sheltered residences by introducing preventive measures.
- Ensure access to relevant trauma services for persons with disabilities who have been exposed to sexual abuse.

Violence and threats in social psychiatric residential facilities

A social psychiatric residential facility is a home for persons with complex mental disorders who need close and specialized support. The residents typically receive help to structure their daily lives, take medication, and enter into social relationships. In addition, various forms of therapy, training, and educational support are often offered.

A 2019 report from DIHR found that the share of residents in social psychiatric residential facilities who were victims of reported offences against the person has more than doubled between 2007 and 2016.²⁹ In the same period, the number of verdicts for offences against the person per resident has more than tripled.

Public authorities hold a heightened obligation to protect persons living in social psychiatric residential facilities. The state is obligated to render legal protection, to prevent, intervene, and investigate offences against the person. Furthermore, the state is obligated to gather data on offences against the person aimed at persons with disabilities to advance the implementation of the CRPD. However, there has not been a concerted effort to produce reliable, official data for this area.

DIHR recommends that Denmark:

- Establish an obligatory, consistent, and systematic register for all occurrences of threats, violence, and related situations aimed at residents in all social psychiatric residential facilities of a certain size.

Criminalization of Sexual Assault Against Persons with Disabilities

In December 2020, the Danish Parliament adopted a new consent-based rape law under section 216 of the Danish Criminal Act that criminalized sex without consent. At the same time, the Parliament decided to maintain section 218 of the Criminal Act, which criminalizes the exploitation of a person's mental illness or intellectual disability to obtain intercourse with said person. It remains unclear under what circumstances a person with a disability will be seen to have been exploited despite having consented to intercourse. This lack of clarity poses a risk that a case concerning alleged rape will instead be treated as a case concerning exploitation, which usually carries a lower penalty.

DIHR recommends that Denmark:

- Re-evaluate the criminalization in section 218 of the Danish Criminal Act and clarify the distinction between sections 218 and 216 of the Danish Criminal Act.

ARTICLE 17 – PROTECTING THE INTEGRITY OF THE PERSON

Persons with significant and permanently impaired mental functioning who receive certain types of social assistance are subjected to legislation that allows for different types of coercive measures to be used against them.³⁰ This legislation particularly applies to people living in residential facilities for persons with significant and permanently impaired mental functioning and includes a wide array of different measures, such as physical restraint, locking of doors within residential facilities and use of different types of so-called welfare surveillance (e.g. GPS tracking of a person with dementia or similar who may be a danger to themselves).

Currently, the extent to which these types of coercive measures are used is unknown, as the data that is collected is unreliable. Nevertheless, it is concerning that an evaluation conducted in 2023 indicated a sharp rise in the number of reported uses of coercive measures within residential facilities.³¹ It is unclear to what extent this rise is due to an increased use of coercive measures or simply a result of better reporting practices.

Meanwhile, new legislation has been passed by the Danish Parliament which allows for coercive measures to be used in a wider range of circumstances than is allowed today.³² DIHR remains concerned that this legislation will lead to an increased use of coercive measures against persons with disabilities.³³

DIHR recommends that Denmark:

- Take measures to prevent and reduce use of force and other interventions in the right to self-determination.
- Ensure ongoing and reliable data collection on the use of coercive measures, so that development can be monitored and the reasons for any increases be investigated.

ARTICLE 18 – LIBERTY OF MOVEMENT AND NATIONALITY

Exemption from Certain Conditions for Obtaining Danish Citizenship

According to the Danish Constitution, citizenship is granted by law by the Danish Parliament. The bill is prepared by the Parliamentary Naturalization Committee, which accepts applicants who meet several conditions regarding financial self-sufficiency, employment, residence in Denmark, as well as knowledge of Danish and of Denmark. The applicant's adequate knowledge of Danish and of Denmark is determined based on their score in a series of standardized tests. The committee may also consider applicants who seek exemption from one or more of these requirements, often because of a cognitive, sensorial, intellectual, or physical disability that prevents them from completing the tests.

