

## **Universal Periodic Review of Denmark Working Group under the UN Human Rights Council**

Retspolitisk Forening, der har sæde i rådet for Institut for Menneskerettigheder sammen med en lang række NGO'ere har deltaget i udarbejdelsen af en rapport om menneskerettighedssituationen i Danmark. Rapporten er opbygget således, at der er foretaget en vurdering på grundlag af de konventioner Danmark har tiltrådt og ratificeret. Rapporten skal sammen med andre rapporter, herunder også en beretning fra Institut for Menneskerettigheder fremlægges på FN's menneskerettighedsråds 11 session i maj 2011, hvor situationen i Danmark skal vurderes. Disse vurderinger foretages af rådet for så vidt angår de FN medlemmer og andre, der har underskrevet og ratificeret konventionerne. Vurderingerne foretages jævnlige.

### **Joint stakeholder submission to the Universal Periodic Review of Denmark 2<sup>nd</sup> May 2011, 11<sup>th</sup> session of the Working Group under the UN Human Rights Council**

The following organizations form the joint submission: Danish Association of Legal Affairs, Danish Helsinki Committee for Human Rights, Danish-Russian Organization, Danish United Nations Association, Disabled Peoples Organization, Denmark, European Network Against Racism and Documentary and Advisory Centre on Racial Discrimination (Denmark), Rehabilitation and Research Centre for Torture Victims (Denmark), Rule of Law Foundation and Save the Children Denmark.

#### **Introduction**

The political climate in Denmark has changed over the last decades - in substance and in form, where there has been a distinct change in rhetoric. This critical development is a key background and explanatory factor for a number of the issues highlighted in this report on human rights in Denmark.

Law and order, Tough on Crime and anti-Islamic sentiments in Denmark started to be voiced during the 1980ies. These voices gained strength in reaction to the events of 9/11 and the intense reactions in some Islamic countries to the publishing of caricatures of Prophet Mohammed in the Danish newspaper, *Jyllands Posten*. These events contributed to increased tensions in the public discussions on immigration. This climate of growing mistrust and incidents of discrimination of vulnerable groups including religious minorities has gradually also had negative effects on the principles of good practices in the lawmaking process<sup>1</sup> and have developed into a normal and often unquestioned behavior by the government and the executive power<sup>2</sup>. Finally, the interpretation of international human rights obligations has gradually grown narrower.

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<sup>1</sup> As an example of this can be mentioned the consultative procedure running before the formal presentation of a bill in Parliament. The consulted organisations were given 3 days to comment on The May 2010 Amendment of the Aliens Act. (Secret administration of Justice in cases concerning foreigners regarded as a threat to national security). See also 2.6.

<sup>2</sup> Racist motivated crimes have in some cases been denied by the police. See also 7.2.

## **1. Incorporation and ratification of human rights conventions**

Denmark has ratified seven of the major UN human rights conventions but not incorporated them into domestic legislation, contrary to the European Convention on Human Rights, which was incorporated in 1992. Several UN treaty bodies have repeatedly recommended incorporation of the UN conventions and the Danish Committee on Incorporation of Human Rights Conventions into Danish Law recommended in 2001 incorporation of the International Covenant on Civil and Political Rights (ICCPR), the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) and the Convention against Torture (CAT) into its domestic legal order. In addition to these there is also a lack of incorporation of the International Covenant on Economic, Social and Cultural Rights (ICESCR), The Convention of the Rights of the Child (CRC) and the International Convention Against all forms of Discrimination Against Women (CEDAW). Furthermore Denmark has not ratified the Optional Protocol to the Convention on the Rights of Persons with Disabilities (OP-CRPD), the International Convention On Migrant Workers (ICMW), the Optional Protocol on the International Convention on Economic, Social and Cultural Rights (OP-ICESCR) or the International Convention for the Protection of All Persons from Enforced Disappearance.

- Recommendation: The core UN human rights conventions are incorporated into Danish law and obtain the same legal standing as the European human rights instruments. The Optional Protocols to the ICPRD and to the ICESCR, the International Convention On Migrant Workers (ICMW) and the International Convention for the Protection of All Persons from Enforced Disappearance are ratified.

