

DENMARK

Joint NGO submission in connection with Denmark's mid-term reporting on the implementation of the 2011 UPR recommendations

January 2014

By way of introduction, the authors of this report would like to express their disappointment about the fact that the Danish government has not submitted its mid-term report to the UN Human Rights Council as pledged. This contradicts the government's declared intentions of cooperating with the UN human rights system in good faith and it sends a sad signal to other UN member states about the commitment of Denmark to the UPR process. Last but not least, the absence of a state report on the status of implementation of the 2011 UPR recommendations severely challenges the dialogue between the Danish state and civil society.

Authors of the report: Børnesagens Fællesråd (Joint Council on the Children's Cause), Danish Law Enforcement Union, Danish Medical Association, Danish Red Cross, Danish Refugee Council, Danish-Russian Association, DIGNITY – Danish Institute Against Torture, Disabled Peoples Organisation Denmark, European Anti-Poverty Network, LGBT Denmark, Save the Children Denmark, the Street Lawyers and the UN Association Denmark

Secretary assistance by the Danish Institute for Human Rights.

n°	Recommendation	SMR
1	Extend the applicability of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children to Greenland and to the Faroe Islands Denmark has not implemented the recommendation. The territorial reservations have not been withdrawn.	Hungary
2	Withdraw its reservations to the Convention on the Rights of the Child and its Protocols Denmark has not implemented the recommendation There have been no initiatives to withdraw Denmark's reservation to art. 40. The reporting group further recommend Denmark to ratify the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure.	Brazil

3 Sign and ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, sign and ratify the Optional Protocol to the Convention on the Rights of Persons with Disabilities Spain

OP-ICESCR: Denmark has not implemented the recommendation. The government argues that the International Covenant on Economic, Social and Cultural Rights is vague and imprecise. The reporting group do not consider the argument valid. Rather, we find the causes of difficulties in ratification on the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights founded on the fact that Denmark has a low level of implementation of international covenants and conventions in national legislation. Therefore, we find that the recommendation is still pertinent and can be followed fruitfully if connected with a higher degree of implementation.

OP-CRPD: Denmark has not implemented the recommendation. However, at the present moment an Act on ratification of the Optional Protocol to The Convention on the Rights of Persons with Disabilities is on its way through parliament. As the act is proposed by the government it already has a majority. The reporting group is thankful and satisfied that the government has taken this initiative, and looks forward to fully utilise the Convention on the Rights of Persons with Disabilities. We clearly see it as a state obligation to inform the public about the options under the protocol and, in accordance with the Convention on the Rights of Persons with Disabilities, expect to be involved in these efforts.

4 Ratify the International Convention for the Protection of All Persons from Enforced Disappearance Spain

Denmark has not implemented the recommendation. In response to the recommendations given during the UPR in 2011 Denmark explained that it was taking steps to ratify CED and that these included amending and harmonizing national legislation to ensure full compliance with the Convention. Furthermore, Denmark stated that it would initiate a study on the legal implications of accepting the competence of the Committee on Enforced Disappearances provided for in articles 31-32. It is uncertain whether the mentioned study has been initiated, but what remains certain is that no such study has been made public as of January 2014. We urge the government to ratify CED without delay, to accept the competence of the Committee under articles 31-32 and provide information as to when this will happen.

5 Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights Palestine

Denmark has not implemented the recommendation. The Ministry of Justice has established an expert committee, which is mandated to draft a report concerning the consequences of incorporating seven of the UN core human rights conventions and ratifying additional optional protocols concerning individual complaints to UN treaty bodies and Protocol No. 12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms. The expert committee was due to deliver its report in 2013, but it has now been postponed to April 2014. The expert committee will recommend whether or not to incorporate one or more of the seven core UN human rights treaties in Danish law. Based on the committee's recommendations the Danish government will consider future steps. The reporting group recommends the incorporation of the seven core UN human rights treaties into national law.

6 Become party to the Optional Protocol of the Convention on the Rights of Persons with Disabilities Austria

Denmark has not implemented the recommendation. However, at the present moment an Act on ratification of the Optional Protocol to The Convention on the Rights of Persons with Disabilities is on its way through parliament. As the act is proposed by the government it already has a majority. The reporting group is thankful and satisfied that the government has taken this initiative, and looks forward to fully utilise the Convention on the Rights of Persons with Disabilities. We clearly see it as a state obligation to inform the public about the options under the protocol and, in accordance with the Convention on the Rights of Persons with Disabilities, expect to be involved in these efforts.

7 Proceed to the ratification of the Optional Protocol to the Convention on the Rights of Persons with Disabilities as soon as possible France

Denmark has not implemented the recommendation. However, at the present moment an Act on ratification of the Optional Protocol to The Convention on the Rights of Persons with Disabilities is on its way through parliament. As the act is proposed by the government it already has a majority. The reporting group is thankful and satisfied that the government has taken this initiative, and looks forward to fully utilise the Convention on the Rights of Persons with Disabilities. We clearly see it as a state obligation to inform the public about the options under the protocol and, in accordance with the Convention on the Rights of Persons with Disabilities, expect to be involved in these efforts.

8 Become a party to the Optional Protocol to the Convention on the Rights of Persons with Disabilities Australia

Denmark has not implemented the recommendation. However, at the present moment an Act on ratification of the Optional Protocol to The Convention on the Rights of Persons with Disabilities is on its way through parliament. As the act is proposed by the government it already has a majority. The reporting group is thankful and satisfied that the government has taken this initiative, and looks forward to fully utilise the Convention on the Rights of Persons with Disabilities. We clearly see it as a state obligation to inform the public about the options under the protocol and, in accordance with the Convention on the Rights of Persons with Disabilities, expect to be involved in these efforts.

9 Sign, ratify and implement the Optional Protocol to the Convention on the Rights of Persons with Disabilities United Kingdom

Denmark has not implemented the recommendation. However, at the present moment an Act on ratification of the Optional Protocol to The Convention on the Rights of Persons with Disabilities is on its way through parliament. As the act is proposed by the government it already has a majority. The reporting group is thankful and satisfied that the government has taken this initiative, and looks forward to fully utilise the Convention on the Rights of Persons with Disabilities. We clearly see it as a state obligation to inform the public about the options under the protocol and, in accordance with the Convention on the Rights of Persons with Disabilities, expect to be involved in these efforts.

10 Accede to other international human rights instruments to which it is not yet party in order to strengthen its national provisions to ensure human rights specifically with regards to persons with disabilities Burkina Faso

Denmark has not implemented the recommendation. So far recognition of discrimination and inadequate fulfilment of rights stems from a low level of recognition of multiple discrimination. As disability is often not mentioned in relation to other groups or issues such as refugees, women, children, international development etc. the fulfilment of rights for persons with disabilities in areas where disability is not the primary consideration, is accordingly low. Therefore, more coherent and deliberate attention should be paid to the fulfilment of rights for persons with disabilities, accession to more human rights instruments included.

11 Ratify as soon as possible the International Convention for the Protection of All Persons from Enforced Disappearance and fully recognize the competence of the Committee on Enforced Disappearances, as provided for in articles 31 and 32 of the Convention France

Denmark has not implemented the recommendation. In response to the recommendations given during the UPR in 2011 Denmark explained that it was taking steps to ratify CED and that these included amending and harmonizing national legislation to ensure full compliance with the Convention. Furthermore, Denmark stated that it would initiate a study on the legal implications of accepting the competence of the Committee on Enforced Disappearances provided for in articles 31-32. It is uncertain whether the mentioned study has been initiated, but what remains certain is that no such study has been made public as of January 2014. We urge the government to ratify CED without delay, to accept the competence of the Committee under articles 31-32 and provide information as to when this will happen.

12 Continue commitment to human rights through the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families in accordance with recommendation 1737 of 17 March 2006, adopted by the Parliamentary Assembly of the Council Europe, of which Denmark is a member Algeria

13 Sign and ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families Egypt

14 Become party to the remaining United Nations human rights instruments, in particular the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families Pakistan

15 Study the possibility of ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families Argentina

16 Study the possibility of ratifying the International Convention for the Protection of All Persons from Enforced Disappearance Argentina

It is uncertain whether Denmark has implemented the recommendation. In response to the recommendations given during the UPR in 2011 Denmark explained that it was taking steps to ratify CED and that these included amending and harmonizing national legislation to ensure full

compliance with the Convention. Furthermore, Denmark stated that it would initiate a study on the legal implications of accepting the competence of the Committee on Enforced Disappearances provided for in articles 31-32. It is uncertain whether the mentioned study has been initiated, but what remains certain is that no such study has been made public as of January 2014. We urge the government to ratify CED without delay, to accept the competence of the Committee under articles 31-32 and provide information as to when this will happen.

17 Ratify the International Convention for the Protection of All Persons from Enforced Disappearance Brazil

Denmark has not implemented the recommendation. In response to the recommendations given during the UPR in 2011 Denmark explained that it was taking steps to ratify CED and that these included amending and harmonizing national legislation to ensure full compliance with the Convention. Furthermore, Denmark stated that it would initiate a study on the legal implications of accepting the competence of the Committee on Enforced Disappearances provided for in articles 31-32. It is uncertain whether the mentioned study has been initiated, but what remains certain is that no such study has been made public as of January 2014. We urge the government to ratify CED without delay, to accept the competence of the Committee under articles 31-32 and provide information as to when this will happen.