The Ministry of Immigration and Integration has released data from 2022 showing that only around 10% (4 out of 39) of the applicants with long-term functional impairment whose case was submitted to the Naturalization Committee were granted an exemption so that they could obtain citizenship. In contrast, in 2014, approximately 97% (1375 out of 1419) of applicants with a long-term disability were granted a dispensation by the Naturalization Committee.³⁴

DIHR recommends that Denmark:

- Ensure compliance with the UN Convention on the Rights of Persons with Disabilities, so that citizenship applicants can be granted a dispensation if they have a disability that prevents them from being able to fulfil one or more of the general requirements for citizenship.

ARTICLE 19 – LIVING INDEPENDENTLY AND BEING INCLUDED IN THE COMMUNITY

Freedom of Choice and Social Housing (LOI no. 18 litra a)

Despite the political intention to separate housing and support, a 2021 study by DIHR finds that while many persons with disabilities and extensive need for support can choose between different types of housing, there is still a significant proportion who have little freedom of choice.³⁵ The degree of support required still plays a significant role in where and how they end up living. In addition, many citizens are limited by their home municipality, as they have little opportunity to choose a different home than the one offered by the municipality.

DIHR recommends that Denmark:

- Take steps to ensure that persons with disabilities have actual freedom of choice regarding their place of residence regardless of their need for support.

Increased Institutionalization of Persons with Disabilities (LOI no. 18 litra a and c)

For the past 20 years or so, Denmark has officially pursued a policy of de-institutionalization of persons with disabilities. This was underscored by Denmark's ratification of the CRPD in 2009.

However, in recent years there have been growing concerns among DIHR and organizations for persons with disabilities that there has been a shift in this policy and that Denmark is now moving towards increased institutionalization of persons with disabilities.

The kick-off to this development was two reports from an expert group on social affairs. The proposals of these reports are in the process of being carried out in financial agreements between the state and municipalities, in political agreements, and in proposed legislation currently under consideration in Parliament. These proposals include, but are not limited to:

- Expanding the circumstances under which persons with permanent and significant mental disabilities can be moved without their consent to residential facilities.
- Restricting the right to choose yourself which residential facility you wish to live in based on the municipality's financial considerations.
- Allowing for locking more doors in residential facilities, including outer doors and doors to common rooms and shared kitchens.
- Expanding the circumstances under which coercive measures may be used towards, inter alia, persons living in residential facilities (see our comments regarding Article 17 above).

DIHR recommends that Denmark:

- Take steps to promote de-institutionalization of persons with disabilities in accordance with Article 19 of the UN Convention on the Rights of Persons with Disabilities.

ARTICLE 23 – RESPECT FOR HOME AND THE FAMILY

Challenges in Child Placement and Adoption (LOI no. 21)

In 2014, DIHR conducted a study of placement or forced removal of children whose parents have disabilities, which found that municipalities in some cases do not meet the parents' need for support or, as was seen in several cases, dealt with these needs too late in the process.³⁶ This can have major consequences for the outcome of the parenting skills assessments that municipalities often conduct in such cases.

Similarly, DIHR published a report in 2023 documenting that the number of adoptions without the consent of the parents (as an alternative to long-term foster care) has increased considerably in Denmark over the past few years.³⁷ Meanwhile, other measures which were meant to be a less intrusive alternative to compulsory adoption, such as placing the child in permanent out-of-home care until the age of 18, are still very rarely used. The threshold for the authorities to opt for adoption of a child has been set so low that there is a risk of violating the right to family life for children and parents.

DIHR recommends that Denmark:

- Make it a legal requirement that municipal administrations must consider alternative measures to compulsory adoption and explain why less intrusive measures were not chosen.
- Ensure that the use of compulsory adoption is limited to parents who permanently lack parental abilities and who are particularly unfit to develop a relationship that would be beneficial to the child.
- Specify the obligation of municipalities to carry out a compensation assessment of parents with disabilities before they conduct a parenting skills assessment.

ARTICLE 24 – EDUCATION

The Disability Index shows that the share persons with disabilities with vocational education has declined from 72% in 2012 to 70% in 2020. In the same period the rest of the population without disability saw a positive development going from 82% in 2012 to 88% in 2020.