## **2. International Covenant on Civil and Political Rights (ICCPR)**

### 2.1 “28 years rule”

In 2002, the Parliament amended the Aliens Act by introducing the so-called “*24 years rule*” governing family reunification. The rule entails that family reunification can only be granted, if both spouses have attained the age of 24 and if their cumulated attachment to Denmark is greater than that to another country. In 2003 the “28 years rule” was introduced in the Aliens Act. This rule removes the requirement for greater cumulated attachment to Denmark for couples seeking family reunification if one spouse has had a Danish citizenship for 28 years or more. The “28 year rule” has been brought before the Danish courts as indirectly discriminatory between Danish Citizens who are born Danish and the ones who are not. The High Court and Supreme Court found no human rights violation. In July 2010, the Supreme Court judgment was brought before the European Court of Human Rights.

- Recommendation: The “24 year rule” and the “28 year rule” are abolished.

### 2.2 Stop and Search zones

Section 6 of Act no. 444 of 9 June 2004 on Police Activities enables the Chief of Police to administratively establish “stop and search-zones” within which the police may randomly search any person for the purpose of checking whether the person carries knives or other weapons. The measure does not require a reasonable suspicion by the police. In practice stop and search zones have been established covering major cities and although the preparatory work to the Act on Police Activities presupposes a maximum duration of zones for 30 days some zones have continuously been renewed.

- Recommendation: Reasonable suspicion of criminal activity should be required when the police conducts stop and search measures.

### 2.3 Family reunification

In the draft Finance Act 2011 (draft State budget 2011), the government proposes that all foreigners in Denmark who are applying for *family reunification* shall pay a fee of app. € 700 per person. This requirement will entail that a family father who wishes to be unified with his wife and two children, for instance, will have to pay an amount of app. € 2,100. In practice, the proposed rule raises serious concerns with regard to the right to family life.

- Recommendation: The government and parliament abstain from introducing the proposed fee for family reunification as its may run contrary to the right to family life.

### 2.4 Preventive arrests

In 2004<sup>3</sup> and 2009<sup>4</sup>, respectively, the Parliament introduced new legislation in order to strengthen the efforts against widespread disturbances of the public order. The police was authorised to make “preventive arrests” (administrative detention) of up to 12 hours. The police can make such preventive arrests at public gatherings/demonstrations of persons who pose a danger to the public order or to the security of individuals or the public security. Those arrested do not have to be suspected or accused of any criminal offence. An example of preventive arrests happened on 12 December 2009 in connection with the UN Climate Conference (COP15) in Copenhagen where the police carried out mass arrests. App. 1,000 persons were kept first on freezing pavement with no access to toilets and later detained in so-called “climate cages”. The treatment of the arrested persons has been characterised as degrading by several human rights organisations. The Parliamentary Ombudsman has investigated the matter and is expected to issue a report on the treatment of the detained persons.

- Recommendation: The rules on preventive arrests (administrative detention) are abolished.

### 2.5 CIA rendition flights

A documentary “CIA’s Danish connection” (2008) alleges that Danish and Greenlandic airports and airspace were used by the US Central Intelligence Agency (CIA) to transport prisoners as part of its renditions program. The Danish government has ordered an investigation into the alleged CIA rendition flights. Despite calls by the Special Rapporteur on Torture<sup>5</sup> and by several Danish political parties and Greenlandic MPs, the investigation was not carried out with the inclusion of independent experts and civil society to ensure a fully inclusive and transparent process. It was conducted by an inter-ministerial working group. The final report of 23 October 2008 concludes that the Danish authorities had no knowledge of the CIA-flights, and that it can neither confirm nor disconfirm whether CIA rendition flight have taken place<sup>6</sup>.

- Recommendation: An independent investigation of the CIA rendition flight is made.

### 2.6 Legal guarantees

Over the last few years, amendments to the Administration of Justice Act have weakened the *legal guarantees* for persons accused of committing a criminal offense. At the request of the police, the court may decide to restrict the defence’s access to information for the sake of consideration for other states, state security, the solving of the case, the criminal investigation of another case or

<sup>3</sup> Section 8 of Act no. 444 of 9 June 2004 on Police Activities

<sup>4</sup> Act no. 1107 of December 1 2009 amending the Criminal Code and the Act on Police Activities (*Lømmel-pakken*)

<sup>5</sup> A/HRC/10/44/Add.2, 18 February 2009, para 65.