18 Review its reservations to a number of international human rights instruments with a view to withdrawing them completely South Africa

Denmark has not implemented the recommendation. No steps have been taken towards withdrawing the reservations.

19 Ratify and implement the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families Morocco

20 Adhere to or ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families Ecuador

21 Adhere to or ratify the International Convention for the Protection of All Persons from Enforced Disappearance Ecuador

Denmark has not implemented the recommendation. In response to the recommendations given during the UPR in 2011 Denmark explained that it was taking steps to ratify CED and that these included amending and harmonizing national legislation to ensure full compliance with the Convention. Furthermore, Denmark stated that it would initiate a study on the legal implications of accepting the competence of the Committee on Enforced Disappearances provided for in articles 31-32. It is uncertain whether the mentioned study has been initiated, but what remains certain is that no such study has been made public as of January 2014. We urge the government to ratify CED without delay, to accept the competence of the

Committee under articles 31-32 and provide information as to when this will happen.

22 Adhere to or ratify Protocol No. 12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms concerning the general prohibition of discrimination Ecuador

Denmark has not implemented the recommendation. The lack of ratification of protocol 12 enables the state to maintain an unsatisfying legislation on non-discrimination resulting in unequal access to legal instruments. Discrimination grounds other than gender and ethnicity are subject to subpar protection.

23 Accept the right to present individual communications provided for in the Optional Protocol to the Convention on the Rights of Persons with Disabilities and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, and withdraw the reservation to the International Covenant on Economic, Social and Cultural Rights Ecuador

OP-CRPD: Denmark has not implemented the recommendation. However, at the present moment an Act on ratification of the Optional Protocol to The Convention on the Rights of Persons with Disabilities is on its way through parliament. As the act is proposed by the government it already has a majority. The reporting group is thankful and satisfied that the government has taken this initiative, and looks forward to fully utilise the Convention on the Rights of Persons with Disabilities. We clearly see it as a state obligation to inform the public about the options under the protocol and, in accordance with the Convention on the Rights of Persons with Disabilities, expect to be involved in these efforts.
OP-ICESCR: Denmark has not implemented the recommendation. No steps have been taken towards withdrawing the reservation.

24 Greenland and Faroe Islands to ratify the following international instruments: Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and ensure their application Ecuador

Denmark has not implemented the recommendation. The territorial reservations have not been withdrawn.

25 Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families Guatemala

26 Incorporate into domestic law its international human rights obligations under the Conventions to which it is party Canada

Denmark has not implemented the recommendation. The Ministry of Justice has established an expert committee, which is mandated to draft a report concerning the consequences of incorporating seven of the UN core human rights conventions. The expert committee was due to deliver its report in 2013, but it has now been postponed to April 2014. The expert committee will recommend whether or not to incorporate one or more the seven core UN human rights treaties in Danish law. Based on the committee's recommendations the Danish government will consider future steps. The reporting group recommends the incorporation of the seven core UN human rights treaties

27	Bring its national legislation in line with its international obligations	Egypt
<p>Denmark has not implemented the recommendation: 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 into Danish law, and the Danish Committee on Incorporation of Human Rights Conventions into Danish Law recommended in 2001 the 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. Additionally, six years after signing the International Convention for the Protection of all Persons from Enforced Disappearances Denmark has not ratified the convention. The question of incorporation of UN human rights conventions into domestic legislation should be part of the discussion on the development and implementation of a national action plan for human rights. This action plan should be developed and implemented in close cooperation between the government, the national institution for human rights, and the civil society.</p>		
28	Incorporate international human rights instruments to which it is party into its legal system, as recommended by the various treaty monitoring bodies	South Africa
<p>Denmark has not implemented the recommendation. The Ministry of Justice has established an expert committee, which is mandated to draft a report concerning the consequences of incorporating seven of the UN core human rights conventions. The expert committee was due to deliver its report in 2013, but it has now been postponed to April 2014. The expert committee will recommend whether or not to incorporate one or more the seven core UN human rights treaties in Danish law. Based on the committee's recommendations the Danish government will consider future steps The reporting group recommends the incorporation of the core seven UN human rights treaties into national law.</p>		
29	Incorporate the different provisions of the United Nations core human rights conventions, ratified by Denmark, into national law	Netherlands
<p>Denmark has not implemented the recommendation. The Ministry of Justice has established an expert committee, which is mandated to draft a report concerning the consequences of incorporating seven of the UN core human rights conventions. The expert committee was due to deliver its report in 2013, but it has now been postponed to April 2014. The expert committee will recommend whether or not to incorporate one or more the seven core UN human rights treaties in Danish law. Based on the committee's recommendations the Danish government will consider future steps The reporting group recommends the incorporation of the core seven UN human rights treaties into national law.</p>		
30	Extend the applicability of all international human rights instruments to which it has acceded to the whole territory of the country	Azerbaijan
<p>Denmark has not implemented the recommendation. The system with self-governance of Greenland and the Faroese Island require Denmark to</p>		

enter into dialogue with the Greenlandic and Faroese Governments before human rights instruments are applicable in these territories. Therefore several human rights instruments are still acceded to with a territorial reservation concerning Greenland and the Faroe Islands. No reservations have been lifted recently.

On the issue of general applicability it could be noted that the Government has appointed an expert committee with the task of considering the possibility of incorporating a number of treaties into Danish law as well as signing and ratifying optional protocols on individual communications. If the recommendations of the committee are to incorporate UN core treaties and if the recommendations receive political support in Parliament, it is assessed to have a positive impact on the general applicability of international human rights instruments before courts of law and other law applying bodies and institutions. The work of the committee has been postponed to April 2014.

31 Review its body of legislation prohibiting discrimination to ensure equal protection on all grounds, and in this regard, consider elaborating a single comprehensive act covering all grounds for possible discrimination Canada

Denmark has taken initial steps to implement this recommendation. However, Danish civil legislation on discrimination still maintains different levels of protection depending on the ground of discrimination. E.g civil law does not protect discrimination based on religious affiliation and disability outside the labour market, while discrimination based on ethnicity and national origin is protected outside the labour market.

The expert committee on incorporation referred to above has also been mandated to consider, inter alia, the possibility of adopting Protocol No. 12 of the European Convention on Human Rights that includes a general prohibition of discrimination. Further consideration as to the appropriateness of a general anti-discrimination legislation awaits the result of the expert committee's work.

32 Ensure that all acts of torture are specific offences under its criminal law Canada

Denmark has not implemented the recommendation. Torture is not a specific criminal offence in the Criminal Code, but only an aggravating circumstance. The UN Committee against Torture has repeatedly called upon Denmark to incorporate a specific offence of torture, as defined in article 1 of the Convention, in its Criminal Code and Military Criminal Code making it a punishable offence as set out in article 4, para. 2 of the Convention (CAT/C/CR/28/1 para. 6(a) and CAT/C/DNK/CO/5 para. 10). Defining and criminalizing the crime of torture is central to fight impunity, which is one of the root causes for the widespread practice of torture as well as ensuring full redress to the victims of torture by prosecution of the perpetrators. The UN Committee against Torture has reiterated the importance of naming and defining the offence of torture in accordance with the Convention as distinct from other crimes which will directly advance the overarching aim of preventing torture, inter alia by alerting everyone to the specific gravity of the crime of torture and by improving the deterrent effect of the prohibition itself (CAT/C/SWE/CO/5, pkt. 9-10). Denmark is urged to incorporate torture as a specific offence under national criminal law, which will also support the repeated position of the Danish state as being a leading international actor in the prevention of torture and ill-treatment (among other CAT/C/SR.757, 8 May 2007, para. 3).

33	<p>Incorporate the provisions of the United Nations conventions on human rights into national legislation, to ensure the direct application of international treaties by the courts</p>	Kyrgyzstan
<p>Denmark has not implemented the recommendation. The Ministry of Justice has established an expert committee, which is mandated to draft a report concerning the consequences of incorporating seven of the UN core human rights conventions. The expert committee was due to deliver its report in 2013, but it has been now postponed to April 2014. The expert committee will recommend whether or not to incorporate one or more the seven core UN human rights treaties in Danish law. Based on the committee's recommendations the Danish government will consider future steps. The reporting group recommends the incorporation of the core seven UN human rights treaties into national law.</p>		
34	<p>Make efforts to correct formulations in the Penal Code that cover rape and sexual abuse which make reference to the marital relations between victim and alleged perpetrator that have an actual influence on sentences</p>	Norway
<p>Denmark has implemented the recommendation. Parliament has adopted a bill to amend the Penal Code to the effect that the marital status between the perpetrator and the victim does not have any bearing on the classification of the act as "rape" or "sexual abuse" or the sentencing in such cases. We welcome the new legislation, but call on the government to initiate long term plans of action with a view to improving the reception and investigation of reports of rape, most notably to procure information on the assessment of evidence in such cases, and, possibly reduce the very high attrition rates in rape cases and especially partner and acquaintance rape. We call upon the government to develop and adopt a comprehensive action plan to prevent and combat rape and other forms of sexual violence.</p>		
35	<p>Bring its legislation on rape in line with international law and abolish all references to the status of married couple</p>	Switzerland
<p>Denmark has implemented the recommendation. Parliament has adopted a bill to amend the Penal Code to the effect that the marital status between the perpetrator and the victim does not have any bearing on the classification of the act as "rape" or "sexual abuse" or the sentencing in such cases. We welcome the new legislation, but call on the government to initiate long term plans of action with a view to improving the reception and investigation of reports of rape, most notably to procure information on the assessment of evidence in such cases, and, possibly reduce the very high attrition rates in rape cases and especially partner and acquaintance rape. We call upon the government to develop and adopt a comprehensive action plan to prevent and combat rape and other forms of sexual violence.</p>		
36	<p>Remove from the Penal Code (arts. 218, 220, 221, 227) any references to marital relations between victim and perpetrator of offences, in order to ensure that there is no impunity in cases of marital rape</p>	Belgium
<p>Denmark has implemented the recommendation. Parliament has adopted a bill to amend the Penal Code to the effect that the marital status between the perpetrator and the victim does not have any bearing on the classification of the act as "rape" or "sexual abuse" or the sentencing in such cases. We welcome the new legislation, but call on the government to initiate long term plans of action with a view to improving the reception and investigation of reports of rape, most notably to procure information on the assessment of evidence in such cases, and, possibly reduce the very high attrition rates in rape cases and especially partner and acquaintance rape. We call upon the government to develop and adopt a comprehensive action plan to prevent and combat rape and other forms of sexual violence.</p>		