Inclusion of Children with Disabilities in Municipal Primary and Lower Secondary Schools (LOI no. 22 litra a, b, d and e)

In 2017, a report published by DIHR underscored the persistent challenges faced by children with cognitive disabilities (such as autism and ADHD) attending regular public schools. Parents frequently try to present to school and municipal administrations their child's needs for essential services and accommodations. However, despite children's equal right to education, parents often find themselves inadequately served by the system, and many of these children develop school refusal.³⁸

This is consistent with surveys showing that many children with cognitive impairments do not attend school. One survey showed that 45% of respondents answer that their child with autism was involuntarily absent from school in 2023. Of this group, 16% have not been to school for more than a year. In 2022 study, 49% of respondents answered that their child had an involuntary absence.³⁹ DIHR stresses that children with disabilities have a right to receive teaching in an inclusive teaching environment and to receive an education on an equal footing with other children.

DIHR recommends that Denmark:

- Produce a set of national guidelines for early identification of the risk of school refusal to ensure equal access to education for all children.

Inclusive Vocational Education and Training (LOI no. 22 litra a)

In 2020, DIHR carried out an analysis that showed that students with disabilities in vocational schools drop out at a much higher rate than their co-students without disabilities.⁴⁰ Based on data from the 2020 analysis, dropout rates increase by 36% if the student has a disability. The greatest dropout rate is for students with mental disorders and autism spectrum disorders.

DIHR recommends that Denmark:

- Ensure that students with disabilities are able to take vocational education and training on flexible terms.

ARTICLE 25 – HEALTH

Several scientific studies have found that the average life expectancy for persons with mental disabilities is significantly lower than for the rest of the population. A population-based cohort study conducted in 2019 found that the impact of mental disorders on the expected average life expectancy in Denmark results in a loss of 7 years for women and 10 years for men.⁴¹ The National Institute of Public Health published a report in 2024 concluding that persons with developmental disabilities have an excess mortality of 20 years compared to the average life expectancy.⁴²

Disparities in Life Expectancy for Persons with Mental Disorders (LOI no. 23 litra b)

A study conducted by DIHR in 2022 focused on whether disparities in life expectancy for persons with mental disorders are a result of side effects of medication.⁴³ Citing a recent Danish research project, the study showed clear indications of the connection between treatment with psychoactive drugs and death due to intoxication.

DIHR recommends that Denmark:

- Provide improved knowledge and data to help identify the causes of premature and unexpected death among persons with mental disabilities.

ARTICLE 27 – WORK AND EMPLOYMENT

While the problem of a large gap in employment rates between persons with and without disabilities has not yet been solved, there has been an improvement over the last ten years. The most recent annual report on disability and employment from the Danish Center for Social Science Research, published in 2023, showed that 60% of 16–64-year-olds with disabilities were employed in 2022.⁴⁴ The corresponding proportion for persons without disabilities was 86%. An employment gap of 26 percentage points still poses a huge challenge to the fulfilment of the right to work for persons with disabilities.⁴⁵

DIHR recommends that Denmark:

- Take measures to increase the percentage of persons with disabilities working in the open labour market.

ARTICLE 29 – PARTICIPATION IN POLITICAL AND PUBLIC LIFE

A study conducted by DIHR in 2021 showed that persons with disability-related diagnoses have a significantly lower electoral turnout than persons without a diagnosis.⁴⁶ The situation is worse for persons with mental disorders and developmental disorders or disabilities. The turnout for this group is 16–27 percentage points lower than for the group of eligible voters without a diagnosis.

DIHR recommends that Denmark:

- In consultation with disability organizations initiate measures that can increase accessibility for persons with disabilities, especially those with mental and developmental disorders, in connection with elections.

ARTICLE 31 – STATISTICS AND DATA COLLECTION

To ensure Denmark's compliance with the obligation to collect appropriate information in the field of disability, including statistical and research data, the Danish Center for Social Science Research has received funding to conduct a large panel survey every fourth year. The data from this survey are particularly suitable for examining living conditions among persons with disabilities, the so-called SHILD survey.⁴⁷ The survey was completed in 2012, 2016, and 2020 and was supposed to be conducted in 2024, but it did not receive funding.

Disability is already a heavily under-examined area in statistics, and if the SHILD survey disappears, a crucial source of knowledge will be lost. Today, there is no other way for the government, public authorities, politicians, interest groups, or DIHR to get an overview of, for example, how many persons with disabilities there are, how much they are exposed to discrimination, how much violence they experience, how many cannot use public transportation, or how many suffer financial deprivation.

DIHR recommends that Denmark:

- Ensure that a permanent solution is found to finance the SHILD study.