<sup>6</sup> Report concerning secret CIA-flights in Denmark, Greenland and the Faroe Islands, 23 October 2008.

protection of confidential information about the methods of criminal investigation of the police. Consequently, the indicted person may be denied access to central documents in his/her criminal case, notably evidence and witnesses. In some instances, the defence lawyer is acquainted with the documents, but may not communicate its contents to his/her client. In certain cases, especially in suspected terror cases, lawyers who have been accepted by the secret police and whose identity is not disclosed are used instead of the defence.<sup>7</sup>

The Aliens Act provisions dealing with administration of justice have been amended several times thus reducing the principle of fair trial. An example is cases concerning administrative expulsion of foreigners regarded a threat to the national security (L 209/2008-2009). The central part of the court procedure is secret; the indicted person has no right to receive documents produced by the security and intelligence service or from the court hearings etc.<sup>8</sup>

The Administration of Justice Act requires that tenders of telecom-traffic or -service are registered and stored for at least one year with the purpose of investigating possible criminal acts. 82.000 pieces of data are stored per person per year in Denmark which in itself is a risk.<sup>9</sup>

In the efforts to prevent terrorism, the police have been given wide-ranging powers to take measures, which would formerly require a court order. The Danish Security and Intelligence Service may demand information from public authorities, if this is of importance to the prevention and investigation of crimes against state sovereignty and security or crimes against state authorities, terrorism, etc. For instance information can be required of libraries and physicians about specific persons' use of libraries or doctors, etc.<sup>10</sup>

- Recommendation: The anti-terror provisions in the Administration of Justice Act allowing “classified court evidence”, “secret lawyers” and storage of large amounts of personal information are revoked. Alternatively, the scope of these rules should be limited considerably by law.

## 2.7 Acquisition of permanent residence

In 2010, the Government amended the rules on *acquisition of permanent residence* (Aliens Act no 572/2010). The aim was to allow well-integrated immigrants to acquire a permanent residence permit already after 4 years. The Aliens Act stipulates that foreigners applying for a permanent residence permit must have obtained at least 100 points. First, applicants must fulfill eight indispensable conditions, including having resided lawfully in Denmark for 4 years; having received no social benefits the last 3 years; having signed a declaration on integration and active citizenship; having passed an advanced Danish language exam; having had full time employment in Denmark at least 2,5 years etc. Secondly, the applicant must demonstrate active “citizenship” and meet additional demands relevant to integration. Applicants may be exempted from meeting some of the demands, but only in so far it is required by Denmark’s international obligations. The law does not specify the conditions or situations that entitle the applicants to dispensation, such as severe physical impairment or mental illness as is the case with the legislation on acquisition of citizenship. On several occasions, requirements for obtaining citizenship have been introduced with

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<sup>7</sup> Ibid, section 786.

<sup>8</sup> A case of this type concerning a Tunisian refugee regarded as a threat to national security. In October 2010 it was dealt with by the High Court in Copenhagen.

<sup>9</sup> Ibid, section 729 c).

<sup>10</sup> Law no. 1053 of 29 October 2009 - The Administration of Justice Act (*Retsplejeloven*), section 116

retroactive force, making it extremely difficult to obtain residency or citizenship, and creating human difficulties for persons applying for citizenship.

- Recommendation: The Aliens Act specifies the conditions under which an applicant may be exempted from fulfilling one or more of the requirements related to the acquisition of permanent residence. Furthermore, the government and Parliament should end the practice of adopting legislation with retroactive force, except under exceptional circumstances.

### 2.8 Acquisition of Danish citizenship

The Government has significantly increased the requirements for acquisition of Danish citizenship, requiring possession of permanent residence; being financially self-supporting; managing the Danish language proficiently; having profound knowledge of Danish society, culture and history; etc. According to a circular on naturalization (no 61/2008), persons with a severe physical impairment or mental illness may be exempt from the language requirement. However, persons suffering from post-traumatic stress syndrome (PTSD) - a common symptom among traumatized refugees and torture victims - are explicitly excluded from obtaining a dispensation, even if the condition is chronic and documented by a certificate issued by a medical doctor.

- Recommendation: The regulations on acquisition of Danish citizenship are amended so as to allow persons suffering from post-traumatic stress disorder (PTSD) to apply for dispensation for the language requirement on equal terms with other mentally ill persons.