37	Not to repeal section 266(b) of the Criminal Code	Pakistan
Denmark has implemented the recommendation. Section 266(b) of the Danish Criminal Code has not been repealed.		
38	Establish an independent body to promote and protect the rights of the child and to monitor the implementation of the Convention on the Rights of the Child	India
Denmark has implemented the recommendation. The present (new) government has established a National Children's Office as part of the Danish Parliamentary Ombudsman by 1 November 2012. Together with the National Council for Children, the Danish Institute for Human Rights and the National Social Appeals Board, the Children's Office is responsible for the strengthening, the protection, and the improvement of children's rights. The Children's Office has a specific mandate to deal with specific and individual complaints concerning children. The multi headed independent body (bodies) will be evaluated in 2014. The reporting NGO's follow this construction closely and are concerned about the multi-pronged construction. Recommendation: A solid follow up on the evaluation 2014 and further steps to strengthen the relevant Danish bodies.		
39	Consider establishing an independent body or organ charged with monitoring the implementation of the provisions of the Convention on the Rights of the Child	Poland
Denmark has implemented the recommendation. The present (new) government has established a National Children's Office as part of the Danish Parliamentary Ombudsman by 1 November 2012. Together with the National Council for Children, the Danish Institute for Human Rights and the National Social Appeals Board the Children's Office is responsible for the strengthening, the protection, and the improvement of children's rights. The Children's Office has a specific mandate to deal with specific and individual complaints concerning children. The multi headed independent body (bodies) will be evaluated in 2014. The reporting NGO's follow this construction closely and are concerned about the multi-pronged construction. Recommendation: A solid follow up on the evaluation 2014 and further steps to strengthen the relevant Danish bodies.		
40	Consider the establishment of a children's Ombudsman	Norway
Denmark has implemented the recommendation. The present (new) government has established a National Children's Office as part of the Danish Parliamentary Ombudsman by 1 November 2012. Together with the National Council for Children, the Danish Institute for Human Rights and the National Social Appeals Board the Children's Office is responsible for the strengthening, the protection, and the improvement of children's rights. The Children's Office has a specific mandate to deal with specific and individual complaints concerning children. The multi headed independent body (bodies) will be evaluated in 2014. The reporting NGO's follow this construction closely and are concerned about the multi-pronged construction. Recommendation: A solid follow up on the evaluation 2014 and further steps to strengthen the relevant Danish bodies.		
41	Consider the creation of a separate institution of Ombudsman for children's rights, as previously recommended by the Committee on the Rights of the Child and the Danish National Council for Children	Kyrgyzstan

Denmark has implemented the recommendation. The present (new) government has established a National Children's Office as part of the Danish Parliamentary Ombudsman by 1 November 2012. Together with the National Council for Children, the Danish Institute for Human Rights and the National Social Appeals Board the Children's Office is responsible for the strengthening, the protection, and the improvement of children's rights. The Children's Office has a specific mandate to deal with specific and individual complaints concerning children. The multi headed independent body (bodies) will be evaluated in 2014. The reporting NGO's follow this construction closely and are concerned about the multi-pronged construction. Recommendation: A solid follow up on the evaluation 2014 and further steps to strengthen the relevant Danish bodies.

42 Develop and implement a national action plan for human rights in order to framework a systematic and comprehensive approach to the promotion and protection of human rights Indonesia

Denmark has not implemented the recommendationA national action plan for human rights should be developed and implemented in close cooperation between the government, the national institution for human rights, and the civil society. The plan should be continuously assessed and updated, taking into account the information provided from continuously monitoring Danish compliance with responsibilities incurred through signed and/or ratified conventions. Furthermore, no initiatives have been taken to develop and implement a comprehensive national action plan on the protection of the rights of the child contrary to the recommendations of the Committee on the Rights of the Child (CRC/C/DNK/CO/4/17).

43 Continue efforts to achieve gender equality Norway

The Street Lawyers would like to note that as regards sex work:, as in all matters of creating and establishing equality, we strongly encourage The Danish Government to address this matter with the approach of providing - and not taking rights. The right to choose freely over one's life is the corner stone of The Human Rights and must never be compromised in the effort to create "on paper" equality. Real gender equality comes from giving women the power to choose freely over their lives, work, business and their bodies – not by criminalization. We therefore encourage The Danish Government to fully decriminalize sex work and acknowledge its status as work, so that sex workers in Denmark can rely on and become protected by the general workers' rights and the government is encouraged to review the rules on procuring so that the sex workers are given the possibility to organize their work freely as it is possible in other businesses as well.

44 Consider launching an action plan to combat domestic violence in Greenland Spain

45 Continue the implementation of the national strategy to combat violence in intimate relations for 2009-2012 Moldova

46 Continue its efforts aimed at the promotion of human rights expertise and education and public awareness about human rights protection Azerbaijan

Denmark has not implemented the recommendation. Child rights: It is still arbitrary whether the children in the Danish school system are educated in the rights of children.

47 Implement effectively the United Nations Declaration on the Rights of Indigenous Peoples

Iran

Denmark has been among the frontrunners in the deliberations on implementation of the Declaration on the Rights of Indigenous Peoples in its work in the Commission on Human Rights as well as in the Human Rights Council. In light of this endeavour, and also its experience from the cooperation with the Home Rule of Greenland, Denmark should implement and widely disseminate the Declaration on the Rights of Indigenous Peoples.

48 Undertake a process of broad, national consultations with civil society, including the Danish Institute for Human Rights, in the follow-up to this review

Austria

Denmark has not implemented the recommendation. We regret that the Danish Government has failed to deliver their mid-term report on the status of implementation of the 2011 UPR recommendations as well as to undertake consultation with civil society in the follow-up to this review. In light of the failure of the Danish Government, it has not been possible for the civil society to read and therefore not possible to respond to The Danish Governments contribution within the time limit given by UPR.

49 Continue providing ODA in line with the United Nations target of 0.7 per cent of GDP

Pakistan

Denmark has implemented the recommendation. The goal of the strategy for Denmark's Development Cooperation is to fight poverty with human rights and economic growth. Denmark concentrates on four strategic priority areas: Human rights and democracy, Green growth, Social progress, and Stability and protection. The Danish ODA is split between activities, referring either to poverty alleviation or to global issues, incl. refugee reception in Denmark, meaning that about one sixth of total ODA is not directly focused on fighting poverty. Total ODA has been declining and was in 2012 0.83 % of GNI. It is the objective of the Danish Government that the Danish ODA in the long run should be raised to 1.0 % of GNI, but so far it has not succeeded in getting even close to this objective. We are of the opinion that observance of the Declaration on the Right to Development should be explicitly included in Denmark's strategic priority areas.

50 Continue to support developing countries in the fight against poverty through its development assistance

Bangladesh

Denmark has implemented the recommendation. The goal of the strategy for Denmark's Development Cooperation is to fight poverty with human rights and economic growth. Denmark concentrates on four strategic priority areas: Human rights and democracy, Green growth, Social progress, and Stability and protection. The Danish ODA is split between activities, referring either to poverty alleviation or to global issues, incl. refugee reception in Denmark, meaning that about one sixth of total ODA is not directly focused on fighting poverty. Total ODA has been declining and was in 2012 0.83 % of GNI. It is the objective of the Danish Government that the Danish ODA in the long run should be raised to 1.0 % of GNI, but so far it has not succeeded in getting even close to this objective. We are of the opinion that observance of the Declaration on the Right to Development should be explicitly included in Denmark's strategic priority areas.

The rights of children in developing countries to have their economic rights fulfilled need to have higher priority in Danish development assistance. Denmark lack a transparent system of data, which makes it possible to monitor the development in figures of assistance spent on children. Developing such a tool would be an important first step.