2 IMPLEMENTATION OF THE CRPD IN GREENLAND

The following information and recommendations concerning Greenland have been produced in cooperation with the Human Rights Council of Greenland (HRCG).

ARTICLE 1-4 – PURPOSE AND GENERAL OBLIGATIONS

Greenland's Disability Policy Action Plan (LOI no. 2 litra c)

In 2014, the Committee recommended that Greenland adopt a dedicated disability policy action plan to effectively implement the CRPD. Naalakkersuisut began the process in 2019 and in 2023 they submitted a draft action plan for public consultation, which is expected to be adopted in 2024.⁴⁸

Pertaining to the draft, while DIHR and HRCG applaud the initiative, it is still necessary to further elaborate on how the initiatives will be implemented and how they address the societal challenges experienced by persons with disabilities.

Indicators measuring the implementation of the action plan will be developed by an expert group established by the action plan, but it is not clear from the draft how the indicators will be developed. Nor is it clear how civil society and persons with disabilities will be included in this process. Furthermore, the action plan does not specify the financial framework or time frame for each initiative.⁴⁹

DIHR and HRCG recommend that Naalakkersuisut:

- Specify how the initiatives in the action plan will be implemented (e.g., by specifying the financial framework and time frame for each initiative) and how they address the societal challenges and barriers experienced by persons with disabilities.
- Clarify how the expert group will organize the work with indicators and how civil society and persons with disabilities will be included in the process.

ARTICLE 5 – EQUALITY AND NON-DISCRIMINATION

Greenland's Inatsisartut Act on Equality and Anti-Discrimination (LOI no. 3 litra a)

In 2014, the Committee urged the Government of Greenland to adopt new comprehensive cross-sectoral anti-discrimination legislation. Moreover, the Committee recommended that Greenland take steps to ensure that reasonable accommodation is provided in all spheres of society and to ensure effective legal remedies to persons with disabilities.

In May 2024, Greenland's Parliament, Inatsisartut, passed the Inatsisartut Act on Equality and Anti-Discrimination. The law aims to prevent discrimination and to promote equal treatment of all persons, including persons with disabilities.⁵⁰

DIHR and HRCG find it positive that Inatsisartut has adopted a general ban on discrimination based on, inter alia, disability. The law also establishes an Equal Treatment Board that will decide complaints on violations of the law.

However, the law does not address the right to reasonable accommodation and accessibility. Thus, it is unclear whether and to what extent the law protects these rights. The right to reasonable accommodation and accessibility are fundamental rights according to the CRPD and should be clearly addressed and protected.

DIHR and HRCG recommend that Naalakkersuisut:

- Ensure an explicit individual right to reasonable accommodation and addresses how the right to accessibility will be ensured and promoted.⁵¹

ARTICLE 8 – AWARENESS

In 2020, a national survey conducted by Tilioq and the University of Greenland, Ilisimatusarfik, revealed that persons with disabilities in Greenland face prejudices and stereotypes. Consequently, many individuals with disabilities and their families experience feelings of inferiority, stigma, and marginalization. Importantly, this recognition of persons with disabilities as a vulnerable minority is relatively new in Greenland's public discourse.⁵²

Given this context, there is an urgent need to enhance awareness about the rights of persons with disabilities among public authorities and institutions. Prejudices can hinder access to participation in various aspects of society, including education, the labour market, and cultural life.

In the 2023 draft disability policy action plan, Naalakkersuisut aims to improve information about disability in society and reduce prejudice and discrimination. However, it is not clear how this and other objectives are to be fulfilled or when they are accomplished.⁵³

DIHR and HRCG recommend that Naalakkersuisut:

- Commit to providing data on living conditions for persons with disabilities by conducting regular surveys specifically focused on prejudice against this group. This data can inform targeted interventions and policy improvements.