### 2.9 Deportation of asylum seekers

In May 2010, Denmark resumed the deportation of asylum seekers to Greece, a practice that had otherwise been suspended as the Greek government could not guarantee an examination of the asylum claims, offer protection or guarantee suitable reception facilities. The European Court of Human Right has in June and September 2010 ordered Denmark to stop the deportation of asylum seekers to Greece.

- Recommendation: The Danish authorities halt deportations to Greece until the Greek government can guarantee a full examination of the asylum claims, offer protection and guarantee suitable reception facilities. This group should be allowed to seek asylum in Denmark.

### 2.10 Administrative expulsions

In July 2010, the Danish state carried out administrative expulsions of 23 Roma EU-citizens. The reason for the expulsion was that they were a disturbance to the public order. None of the Roma has been expelled as a result of having committed a criminal offence in Denmark, other than trespassing and putting up tents and camping without permission.

- Recommendation: The Danish authorities comply with EU jurisprudence concerning the expulsion of EU citizens, notably that expulsions are only carried out if the presence or conduct of the EU-citizen constitutes a real and serious threat to society. Expulsion should always be based on an individual judgment and the right to a fair trial should always be respected.

## **3. International Covenant on Economic, Social and Cultural Rights (ICESCR)**

### 3.1 Starting allowance

In 2002, the Government introduced the so-called *starting allowance (starthjælp)* (Act on Active Social Policy 2002). The starting allowance amounts to €650 per month, while the regular unemployment benefit, cash allowance, amounts to €1.320. The purpose was to increase the incentives for refugees and immigrants to seek employment. The starting allowance applies equally

to Danish citizens and foreigners but practice has shown that it primarily affect foreigners. The starting allowance gives rise to concerns about indirect discrimination.

- Recommendation: The starting allowance is revoked and replaced by the ordinary cash

### 3.2 Health care for illegal immigrants

In Denmark, undocumented migrants have no right to health care, although, in principle, doctors have an ethical obligation to provide anyone in urgent need of medical care. Additionally undocumented children do not have guaranteed rights to education.

- Recommendation: Denmark recognizes the right to health and education and provides public health care for undocumented migrants as well as right to education for undocumented migrant children.

## **4. Convention Against Torture (CAT)**

### 4.1 Offence of torture in criminal law

UN anti-torture bodies have repeatedly called upon Denmark to incorporate a specific offence of torture under its criminal law, making it a punishable offence as set of in the CAT. However, the Parliament has decided not to make torture a specific criminal offence, but instead to make torture an aggravating circumstance in the Criminal Code and Military Criminal Code.

- Recommendation: Torture is incorporated as a specific offence under national criminal law

### 4.2 Solitary confinement

The Director of Public Prosecution has issued a report covering the use of solitary confinement in 2008. The report shows that the total number of cases of solitary confinement increased with 20 per cent to 327 cases (2008), while the average duration of solitary confinement decreased from 27 days (2007) to 21 days (2008). 4 persons under the age of 18 years were placed in solitary confinement.

- Recommendation: Denmark should further reduce the use of solitary confinement.

### 4.3 Diplomatic assurances

In 2009, the Danish Ministry for Refugees, Immigrants and Integration issued a white paper drafted by an expert committee on the “Administrative expulsion of foreigners deemed a danger to state security”. The Committee concluded that although *diplomatic assurances* are extremely problematic, there exists a narrow margin for their use under certain circumstances. The question of *diplomatic assurances* has surfaced with the case of Niels Holck, a Danish citizen whom India has requested extradited since 2002 for prosecution under the terrorist clauses for smuggling weapons into West Bengal in 1995. This request has been denied until April 2010, when the Danish Ministry of Justice decided to extradite Holck to India. The decision was taken on the basis of the Indian authorities’ acceptance of diplomatic assurances regarding the right to security of person and fair trial. Holck has brought the Ministry of Justice’s decision to court so as to have it rejected. In November 2010, the Court of first instance found that there is a concrete and real risk that Holck, if extradited to India, will be exposed to torture or ill-treatment. The Court did not rule out diplomatic assurances in general, but found that they lacked precision and sufficient detail in the concrete case. The decision of the Court was appealed to the High Court by the Prosecution.

- Recommendation: Diplomatic assurances are not used as a safeguard against torture or ill-treatment, when extraditing persons to criminal prosecution.