51	Enhance accessibility of the United Nations human rights system for all members of Danish society by ensuring the translation into Danish of its UPR outcome, relevant treaty body concluding observations and special procedure country reports	Canada
	Denmark has partially implemented the recommendation. Concluding observations are not systematically translated into Danish by the Danish government. The Danish Institute for Human Rights (DIHR) published the UPR recommendations for Denmark into Danish and will initiate a translation of the concluding observations from the UN treaty body system into Danish to the extent resources permit this initiative. There is no information on the translation of the Concluding Observations into other relevant languages especially, such as the Greenlandic and Faroese languages since these territories are part of the Danish Realm. The translation of the concluding observations of the CRC from 2011 has to the knowledge of the reporting group been translated into Danish. However it has not yet been made public. Concluding Observations and other key documents are not being disseminated the public or distributed to key stakeholders	
52	Clear the backlog of responses to thematic questionnaires from special procedures of the Human Rights Council	Russian Federation
	Denmark has not implemented this recommendation. The backlogs of responses to thematic questionnaires from special procedures of the Human Rights Council are to our knowledge among others questions from the Committee against Torture (CAT) and the Committee on the Elimination of Racial Discrimination (CERD). It seems, however, that the government at present is lacking any kind of overview of the total of thematic questionnaires received, questionnaires forwarded to the relevant departments, and questionnaires responded to. It is the general opinion that the flow of questionnaires from the special procedures is huge, and that deadlines are often too short. We recommend that both government and OHCHR consider streamlining the process.	
53	Respond to the remaining questionnaires on thematic issues sent by special procedures mandate holders	Afghanistan
	Denmark has not implemented this recommendation. The backlogs of responses to thematic questionnaires from special procedures of the Human Rights Council are to our knowledge among others questions from the Committee against Torture (CAT) and the Committee on the Elimination of Racial Discrimination (CERD). It seems, however, that the government at present is lacking any kind of overview of the total of thematic questionnaires received, questionnaires forwarded to the relevant departments, and questionnaires responded to. It is the general opinion that the flow of questionnaires from the special procedures is huge, and that dead-lines are often too short. We recommend that both government and OHCHR consider streamlining the process.	
54	Identify, pursuant to the recommendations of the Committee on Economic, Social and Cultural Rights, cases of racism and xenophobia, combat them and foster intercultural understanding and tolerance.	Russian Federation

55	Take appropriate measures to protect vulnerable groups from discrimination, racial profiling and hate crimes, and to combat racism and xenophobia	Greece
56	Take actions to combat racism, xenophobia, and religious intolerance and hatred	Bangladesh
57	Monitor the incidence of and combat xenophobia, and promote intercultural understanding and tolerance	Turkey
58	Take more effective measures to combat racial discrimination and intolerance, including by promptly investigating and taking stern action against the perpetrators of hatred, racist and xenophobic acts, speeches and publications	Malaysia
59	Step up efforts in promoting intercultural understanding and tolerance between different ethnic groups in the country	Malaysia
60	<p>Strengthen the legal actions against all forms of discrimination on the basis of race, ethnic origin, language, religion or national origin</p> <p>Danish civil legislation on discrimination still operates with different levels of protection depending on the ground of discrimination. E.g civil law does not protect from discrimination based on religious affiliation outside the labour market, while its protects from discrimination based on ethnicity and national origin.</p> <p>The expert committee on incorporation (referred to above) has also been mandated to consider, inter alia, the possibility of adopting Protocol No. 12 of the European Convention on Human Rights that includes a general prohibition of discrimination. Further consideration as to the appropriateness of a general anti-discrimination legislation awaits the result of the expert committee’s work and the extent of the political support on the recommendations from the expert committee.</p> <p>On discrimination on the LBGT area, it should be noted that in the provisions in the Criminal Code regarding hate crimes, hate speech and discrimination on the ground of sexual orientation interpret sexual orientation to include gender identity (reference is made to transvestism).This erroneous consideration is used in court decisions and is used to argue, that specific protection of gender identity is unnecessary.</p> <p>Generally the level of compensation for victims of discrimination in the field of civil law and the level of fines in the field of criminal law must be considered to be relatively low and thus lacking the element of deterrence.</p>	Ecuador

Undocumented immigrants and access to health care (ICESCR, article 24):

Access to health care in Denmark depends on the migratory status of the individual and is regulated by various rules of law. With regard to immigrants and persons with refugee status, access to health care is primarily regulated on the basis of the Danish Health Care Legislation Act. As to asylum seekers and undocumented immigrants, the Alien Act regulates the access to health care for everything but acute treatment.

Therefore, the most vulnerable and exposed group of migrants also has the fewest recognised rights to health care. Asylum seekers are subject to specific restriction in their access to treatment but especially the undocumented migrants are vulnerable. *These limited rights lead to barriers as to receiving relevant medical help and to use of alternative strategies in order to receive help with negative consequences for their health.*

The number of undocumented migrants in Denmark is uncertain. However, health care personnel in hospitals and in private practise have for many years witnessed migrants in need of treatment who were not legal residents in Denmark and therefore had no public health insurance.

Danish legislation gives no right to health care to this group except for medical emergencies. The Danish Health Care Act only gives these people a right to acute treatment (article 80). This means that for example chronic diseases and certain types of cancer, according the legislation cannot be treated. Therefore, health care personnel have been in a dilemma as public resources cannot be used to treat these patients.

A study from 2011 describes that Danish doctors find that undocumented migrants have unequal access to health care services, and there is a widespread uncertainty on how to act in situations where undocumented migrants need medical treatment. There is no official guideline on how health care personnel should act in these situations.

As an attempt to solve this problem, the Danish Red Cross, The Danish Medical Association and the Danish Refugee Council in 2011 asked the Minister of health to support a change of the Danish Health Care Act so it would be in compliance with the UN Convention on Economic, Social and Cultural rights. Alternatively, asked for help to run and finance a clinic for undocumented migrants. Both were rejected. The present Government has not confronted the issue in spite of our approaches the Minister of Health.

In Copenhagen, there is a well-documented need for medical aid. In a clinic established after initiative of the Danish Red Cross, The Danish Medical Association and the Danish Refugee Council, there have been 4000 consultations divided on 1,400 patients during the past two years.

The concern is that across the country and in the Capital, several more undocumented migrants are in need of health care. The question is whether the Danish Government meets the standards of the CESCR article 12 and the Convention on the Rights of the Child article 24 on everybody's right to the highest attainable standard of health.

[1] Migrantstatus og adgang til sundhedsydelser i Danmark. Jensen, Natasja K.; Nielsen, Signe S.; Krasnik, Allan. Ugeskrift for Laeger, 2011

[2] Access to healthcare and alternative health-seeking strategies among undocumented migrants in Denmark. Biswas, Dan; Kristiansen, Maria; Krasnik, Allan; Norredam, Marie. BMC Public Health, 2011, 11:560

[3] Providing medical care for undocumented migrants in Denmark: what are the challenges for health professionals? Jensen, Natasja K; Norredam, Marie; Draebel, Tania; Bogic, Marija; Priebe, Stefan; Krasnik, Allan. BMC Public Health, 2011, 11:154.

There is a strong need for undocumented migrants' possibility to protect and call upon their human rights. Undocumented migrants do not have access to filing police reports or call the police in cases of emergency without the police investigating their migratory status. Due to this lack of protection undocumented migrants can suffer from threats, violence, and unreasonably high (and illegal) rent, illegal work conditions, police abuse/brutality, discriminatory law enforcement, vulnerability to blackmail, control and abuse by criminals. By driving undocumented migrants into the shadows the risk of human rights violations are increased and this is an unreasonable and disproportionate consequence of living as an undocumented migrant.

We therefore strongly encourage The Danish Government to grant undocumented migrants the possibility to file police reports as victims without the police investigating the migratory status of the person filing the report.

Denmark does not fully respect the rights of foreigners, regardless of their migratory status. In the winter time, when Denmark often experiences a freezing climate, the public shelters are not allowed to admit foreign citizens without residence permit in Denmark.

62 Strengthen and effectively implement its legislation to prohibit, prosecute and punish hate speech, incitement to hatred and acts of religious profiling Egypt

63 Take effective measures to prevent and prohibit racial profiling by the police Egypt

The official explanation of the acceptance of the recommendations is to be found in the Addendum comments concerning rec. 106.54. These arguments are of a very broad and evasive nature and do not particularly refer to racial profiling by the police, cases of racism and xenophobia, etc. The government should take actual steps taken to promote the acceptance of the recommendations. A pure reference to the art. 266B of the penal code is insufficient.

64 Identify cases of racism and xenophobia and combat them, as well as continue to foster intercultural understanding and tolerance Uzbekistan

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The government should take actual steps taken to promote the acceptance of the recommendations. A pure reference to the art. 266B of the penal code is insufficient.