ARTICLE 9 – ACCESSIBILITY

Enhancing Accessibility in Greenland (LOI no. 7)

The geographic and demographic situation in Greenland entails that a relatively small number of people are scattered across a large territorial area. According to Statistics Greenland, Greenland has the lowest population density in the world.⁵⁴

As DIHR and HRCG observed in a 2019 report, the lack of accessibility to transport by sea and air hinders the movement of persons with disabilities between places in Greenland.⁵⁵ In 2024, Tilioq further concluded that accessibility to buildings and nature remains a barrier for persons with disabilities, preventing them from fully participating in all aspects of life on an equal basis with others.⁵⁶

Therefore, many persons with disabilities rely solely on digital access to public services and authorities, making digital accessibility vital for accessing public services. Yet, the implementation of digital solutions remains relatively slow and expensive. Consequently, such solutions remain inaccessible for many.⁵⁷

In addition, section 5 of Inatsisartut Act no. 13 of 12 June 2019 on support for persons with disabilities provides that all public buildings and facilities must, as far as possible, be planned in such a way that persons with disabilities can access and use them. However, an amendment to this act sent for public consultation in May 2024 would repeal this legal requirement. This will mean that there will no longer be a legal requirement that public buildings and facilities must be accessible for persons with disabilities.

DIHR and HRCG recommend that Naalakkersuisut:

- Introduce standards on accessibility for construction, public transport, and public websites, ensuring effective control of compliance and emphasizing universal design when appropriate.
- Reintroduce mandatory courses on accessibility for relevant professionals, specifically focusing on building accessibility.
- Ensure that there is still a legal obligation to create accessibility and universal design in relation to buildings and facilities.

ARTICLE 14 – LIBERTY AND PERSONAL SECURITY

The Greenlandic Criminal Code allows for the court to sentence persons with mental illness or 'retardation' to a psychiatric measure, i.e., they are sentenced to placement or treatment instead of punishment.⁵⁸ Additionally, the Greenlandic Criminal Code permits persons sentenced to a forensic psychiatric measure to be placed in Denmark due to a lack of specialist institutions and psychiatrists in Greenland. Challenges in recruiting and retaining staff in the field of forensic psychiatry further contribute to this situation.⁵⁹

In 2021 researchers found that 28 persons from Greenland were sentenced to a psychiatric measure in Denmark, some of those classified as either 'insane' or 'mentally retarded'. 24 of these persons had no expiration date for their measure.⁶⁰

Thus, persons from Greenland sentenced to a psychiatric measure are often sentenced to indefinite periods of deprivation of liberty in Denmark. This raises several important issues in regard to their continued ties to Greenland since the Danish institutions often have limited specialization in Greenland and Greenlandic conditions.⁶¹

DIHR and HRCG recommend that Denmark in dialogue with Greenland:

- Ensure that persons from Greenland placed in Denmark have access to care in their own language and culturally sensitive care. These measures should apply to both individuals with psychiatric measures and those in psychiatric care.

ARTICLE 16 – FREEDOM FROM EXPLOITATION, VIOLENCE, AND ABUSE

Addressing Sexual Assault Impact on Persons with Disabilities in Greenland (LOI no. 15 litra a)

A 2023 joint report by HRCG, Tilioq, and DIHR highlighted the disproportionate number of persons with disabilities in sheltered residences and residential homes who have experienced sexual assault. However, there remains a lack of comprehensive data and statistics on the living conditions for this group of persons with disabilities

in Greenland. Furthermore, the report underscores the importance of access to rehabilitation (cf. also Article 26 of the CRPD).⁶²

In Naalakkersuisut's strategy against sexual assault 2018–22, "Killiliisa – Let's set limits", Naalakkersuisut recognizes that there should be a special focus on persons with disabilities in residential institutions as they constitute a special risk group in relation to sexual assault.⁶³ This echoes former recommendations on better monitoring mechanisms in residential care institutions from both the Committee in 2014 and the United Nations Special Rapporteur on the Rights of Indigenous Peoples in 2023.⁶⁴

DIHR and HRCG recommend that Naalakkersuisut:

- Ensure better knowledge about persons with disabilities living in sheltered residences and residential homes who are victims of sexual abuse, as well as more knowledge about reporting practices pertaining to this group.
- Ensure access to relevant rehabilitation for victims of sexual abuse.