#### 4.4 Abstaining from cooperation with foreign intelligence services known to use torture

The Danish Security and Intelligence Service (PET) extended cooperation to states in the Middle East as part of the efforts to fight terror. This cooperation has been endorsed by the (then) Prime Minister and the Minister of Justice. The Special Rapporteur on Torture has expressed his concerns about recent developments in Denmark. Nevertheless, the PET chief defends the cooperation with “controversial” intelligence services as such cooperation is seen as “absolutely necessary in light of the international threats of terror against Denmark”.<sup>11</sup>

- Recommendation: Denmark abstains from cooperation with foreign intelligence services that are known for their practice of torture.

### **5. Optional Protocol to the Convention Against Torture (OPCAT)**

The Parliamentary Ombudsman has been designated as the National Preventive Mechanism (NPM) in accordance with the *Optional Protocol to the Convention against Torture* (OPCAT). However adequate funding enabling the fulfillment of this mandate has not been given.

- Recommendation: The NPM should be allocated the necessary resources for its functioning

### **6. Convention on the Rights of the Child (CRC)**

#### 6.1 Primary education – persons with disabilities

In primary education the competencies are not in place to educate children with disabilities. Danish teachers lack in-service training. This pushes children and their parents to choose segregated education.

- Recommendation: A human rights based approach is establish to inclusive education, to provide mandatory in-service training related to inclusive education and to review and eventually revise curriculum related to inclusive education in teachers’ basic education.

#### 6.2 Minimum age of criminal responsibility

In 2010 the Danish Parliament passed a law to reduce minimum age of criminal responsibility from 15 to 14 years of age. This is contrary to recommendations made by a National Commission on Juvenile Delinquency which emphasized that the crime rate for 10-14 year juveniles has not increased in recent years. The maximum lengths of sentences of persons below 18 was also extended to be limited by only ‘not life imprisonment’. Children who have received a prison sentence are to be placed in secured residential centres managed by the social service according to Danish law. These institutions can refuse a young criminal and in addition there are also not sufficient places for children in the secure institutions. This means that *young people increasingly are imprisoned in the ordinary prison system* – the number increased from 164 in 2007 to 207 in 2008. With the existing resources there are not always sufficient recreational opportunities for the children which lead to de facto isolation of the young offenders in order to keep them from adults.

- Recommendation: The minimum age for criminal responsibility at 15 years of age and the maximum length of prison of 8 years for persons under 18 years of age be reintroduced. We also recommend that children are not placed in prisons

#### 6.3 Right to privacy, marriage and family life for children with disabilities

Denmark places children with disabilities in residential institutions, and the consequence is that parents and children cannot uphold their family life because the parents have the child benefits

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<sup>11</sup> <http://politiken.dk/indland/ECE722729/pet-forsvarer-fortsat-samarbejde-med-torturstater-/>

discontinued and have to transfer the maintenance responsibility to an institution. At the same time parents lose assistance for special arrangements and aids in the home.

- Recommendation: Legislation is changed to ensure that families can get the necessary support in the home in order to maintain a valuable contact with their children living in institutions.

#### 6.4 Right to social security and to an adequate standard of living

The Committee on the Rights of the Child has recommended that Denmark take all necessary measures to ensure that children do not live in poverty. Nevertheless more than 5 per cent of all children live in poverty. Unfortunately, there is a lack of consensus concerning what economic poverty is for children and recognition of poverty as a violation of children's rights.

- Recommendation: A mechanism to measure poverty levels is developed and reduced social benefits that contribute to poverty are removed

#### 6.5 Minorities and indigenous peoples

According to section 5(7) of the Primary and Secondary School Act only children of EU or EEA-citizens are entitled to mother-tongue instruction. Children from third-party countries have been deprived of publicly paid instruction in their mother tongue. In the school year 2007/2008, only 5,000 of the approx. 70,000 bilingual pupils received municipally organised mother-tongue teaching[1]. This is a concern since children from third-party countries are overwhelmingly from socio-economically disadvantaged homes. This is often very detrimental to the general development of these children and has showed to be counteractive to the inclusion of refugee children in Danish society.