65 Remove the obstacles preventing victims of discrimination from effective access to justice, adopt appropriate measures to facilitate reporting on this crime by national, ethnic and religious minorities Mexico

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66 Intensify efforts to eliminate all forms of practical discrimination against children Palestine

67 Continue combating the phenomena of racism and xenophobia and promote tolerance between cultures and religions Palestine

68 Undertake measures to tackle racial discrimination and to combat more resolutely all forms of racism Iran

69 Continue its efforts to combat xenophobia Argentina

70 Monitor the incidence of and combat racism and xenophobia Brazil

71 Strengthen measures to promote tolerance and combat attitudes, behaviours and reflexes not covered by the law as well as stereotypes directed, inter alia, at the Muslim minority Morocco

72 Implement the recommendation of treaty bodies and special procedures to introduce the offence of torture into the Criminal and Military Criminal Codes, as well as align rules and provisions on the statute of limitations with the Convention against Torture Russian Federation

Denmark has not implemented this recommendation. Torture is not a specific criminal offence in the Criminal Code, but only an aggravating circumstance in its criminal law. The UN Committee against Torture has repeatedly called upon Denmark to incorporate a specific offence of torture, as defined in article 1 of the Convention, in its Criminal Code and Military Criminal Code making it a punishable offence as set out in article 4, para. 2 of the Convention (CAT/C/CR/28/1 para. 6(a) and CAT/C/DNK/CO/5 para. 10). Defining and criminalizing the crime of torture is central to fight impunity, which is one of the root causes for the widespread practice of torture as well as ensuring full redress to the victims of torture by prosecution of the perpetrators. The UN Committee against Torture has reiterated the importance of naming and defining the offence of torture in accordance with the Convention as distinct from other crimes which will directly advance the overarching aim of preventing torture, inter alia by alerting everyone to the specific gravity of the crime of torture and by improving the deterrent effect of the prohibition itself (CAT/C/SWE/CO/5, pkt. 9-10). Denmark is urged to incorporate torture as a specific offence under national criminal law, which will also support the repeated position of the Danish state as being a leading international actor in the prevention of torture and ill-treatment (among other CAT/C/SR.757, para. 3).

Statute of limitation: The Criminal Code and Military Criminal Code were amended in 2008 (Lov nr. 494 af 17/06/2008), and a new provision was introduced whereby acts of torture are not subject to any statute of limitation (Criminal Code § 93 b jf. §157a and Military Criminal Code § 10a). However, this legislative amendment took place with a delay of several years. Already in 2003, the UN Committee Against Torture had established that States parties should repeal the statute of limitation for crimes of torture (CAT/C/CR/30/5, 27/5 2003). This has also been established by the European Court of Human Rights (*Abdulsamet Yaman v Turkey*, 2/11 2004, pr 55). The fact that Denmark only brought its national criminal legislation in accordance with its international obligations in 2008 has prevented Denmark from fulfilling another obligation under the UNCAT, namely to ensure that there are no safe havens from where perpetrators of torture can escape responsibility (universal jurisdiction regime).

In January 2014, Mr Carmi Gillon, a former head of the Israeli intelligence service Shin Bet, visited Denmark. He is known to have been responsible for Shin Bet's use of torture and 'moderate physical pressure' under his leadership in 1994-95. A complaint of torture was filed to the Danish police during Gillon's stay in Denmark. Prior to the 2008-amendment of the Criminal Code, acts of torture were subject to a 10 year statute of limitation. As the torture in the present case took place in 1994-95, the Danish Prosecution concluded its preliminary investigation into the Gillon case. Denmark could not pursue the case, because responsibility for acts of torture, which have taken place before 1998, are time barred under Danish law. In conclusion, Denmark's delayed implementation of its international obligation - to ensure that acts of torture are never time barred - have effectively shielded an alleged perpetrator of torture for responsibility.

73 Specifically envisage including the offence of torture in the penal and military codes Uzbekistan

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74 Incorporate the crime of torture in the Criminal Code and the Military Criminal Code

Spain

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75 Ensure that conditions are created so that any reports of violations committed by law enforcement officials are investigated independently, impartially and in a timely manner

Uzbekistan

Denmark has not implemented this recommendation. In 2010, the 'Independent Police Complaints Authority' was established by Act. No. 404 of 21 April 2010, which entered into force on 1 January 2012. The Independent Police Complaints Authority is placed under the auspices of the Ministry of Justice, and is headed by the Police Complaints Council and the Chief Executive. The Police Complaints Council is the supreme governing body of the Authority and consists of a Chair, who must be a High Court judge, an attorney, a university lecturer of law and two representatives of the general public. Members of the Police Complaints Council are appointed by the Minister of Justice for four years at a time and are eligible for re-appointment once. The Chief Executive is in charge of the everyday operations of the Police Complaints Authority. The Authority is mandated to handle investigation of criminal cases against police officers and considers complaints of police misconduct. The Authority is authorized to make arrests and request orders for pre-trial from court; however, it is still the regional public prosecutor that has the power of indictment. Therefore, when the investigation is complete the application must be sent to the District Attorney General (statsadvokaten) who has the power of discretion

to assess whether there are grounds for prosecuting, prepare the indictment, and conduct the proceedings. The decision of the prosecution can be appealed to the Director of Public Prosecution (rigsadvokaten). (See the Administration of Justice Act Chapter 11a)

The current structure and mandate of the Independent Police Complaints Authority does not fulfil the criteria of independence as the Authority still does not have the power to indict. Furthermore, it has been subject to debate amongst experts within criminal procedure that most investigations are carried out by former police officers and/or former prosecutors. The Danish government is urged to ensure the independence of the body and mandate the Authority with the power to indict in criminal cases and in cases of misconduct. Furthermore, ensure that the Authority has the necessary resources to effectively carry out its mandate.

76 Introduce proper identification for its law enforcement officials

Slovakia

Denmark has not implemented this recommendation. In many police complaints cases, the cases must be closed/discontinued, because the police officer in question cannot be identified. Amnesty has called on the government to introduce numbers/symbols on the police uniforms to enable the complainants to identify the police officer in question, even if the police officer will not inform the citizen (complainant) of his name and place of service. So far, the current government and Parliament have been very reluctant to introduce ID on the uniform.

77 Review the existing mechanism and framework for handling allegations of excessive use of force, including the use of weapons by law enforcement officials, in order to ensure full compliance with the Convention against Torture

Uzbekistan

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78	Ensure a timely and impartial investigation of all complaints and reports against such illegal acts	Uzbekistan
79	Adopt appropriate measures to ensure that the establishment of so called arrest and search zones is not done on the basis of criteria which might be equivalent to racial, ethnic or religious profiling . The police may only establish temporary search (arrest) zones .Up till now no evaluation of the search zones has taken place. The government should conduct a thorough investigation of the use of these search zones including the practice of profiling on the basis of race, ethnicity and religion.	Algeria
80	Continue to ensure effective protection of victims of domestic violence	Austria
80a	Consider the adoption of a specific law on violence against women, including domestic violence	Austria
81	Continue efforts to prevent and combat violence against women and domestic violence, in particular in the Faroe Islands and Greenland	Poland
82	Ensure more effective protection of victims of domestic violence	Slovenia
83	Continue its efforts to combat domestic violence, especially against vulnerable groups such as women and children	Republic of Korea
84	Provide foreign married women who are victims of domestic violence with legal safeguards and administrative guidelines for their protection, giving particular consideration to residence permits	Honduras
85	Adopt effective policy measures aimed at combating and eliminating violence against women, including domestic violence, and encourage the high level participation of women in the labour market and especially decision making	Azerbaijan
86	Establish specific mechanisms and formulate specific programmes geared to addressing the issue of violence against women and children, including by harmonizing national legislation with international human rights standards	Indonesia

87 Strengthen the capacities for identifying victims of trafficking

Austria

Denmark has partially implemented the recommendation. However, there is a need to widen the effort to identifying male, transgender and children victims of trafficking. The main focus has been on women working in the sex industry and as au pairs. There is a need for social workers working with men, transgender and children to be trained in the identification process. There is also a need for:

- Training of the civil society in the identification process, including church related staff with contact to migrants.
- Establishing locations which are not restricted to women, where undocumented migrants – and thereby potential victims of trafficking can come and where social workers have a possibility to establish contact to the potential victims of trafficking.
- More rights orientated approach to victims of trafficking. At present the majority of victims of trafficking are identified by the police after having been arrested and charged with criminal offences. This approach has the consequence that a group of potential victims are not identified because the identification process is linked to the circumstances surrounding arrests – which are often a stressful situation where the potential victims – in lack of knowing their rights – may often choose not to tell their story. We therefore encourage The Danish Government to apply the many recommendations given by the European Councils Group of Experts on Action against Trafficking in Human Beings (GRETA) in their first evaluation round in 2011.
- Independent legal assistance to the potential victims so all of their legal rights are respected in the identification process. We therefore encourage The Danish Government to ensure the potential victim of trafficking free legal advisor/lawyer (Danish: bistandsadvokat) to help represent them and guide them through the identification process.