ARTICLE 19 – LIVING INDEPENDENTLY AND BEING INCLUDED IN THE COMMUNITY

In 2023, the UN Special Rapporteur on the Rights of Indigenous Peoples visited two facilities for persons with disabilities in Greenland. The Special Rapporteur stated that he was impressed with the quality of the facilities and the integration of Inuit culture into individual therapies. However, he pointed to a lack of qualified staff that speak Greenlandic, municipal bureaucracy impeding the effective operation of the facilities, and examples of young persons with disabilities being sent to institutions for older persons.⁶⁵

According to a 2022 strategy on residential facilities for persons with disabilities, the current need for such specialized facilities is about twice as large as the existing capacity in Greenland.⁶⁶ This means that a larger number of people from Greenland either choose to move to Denmark to seek adequate help or are referred to Danish residential facilities by authorities.⁶⁷ These persons often live in Denmark for years with the risk of being increasingly disconnected from their family, language, and culture.

DIHR and HRCG recommend that Naalakkersuisut:

- Significantly scale up existing efforts to expand the specialized capacity in Greenland. Measures should be culturally appropriate, considering that the vast majority of the population in Greenland is Inuit. These measures could empower indigenous persons while also strengthening their connection to culture and nature.

ARTICLE 25 – HEALTH

Strengthening Psychiatric Ward A1 in Nuuk (LOI no. 23 litra a)

In 2022, the Ombudsman for Inatsisartut conducted its third inspection of psychiatric ward A1 in Nuuk in collaboration with DIHR and DIGNITY – The Danish Institute Against Torture. The Ombudsman concluded that, while her overall impression of the ward and its staff was positive considering their circumstances, the ward suffered serious issues regarding, inter alia, recruiting and maintaining educated staff and ensuring financial viability. The Ombudsman was strongly concerned that it may be a matter

of time before the ward is unable to fulfil its function if key members of staff become sick or leave, recruitment of new staff is unsuccessful, and the demand for psychiatric treatment remains high.⁶⁸

DIHR and HRCG recommend that Naalakkersuisut:

- Ensure a stable framework for recruitment, retention, and financial funding for Greenland's hospital psychiatry to ensure equal access to health regardless of disability.

ARTICLE 27 – WORK AND EMPLOYMENT

In 2014, the Committee advised the State party, including Greenland, to implement measures aimed at substantially boosting the employment rate of people with disabilities in the open labour market. Unfortunately, there is little information currently available regarding employment of persons with disabilities in Greenland.⁶⁹ As a result, it is challenging to identify specific recommendations in this area. See recommendations under section 1.11 on Article 31 (Statistics and data collection).

ARTICLE 31 – STATISTICS AND DATA COLLECTION

In 2014, the Committee recommended that Greenland improve the systematic collection, analysis, and dissemination of data on persons with disabilities. A lack of data disaggregated by disability in Greenland remains a challenge.

While Naalakkersuisut's plan for a national action plan on the implementation of the CRPD in Greenland includes general ambitions to strengthen data collection (see article 1-4 above),⁷⁰ it is unclear how the development of human rights-based indicators will be executed, analysed, and disseminated.

DIHR and HRCG recommend that Naalakkersuisut:

- Specify the initiatives regarding statistics and data collection in the action plan on the implementation of the CRPD, including capacity-building in the area. Where possible, this data should be broken down by gender, age, disability, and region.

OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

In 2012, Inatsisartut decided to instruct Naalakkersuisut to work to implement the Disability Convention in Greenland. In 2014, Denmark ratified the optional protocol, but on that occasion a territorial exclusion was made for Greenland.⁷¹

DIHR and HRCG recommend that Greenland in dialogue with Denmark:

- Withdraw the territorial exclusion for Greenland to the Optional Protocol.

ENDNOTES

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- 6 The ten indicators are: (1) equality and non-discrimination, (2) violence, (3) accessibility and mobility, (4) freedom and personal integrity, (5) living independently and being included in the community, (6) education, (7) health, (8) employment, (9) social protection, and (10) political participation. These results are based on very large surveys (more than 20,000 respondents) conducted every 4th year. Note that this recurrent survey did not receive its intended funding by the state in 2024, and as a result did not provide a 2024 update of data, see comments for article 31 in Chapter 1. For more results and methodological information, see Handicapbarometeret.
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- 12 Kloppenborg, H. S. and Lausten, M. (2020): **Udsatte unges inddragelse i kommunernes sagsbehandling** (Only available in Danish), p. 48.
- 13 The Child's Act, Act no. 721 of 13 June 2023, available in Danish at <https://www.retsinformation.dk/eli/lta/2023/721>.
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