Non-Danish children between 15 and 18 do not have a statutory right to *family reunification* with their parents living in Denmark. In amendments of the Aliens Act adopted on 25 May 2010 the requirements on access to *permanent residence* have been strengthened to a degree that will prevent many foreigners from acquiring a permanent residence permit and thus also prevent them from access to citizenship. The changes may seriously impair the status of many children. Finally, there has been a political focus on so called '*re-educational journeys*' for children of ethnic minorities. Since the amendments of the Aliens Act adopted on 25 May 2010 a residence permit for a child can now be repealed if the minor stays 3 months outside the country. Children risk losing their residence permit and thus be sanctioned for a decision typically made by his/her parents.

- Recommendation: mother-tongue education is reintroduced. The maximum age for family reunification of children is increased to 18 years. Finally, no children raised in Denmark should risk losing their residence permit if sent out of the country by their parents.

#### 6.6 Migrants, refugees and asylum-seekers

When Denmark receives a *family with children seeking asylum*, the parents' case decides the children's fate. The child's independent claims to asylum are not systematically obtained in the Danish asylum process. If the family is returned to the country of origin after many years in Denmark, no considerations are given for children having lived the majority of their childhood in Denmark. The long waiting periods particularly for rejected asylum-seekers who cannot be



repatriated and the many shifts between asylum centres have a very negative impact on the children's health and development.

- Recommendation: All children in asylum-seeking families reside outside of the asylum centres. Consideration should be granted to the right of the child to their own private life and development when forced return is considered. Finally, the child's independent claim to asylum is systematically undermined in the Danish asylum process. The children's right to be heard should be guaranteed.

#### 6.7 The rights of children separated from their families

A proposed legislation will reduce the special protection rights of *separated children* in Denmark. Changes are made with the intention to "limit the number of unaccompanied children entering the country", "to combat all forms of abuse of the rules" and a "deterrent signal value". However, a child under 18 will be unable to renew their residence permit after age 18, if they have not been granted asylum. An assessment of the best interests of the child is not done before the return to country of origin or when a child is returned to special "reception centers" in countries of origin.

- Recommendation: The best interest of the child will be guiding principle in cases involving separated children.

### **7. Convention on the Elimination of All Forms of Racial Discrimination (CERD)**

#### 7.1 Implementing CERD committee decisions

Denmark is the country in the world that has generated most communications according to the ICERD Article 14 on individual communications. It is also the country where individual complainants have been most successful, since the Committee on the Elimination of All forms of Racial Discrimination five times has declared Denmark in violation with the CERD.<sup>12</sup> Denmark however lacks willingness to implement and respect the decisions of the CERD committee. At present the Danish Government has rejected to award compensation to two victims of racial discrimination and has yet to reply in a third case.

- Recommendation: Denmark follows decisions reached by the CERD committee.

#### 7.2 Hate crimes

Possible racist crimes are being denied by the Danish police in relation to the killing of a boy of Turkish origin. When the attacker went on trial in January 2009 and on appeal in June 2009 the prosecution failed to invoke Danish Criminal code section 81, para. 6 and consequently the courts were barred from considering the possibility of including the racist element into the case. It was however testified by a witness in Court that the attacker said before hitting the boy: "What are you looking at Paki Swine?"

#### 7.3 Hate speech/Freedom of expression

Leading Danish politicians and debaters have raised a debate concerning the possible abolishment or amendment of the section on racism 266 b in the Danish Criminal Code on grounds of freedom of expression. Consequently, it is noted with great concern that the Danish Prime Minister has recently stated that the question is open for discussion with the government's parliamentary basis.

- Recommendation: The Government initiates the preparation of a memorandum of impartial experts on the question whether an abolishment of the section 266 b of the Danish Criminal Code will be in conflict with Denmark's human rights obligations.

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<sup>12</sup> CERD case No. 10/1997; 16/1999; 34/2004; 40/2007; 43/2009.

## **8. Convention on Elimination of All Forms of Discrimination against Women (CEDAW)**

### 8.1 Labour market

In accordance to article 11 in CEDAW Denmark is obliged to ensure that women are not discriminated against in the labour market. Some of the main concerns in this area regard equal payment and the conditions of female migrant workers. Denmark is rated low in the rankings of equal pay compared to other European countries. The Act on Equal Pay states that women and men should be paid equally for work of equal value, but in practice this is not the case. In addition, there is paid little attention to the working conditions of migrant workers, i.e. women working as au pairs in private in private homes, and some women from ethnic minorities. These groups are not fully integrated into the labour market.

- Recommendation: The CEDAW committee concluding recommendations on labour market issues of August 2009 are fully implemented.