88 Strengthen the identification of human trafficking victims

Slovakia

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89	Ensure that victims of human trafficking are not detained but instead granted proper protection, as well as expand the reflection period while making it entirely unconditional	Slovakia
<p>Denmark has not implemented the recommendation. We regularly encounter victims of trafficking who in the process of applying for asylum are being detained, either based on the assumption of disappearance in the beginning of the asylum process or after the final rejection. We find that this particular group of asylum seekers are especially vulnerable and that decisions concerning detention of this group should pay sufficient regard to their possible vulnerability.</p> <p>We encourage the Danish Government to apply GRETAS recommendations 19 and 20 which urges the Danish authorities to review the legislation in order to ensure that victims of trafficking are provided with an adequate recovery and reflection period, in line with Article 13 of the Convention, rather than a time-limit to prepare their departure from the country as illegal aliens and review the system for granting residence permits to victims of trafficking with a view to ensuring that the victim-centered approach which underpins the Convention is fully applied in order to prevent re-trafficking. The majority of victims of trafficking are identified by the police after having been arrested and charged with criminal offences. This approach has the consequence that a large group of potential victims are not identified because the identification process is linked to the circumstances surrounding arrests – which are often a stressful situation where the potential victims – in lack of knowing their rights – may often choose not to tell their story. We therefore encourage The Danish Government to apply the many recommendations given by the European Councils Group of Experts on Action against Trafficking in Human Beings (GRETA) in their first evaluation round in 2011.</p> <p>GRETAS recommendations 19 and 20 are of extra importance as they are to ensure, that contact with the Danish authorities and thereby the police can happen in a setting where victims of trafficking can view the police and government officials as a source of relief and not as a sure way to deportation. When identified as a possible victim of trafficking the potential victims are brought to a police station and questioned by a police officer and by a number of social workers from Government or NGO's in order to clarify their status. The women we meet have often been in such a stressful situation that they cannot separate one person from the other and it happens that they have no idea which organizations they have been talking to. We encourage The Danish Government to move these interrogations so that they do not take place at the police stations and we encourage The Danish Government to ensure the potential victim of trafficking free legal advisor/lawyer to help represent them and guide them through the identification process.</p>		
90	Take necessary measures to combat child prostitution and ensure that those children have access to adequate services for their recovery and social reintegration	Indonesia
91	Prevent commercial sexual exploitation of children and ensure additional protective measures for all victims of trafficking	Azerbaijan
92	Take more effective measures to prevent sexual exploitation of children, including through criminalizing the production and distribution of pornographic or erotic images including children, and prosecute Danish citizens who abused children abroad	Malaysia

93	Adopt all necessary measures to combat the phenomenon of child sex tourism, including by consistently prosecuting offenders on their return for the crimes committed abroad	Greece
94	Strengthen the capacity of the criminal police to deal with crimes related to child pornography on the Internet and to inform children and their parents about the safe use of the Internet	Iran
95	Develop a more systematic approach to cooperation between governmental bodies and civil society to combat child trafficking	Australia
96	Maintain article 266(b) of the Criminal Code and adopt measures to avoid that the shelving of cases related to racial or religious hatred does not dissuade victims from continuing to file complaints, and does not lead to impunity for the perpetrators of such crimes	Algeria
97	<p>Make case law from Danish courts and administrative organs publicly available and free of charge</p> <p>Denmark has not implemented the recommendation. In 2007 The Danish Court Administration announced that in a couple of years there would be a public accessible database with case law from Danish courts. The Danish Court Administration expected the database to be accessible in 2009. In 2013 former Director of Development at The Danish Court Administration stated to the Danish media, that the intention from 2007 following showed not to be financed. (http://politiken.dk/indland/ECE2090688/aaben-adgang-til-domme-er-syltet/). In the Finance act for 2014 the Government has not allocated funds for the database.</p> <p>One of the elements of due process is based on the predictability which can only be insured if all parties have access to all case law. The lack of public access and thereby equal access to case law may therefore constitute a problem in terms of substantive due process.</p> <p>The independent board of the court administration has since 2011 been working with this issue. Until now no results has emerged from this work. The reason is supposed to be the costs. (4,3-4,7 million d.kr. annually). This cannot be the real explanation taken into consideration that the Danish Law Courts are generating a handsome surplus on the annual state financial budget. The government should be encouraged to increase the annual budget with sufficient funding of a case law database.</p>	Hungary
98	<p>Limit the use of long periods of pre-trial custody</p> <p>Denmark has partially implemented the recommendation. In 2011, the Danish government pledged to bring down the number of pre-trial detention. In 2012, the Director of Public Prosecution initiated a lean-project to identify best practices in handling pre-trial detention cases and with the overall aim of limiting the use of pre-trial custody. Particular focus was on limiting the length of pre-trial detention. The project resulted in</p>	United Kingdom

the development of a new management concept, which was to be implemented in 2013, initially in selected districts. There is no publicly available data to verify whether it has been implemented and, if so, what the outcome has been. Furthermore, a new IT-based management information system has been launched to ensure monitoring of pre-trial custody and to limit the extent of these.

Data from the Director of Public Prosecution establishes that cases of lengthy pre-trial detention have been brought down from 1764 in 2010 to 1427 in 2012. However, it is also indicated that the former statistical data was not accurate and suffered from underreporting. The length of the pro-longed pre-trial detention has also been shortened, although the average length of the pre-trial detention was still 6,8 months in 2010 and 6 months in 2012. It should be noted that there are still significant differences in the use of pro-longed pre-trial detention across police districts.

Director of Public Prosecutions figures conclude the following:

Pro-longed pre-trial detention		
Period	Numerical change	Change in percentage
2001 – 2005	446 – 717	Increase of 61% (from 2001 to 2005)
2005 – 2007	717 – 620	Decrease of 13,5% (from 2005 to 2007)
2007 – 2010	620 – 1005 (adjusted from 896)	Increase of 45% (from 2007 to 2010)
2010 – 2012	1764 – 1427	Decrease of 19,1% (from 2010 to 2012)

In terms of pre-trial detention of suspected offenders under the age of 18, there has been a decrease from 464 in 2010 to 345 in 2012, and a substantial decrease in terms of lengthy pre-trial detention from 145 in 2010 to 90 in 2012. The Convention on the Rights of the Child article 37(b) emphasizes that detention of a child should only be a measure of last resort and for the shortest appropriate time, and supported by the Beijing Rule 13(2) calling for alternative measures.

The conditions of detention of pre-trial detainees are stricter than those of convicted prisoners, i.e. restrictions on communication and visits rights, isolation with access to only one hour of exercise per day. The use of pre-trial detention can therefore have very drastic consequences for the prisoner's family, job situation, etc. We urge the Danish government to increase and continue its efforts to bring down the use of pre-trial detention and cases of lengthy pre-trial detention, and pay special attention to the vulnerability of persons under 18 and only subject these to pre-trial detention as a means of last resort.

The average length of pre-trial detention for the children and youth who were sentenced to imprisonment fell from 2010-2012 from 79 days to 63 days. The average length of pre-trial detention for young people who were sentenced to juvenile 'sanction' increased from 71 to 91 days from 2010- 2012. The longest detention period for a young person under 18 was in 2012 296 days (Ministry of Justice, 2012).

The reporting group recommends that the Government takes steps to limit the use of pre-trial custody of children/adolescents and consider introducing an absolute upper limit for the duration of custody for children and young people under the age of 18.

99 In light of the 1 July 2010 amendments to Danish legislation reducing the age for criminal responsibility to 14, bring it into line with the recommendations of the Committee on the Rights of the Child Kyrgyzstan

Denmark has implemented the recommendation. The present government has raised the age of criminal responsibility from 14 to 15. In 2012, the minimum age for criminal responsibility was raised from 14 years to 15 years (Criminal Code article 15, lov 2012, nr. 158).

The law initially lowering the age of criminal responsibility in 2010 also removed the bar of 8 years maximum sentence for criminal acts committed by young offenders under 18. Today the only existing limitation is that juvenile offenders cannot receive life imprisonment. The Committee on the Rights of the Child has emphasized “that the reaction to an offence should always be in proportion not only to the circumstances and the gravity of the offence, but also to the age, lesser culpability, circumstances and needs of the child, as well as to the various and particularly long-term needs of the society. A strictly punitive approach is not in accordance with the leading principles for juvenile justice spelled out in article 40 (1) of CRC” (CRC/C/GC/10). Therefore, we urge the Danish government to re-introduce a maximum sentence for young offenders under 18 that respect the principles of rehabilitation and restorative justice as emphasized by the Committee on the Rights of the Child when dealing with juvenile offenders.

100 Prohibit incarceration of minors together with adults, as well as solitary confinement of minors Belgium

. Denmark has not implemented the recommendation. In 2011, the UN Committee on the Rights of the Child urged Denmark to take measures to ensure that no child, regardless of circumstance, is subjected to imprisonment in the ordinary prison system with adults CRC/C/DNK/CO/4, 7 April 2011, p. 15) in accordance with CRC article 37. Statistics from the Prison and Probation Service from 2012 reveal that young offenders under 18 years are found in the ordinary prisons, and that the average number has risen since 2011 from 6,3 persons to 7,5 persons in 2012. (<http://www.kriminalforsorgen.dk/Files/Filer/Statistik/Kriminalforsorgens%20Statistik%202012.pdf>)

According to Danish law solitary confinement of minors should only take place under exceptional circumstances, and no longer than four weeks at a time, except if the incumbent is charged with offences against the Danish state, notably crimes falling within chapter 12 and 13 of the Danish Criminal Code, e.g. terrorism. (See RPL § 770 c, stk. 5.). Despite the recommendation of the UN Committee on the Rights of the Child to prohibit the placement of persons under the age of 18 in solitary confinement (CRC/C/DNK/CO/4, 7 April 2011, p. 15) this is still possible under Danish law.

Since 2001, solitary confinement of minors during pre-trial detention has been applied from 0-6 times every year. In 2010, only one person under the age of 18 was subjected to solitary confinement during pre-trial detention and in 2011 there are no registered cases. The statistics from 2012 and 2013 is not available.

Denmark should take urgent action to prohibit the use of solitary confinement of persons under the age of 18 and change existing laws accordingly.

Unaccompanied minor asylum seekers

Unaccompanied minor asylum seekers are detained either with adults in Ellebæk (closed camp) or in institutions with criminal Danish minors,

where - to our knowledge - interpreters are often not available and where staff and facilities are not always suitable for young immigration detainees. We urge the Danish Government to ensure that sufficient consideration is taken to the vulnerability of unaccompanied minor asylum seekers in relation to detention and to ensure that they are effectively separated from adults during detention.

101 Take further steps to solve the problem of overcrowding in prisons and to ensure legal responsibility for the spread of racial and religious intolerance through the press

Belarus

Response only to the first half of the recommendation. Currently, the Danish prisons suffer from overcrowding as a result of heightened prison sentences. The Danish Institute for Human Rights describes in their status report from 2013 that overcrowding in the Danish Prison and Probation Service has become an issue of attention due to the increase of the prison population in Denmark. Although the prisons are not suffering from permanent overcrowding this does occur, e.g. in the prisons in the Copenhagen area there was an average of 23,1 prisoners more than the prison is capacitated for. The Danish Ombudsman has addressed the issue in February 2011 with the Prisons and Probation Service, pointing to some of the possible consequences of the overcrowding, including infringements of the right to private life, contact with personnel, conditions of detention, etc.

102 Ensure that the right to family life, marriage and choice of spouse is guaranteed to every person without discrimination based on national or ethnic origin

Turkey

The acceptance is limited to non-discrimination. The rigid administration of the aliens act concerning this issue has by the Government in office since October 2011, been eased to a limited extent. Denmark however is still interpreting the right to family life in a rather restrictive manner. The purpose behind the adoption of the complicated provisions in the Danish aliens act on the matter was originally (2005) a desire to prevent forced and contracted marriages. It has however never been evaluated, if the rules have reduced the number of contracted marriages. The government should start this work of evaluation especially with regard to the regulations laid down in the Danish Aliens act article 9 section 1.8 and generally with regard to an overall clarification and simplification of the entire act.

103 Abrogate the provisions of its internal legislation which prohibit, in practice, the union with a person who has family links abroad and those which prohibit reunification of spouses who have not yet reached the minimum age of 24 years

France

Even though the rules on family reunification have been amended, the age requirement that both spouses must be 24 years of age still applies and still constitutes indirect discrimination. The rigid administration of the aliens act concerning this issue has by the Government in office since October 2011, been eased to a limited extent. Denmark however is still interpreting the right to family life in a rather restricted manner. The purpose behind the adoption of the complicated provisions in the Danish aliens act on the matter was originally (2005) a desideratum to prevent forced and contracted marriages. It has however never been evaluated, if the rules has reduced the number of contracted marriages. The government should start this work of evaluation especially with regard to the regulations laid down in the Danish Aliens act article 9 section 1.8 and generally with regard to an overall clarification and simplification of the entire act.

104	Further strengthen the foundation of family and avoid resorting to measures and legislation which endanger the very foundation of family in society	Iran
The provisions on family reunification pose a particular problem to same-sex couples. Whereas opposite-sex couples, who are referred to live in the home country of the non-Danish partner, may potentially do so, often this would be impossible for a same-sex couple.		
105	Ensure that contested children in a marital dispute have the possibility of maintaining effective contact with the foreign parent living abroad	Italy
106	Take effective measures to strengthen the institution of family, including awareness-raising activities which should focus on raising awareness in society, especially of young people, on the traditional understanding of family and its social significance	Belarus
With the recent revision to the Children's Act, children of same-sex couples have finally got the same protection as other children. However, if the child was not conceived in a fertility clinic, the Children's Act does not apply, only the Adoption Act, which is particularly problematic if the birth mother is not a Danish citizen, as the child will not get Danish citizenship then.		
107	Continue to take serious measures to promote inter-religious and intercultural dialogue in the country and to prevent the reoccurrence of irresponsible acts which perpetuate religious hatred and intolerance	Indonesia
108	Strengthen measures for the promotion of intercultural understanding and tolerance in order to overcome unacceptable cases of intolerance and absence of respect for the religion of others in the country	Azerbaijan
109	Take concrete legal and practical measures to combat incitement to religious hatred and intolerance	Pakistan
110	Pay due attention to commensurate responsibility in protecting the rights of others and respect for others, while promoting and protecting freedom of expression and opinion	Bangladesh
111	Give equal recognition to the right of undocumented children to education	Honduras

In Denmark, if rejected asylum-seekers do not leave the country voluntarily, they are allowed to stay until the Government has arranged for their deportation. It might take years to reach an agreement regarding a transfer with state of origin, leaving the families in "legal limbo" in the meantime. The children in these families might attend public schools. But they do not have a legal right to choose public schools and might be offered a 'centre school'. By decision makers, it might be considered in the best interest of the children to be in those schools, but it may also lead to segregation from Danish society including the right to access quality education on an equal footing with other children. Additionally, undocumented children (not in the asylum system and therefore not known by the authorities), do not have guaranteed rights to education. We recommend that the issue of school attendance of children seeking asylum be regulated by the Public School Law rather than the Aliens Act.

112 Address in particular high school dropout among students belonging to ethnic minorities

Slovakia

113 Adopt stronger measures to protect minorities and indigenous peoples from discrimination and to ensure their access to public facilities

Republic of
Korea

114 Remedy the difficulties in terms of access to health care for asylum seekers created by the fact that they do not have the social security number required for identification and support

France

Denmark has rejected the recommendation, referring to it as a factual misunderstanding. As stated by the Government in their response, health care to asylum seekers is provided by the Danish Immigration Service to all asylum seekers, including those rejected, and those under the age of 18 are entitled to the same healthcare as children who are residents.

All expenses for health care that are necessary, urgent and alleviating are covered by the Immigration Service and asylum seekers as well as undocumented migrants are entitled to free emergency hospital treatment, e.g. in case of accidents, birth or worsening of chronic conditions. The Danish Red Cross agrees to this and thus recognizes the rejection to the recommendation, but does however have a concern towards access to treatment for undocumented migrants with, for instance, chronic diseases or to preventive treatment for pregnant women.

- Recommendation: To improve access to preventive care for undocumented migrants in need of such.

We acknowledge that asylum seekers have access to basic health care while they are residing at an asylum centre. However, The Immigration Service has to approve of certain types of treatment (kaution) and an asylum seeker is therefore not in the same position as a Danish resident to have free access to the health care system. We would furthermore like to point at a related issue concerning access to health care in Denmark. Today, adults without a residence permit outside the asylum system are only entitled to emergency medical care in the public health system, and do not have access to regular health care, preventive care or help with chronic conditions. This means e.g. that pregnant women cannot be seen by a midwife and get checked whether the baby is healthy and well, and that patients with inflammatory conditions cannot be seen by a doctor and get treatment. Because of this health care vacuum, the Medical Association, the Danish Red Cross and the Danish Refugee Council in August 2011

opened a new health care clinic for people who do not have a residence permit in Denmark - the so-called undocumented migrants.

The health care clinic offers anonymous and free medical care. The background to the establishment of the clinic is that an estimated 1,000 to 5,000 people in Denmark do not have access to necessary health care. The Danish Refugee Council finds that number disturbingly high and urges the Danish Government to counter this problem by providing the necessary legal framework to equalize the access to health care for documented and un-documented migrants.

Undocumented immigrants and access to health care (ICESCR, article 24):

Access to health care in Denmark depends on the migratory status of the individual and is regulated by various rules of law. With regard to immigrants and persons with refugee status, access to health care is primarily regulated on the basis of the Danish Health Care Legislation Act. As to asylum seekers and undocumented immigrants, the Alien Act regulates the access to health care for everything but acute treatment.

Therefore, the most vulnerable and exposed group of migrants also has the fewest recognised rights to health care. Asylum seekers are subject to specific restriction in their access to treatment but especially the undocumented migrants are vulnerable.

These limited rights lead to barriers as to receiving relevant medical help and to use of alternative strategies in order to receive help with negative consequences for their health.

The number of undocumented migrants in Denmark is uncertain. However, health care personnel in hospitals and in private practise have for many years witnessed migrants in need of treatment who were not legal residents in Denmark and therefore had no public health insurance.

Danish legislation gives no right to health care to this group except for medical emergencies. The Danish Health Care Act only gives these people a right to acute treatment (article 80). This means that for example chronic diseases and certain types of cancer, according the legislation cannot be treated. Therefore, health care personnel have been in a dilemma as public resources cannot be used to treat these patients.

A study from 2011 describes that Danish doctors find that undocumented migrants have unequal access to health care services, and there is a widespread uncertainty on how to act in situations where undocumented migrants need medical treatment. There is no official guideline on how health care personnel should act in these situations.

As an attempt to solve this problem, the Danish Red Cross, The Danish Medical Association and the Danish Refugee Council in 2011 asked the Minister of health to support a change of the Danish Health Care Act so it would be in compliance with the UN Convention on Economic, Social and Cultural rights. Alternatively, asked for help to run and finance a clinic for undocumented migrants. Both were rejected. The present Government has not confronted the issue in spite of our approaches the Minister of Health.