### 8.2 Violence against women

According to the CEDAW committee the legal basis of protection of victims of domestic violence is weak in Demark. The following 3 problems are highlighted as particular areas of concern: 1) while the number of women exposed to partner violence is decreasing, 28.000 women are still victims of partner violence each year and so are the children in such families; 2) it is expected that women with disabilities are victims of violence as often as other women. Few shelters for battered women are accessible for this group; 3) women of foreign background exposed to violence by their spouse are in an especially vulnerable situation, as they risk losing their residence permission if they choose to leave the violent spouse.

- Recommendations: The government should allocate resources to permanent prevention efforts addressing domestic violence. Women with disabilities should receive the necessary support, information and access to shelters. Foreign women exposed to partner violence should be able to be provided with a personal residential permission.

### 8.3 Unequal representation of women in top management positions

A concern of the CEDAW committee is the low percentage of women in high-ranking positions. In municipalities women only hold 32 % of the seats and only 14 of 98 mayors are women. Top management positions, boards in private companies and high ranking posts in research institutions also have especially low representation of women.

- Recommendation: Government develops effective proactive measures to encourage women to apply for high ranking positions and furthermore adopts a strategy on women in management positions in government, academia and businesses which could include the use of temporary special measures in order to accelerate equality. The strategy should include effective monitoring and accountability mechanisms.

### 8.4 Trafficking in women

According to article 6 in CEDAW special legislation and measures should be made to counteract trafficking in women and prostitution. It should be noted that the victims of trafficking are in some cases children. The following areas are highlighted since they deserve special attention and urgent action:

Identification of victims of trafficking: a victim of trafficking is held back by police but is not escorted to a crisis centre while the process of identification is pending.

Reflection period. The full length (100 days) of reflection in Denmark is not always offered to victims of trafficking. Victims are only offered legal aid and other types of assistance if they agree to be repatriated and cooperate in investigations.

Compensation to victims of trafficking. The issue of compensation to female victims of trafficking is not dealt with under the current Plan of Action (2007-2010). Compensation to victims has only been given few times and in these cases the amount was small.

Residence permit. Few trafficked women are able to obtain a residence permit.

Prostitution. The demand for prostitution is not addressed in legislation or other measures in Denmark in spite of an increase of prostitution.

- Recommendation: The CEDAW committee concluding recommendations on trafficking in women of August 2009 are fully implemented.

## **9. Convention on the Rights of Persons with Disabilities (CRPD)**

### 9.1 Housing – persons with disabilities

According to CRPD article 19 Denmark is obliged to establish an inclusive society with full participation for persons with disabilities. The access to choose sufficient housing after the persons own wishes is more limited for persons with disabilities. In Denmark new houses are not accessible for wheelchair users; do not consider needs for persons who are allergic etc. Old houses are in general inaccessible for persons with any kind of disability. Persons with disabilities are typically referred to accessible housing instead of having the opportunity actively to decide on where to live and with whom. Assistance and support for persons living in accessible houses are only seldom chosen and administrated by the person him- or herself.<sup>13</sup>

- Recommendation: Adequate housing policies for persons with disabilities should be formulated and implemented.

### 9.2 Elderly persons with disabilities – persons with disabilities

When reaching the age of retirement pension the individual loses the right to compensatory benefits, likewise persons who become disabled while elderly do not get access to compensatory benefits in the Danish system.<sup>14</sup>

- Recommendation: Persons with disabilities should be able to maintain compensatory benefits when receiving retirement pension.

### 9.3 Stigmatising

During summer 2010 a heated debate on municipality budgets and expenses in relation to persons with disabilities took place in Denmark. Through examples of individuals politicians have given the impression that persons with disabilities are extremely expensive for society. This debate has contributed to stereotyping and prejudices. This description is especially pertinent in relation to persons with psychiatric diagnoses who violate the law.<sup>15</sup>

- Recommendation: There is a need for a change of view and attitudes of persons with disabilities. The starting point has to be rights based and the aim to decide over own situation and independence. Additionally renovation, maintenance, planning, in-service training, debates, research and will to implement are much needed to improve the rights of persons with disabilities.

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<sup>13</sup> CRPD article 5, 9, 19a, b

<sup>14</sup> CRPD article 25b, 28(1) and (2)

<sup>15</sup> CRPD article 8(1)