In Copenhagen, there is a well-documented need for medical aid. In a clinic established after initiative of the Danish Red Cross, The Danish Medical Association and the Danish Refugee Council, there have been 4000 consultations divided on 1,400 patients during the past two years.

The concern is that across the country and in the Capital, several more undocumented migrants are in need of health care. The question is whether the Danish Government meets the standards of the CESCR article 12 and the Convention on the Rights of the Child article 24 on everybody's right to the highest attainable standard of health.

Denmark has rejected the recommendation, referring to it as a factual misunderstanding. As stated by the Government in their response, health care to asylum seekers is provided by the Danish Immigration Service to all asylum seekers, including those rejected, and those under the age of 18 are entitled to the same healthcare as children who are residents.

All expenses for healthcare that are necessary, urgent and alleviating are covered by the Immigration Service and asylum seekers as well as undocumented migrants are entitled to free emergency hospital treatment, e.g. in case of accidents, birth or worsening of chronic conditions.

The Danish Red Cross agrees to this and thus recognizes the rejection to the recommendation, but does however have a concern towards access to treatment for undocumented migrants with, for instance, chronic diseases or to preventive treatment for pregnant women.

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115 **Oversee the citizenship policy regarding the granting of citizenship to stateless persons in order to ensure that it corresponds with the Convention on the Reduction of Statelessness**

Finland

Denmark has partially implemented this recommendation. A new law makes it possible for children who are born and raised in Denmark, to acquire Danish nationality by declaration (and not by law), making it more swift for these children to gain Danish citizenship. With regards to

stateless children, the reporting group in particularly recommends that the Danish state takes steps to ensure that:

1. All children born stateless in Denmark are automatically granted Danish citizenship at birth.
2. Children born in Denmark of parents with refugee status and who are de facto stateless persons will be as eligible for citizenship as here born stateless children.
3. All stateless children and de facto stateless children, who get to stay in Denmark, have easier access to citizenship within a shorter period of time.

The citizenship policy and law corresponds with (the minimum requirements of) the Convention on the Reduction of Statelessness apart from the Danish 'lawful residence' requirement for granting Danish born stateless persons citizenship; the convention only permit 'habitual residence' (article 1(2)(b)).

116 Allow for family reunification for children in as many cases as possible and ensure that Danish jurisprudence on family reunification is in accordance with its human rights obligations

Greece

Denmark has partially implemented this recommendation. Children between the age of 15 and 17 years of age do not have an unconditional right to be reunited with their parents in Denmark, but may be granted permission to come to Denmark on a discretionary basis.

The present government changed the laws for family reunifications for children resulting in much fewer children being rejected family unification to Denmark than previously. There are still some rules which the reporting group finds not to be in line with the human rights obligations of Denmark:

- 1) According to the new law children from 6 years of age shall demonstrate integration potential and it is possible in advance to find some children between 6 and 15 'not able to demonstrate integration potential' into the Danish society.
- 2) Non-Danish children between 15 and 18 do still not have same rights as children under 15 to family reunification with their parents living in Denmark.

The reporting group finds that all decisions regarding family-reunifications of children should be based on a determination of the best interest of the child.

117 Review its practice of returning aliens to regions where they may encounter real risks of persecution or serious harm, particularly in Iraq

Switzerland

Denmark has not implemented this recommendation. According to the political programme of the present government from Oct. 2011 the Government will examine the Aliens Act in order to see if the act is in accordance with the UN Convention on the Rights of the Child, and see which initiatives and changes might be necessary to make. Unfortunately this study has not been made. The reporting group finds that the deportation of

rejected asylum families after several years of stay in Denmark shall take the best interest of the child and the child's right to private life into consideration, and accordingly, make the necessary changes to the Aliens Act.

118 Strictly observe the principle of non-refoulement and not resort to diplomatic assurances to circumvent it

Switzerland

Denmark has partially implemented the recommendation. We acknowledge that Denmark - upon application - issues a residence permit to a foreigner if the foreigner falls within the provisions of the Convention relating to the Status of Refugees or if the foreigner risks the death penalty or being subjected to torture or inhuman or degrading treatment or punishment in case of return to his or her country of origin. However, we would like to emphasize that the principle of direct and indirect non refoulement also applies in cases of return to another EU country according to the Dublin Regulation. As we have seen from the European Court of Human Rights' judgement in the case of *M.S.S. v. Belgium and Greece* of 21 January 2011, the returning state should ensure, that an asylum seekers return after the Regulation to another European country does not happen contrary to the principle of non refoulement. We urge the Danish Government to pay special attention to the principle of non refoulement in cases of Dublin-returns to e.g. Italy, Bulgaria and other countries where international organisations, national human rights NGO's and asylum seekers have raised severe criticism of the conditions for asylum seekers and refugees and the risk of refoulement to the country of origin.

In Communication No. 464/2011, 3/12 2012 the UN Committee against Torture established that Denmark - in the rejection of the complainant's asylum request without seeking further investigation on his claims nor ordering a medical examination - had failed to determine whether there are substantial grounds for believing that the complainant would be in danger of being subjected to torture if returned. Consequently, the Committee against Torture concluded that, in the circumstances, the deportation of the complainant to his country of origin would constitute a violation of article 3 of the UN Convention against Torture. Denmark had in the mean-time deported the asylum seeker to Afghanistan and is currently, after the criticism by the UN Committee, searching for the complainant to bring him back to re-open the case. Denmark is urged to use all possible avenues to find the complainant and in the future abstain from expelling, extraditing or in any way transferring a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture or ill-treatment (A/c.3/68/L.33/Rev.1).

In the High Court judgment U.2011.2904Ø, the Court found that Niels Holck, a Danish citizen wanted for prosecution on alleged terrorist activities, could not be extradited to India as there was a real risk of treatment in violation of ECHR article 3. The diplomatic assurance was not considered as sufficient protection or guarantee against torture, inhuman or degrading treatment when trustworthy sources of information establish that authorities participate in practices that are contrary to ECHR article 3.

Denmark should abstain from using diplomatic assurances when extraditing persons to prosecution as they do not provide protection or safeguards against torture or ill-treatment. As emphasized by the UN Special Rapporteur on Torture during his visit to Denmark in 2008, diplomatic assurances are an attempt to circumvent the absolute prohibition of torture and non-refoulement, and they are unreliable and ineffective.

119 Revise the proposed amendments to the Danish Aliens Act with respect to unaccompanied children seeking asylum

Poland

Denmark has not implemented the recommendation. No changes have been made to the Danish Aliens Act from 2011 with regards to the laws covering the unaccompanied children seeking asylum. According to the recommendation of the Committee on the Child, the best interest of the child should be the guiding principle in cases involving separated children and during refugee determination procedures (cf. CRC/C/DNK/CO/4/34 and 58) and durable solutions should be found. The reporting group does therefore still not find that rules in the Aliens Act enforce the best interest of the child as the guiding principle in finding a durable solution for separated children or for children in asylum seeking families.

119a Ensure that the necessary protection and assistance is provided to unaccompanied children seeking asylum

Poland

Denmark has not implemented the recommendation. Denmark recognizes unaccompanied minors as vulnerable and the Danish Aliens Act contains special rules regarding this group. However, an amendment to the Aliens Act caused a possibility for the State to return foreigners granted residence as unaccompanied by the time the minor turns 18. Residence permits given by §9c, stk. 3, no 1 and 2 in the Danish Aliens Act are now temporary only until the age of 18. By giving the unaccompanied minors the perspective of forced return by the age of 18, they will find themselves in a difficult and insecure position, putting increased pressure on an already vulnerable group, causing poor integration and future perspectives for this group, as learning and education opportunities are reduced.

- Recommendation: To revise the amendment concerning the temporary nature of subsidiary protection granted unaccompanied minors and ensure protection also after the age of 18.

Amendments to the Danish Aliens Act concerning unaccompanied minors were adopted on 16 December 2010. The changes in the legislation mean that a residence permit issued to a minor who is too immature to be examined in an asylum procedure or by return will be put in a de facto situation of emergency cannot be extended beyond his/her age of 18 years. The prospect for a minor of having to go back to their country of origin when they turn 18 to many will mean uncertainty, fear and lack of future perspective. An already very vulnerable group is thus put in an extremely difficult situation. We fears that municipalities (who are responsible for the minors) do not have the necessary skills and resources to make the residence time (which perhaps more have the character of waiting time) meaningful to the child/young person. You can even fear that the child/young person, often at some level traumatized by past events, would be severely damaged by this uncertainty and lack of prospects. We find this uncertainty contrary to the best interest of the child and the Convention on the Rights of the Child.

In any case, there will be a need for a special two-lane municipal effort , an effort that on one hand makes sense in relation to a life in Denmark, ie . coordinated efforts in relation to education (Education Act), place of residence and Social Care (Social Service) , leisure and social relationships, support under the Integration Act, etc., while supporting the child in getting the necessary resources to cope with the country of origin after turning 18 , including development of the mother tongue. We have heard from various Danish municipalities that the caseworkers are not always even

aware, that the minors will lose their residence permit when they turn 18. Therefore there often do not exist special offers of the abovementioned to this group of minors.

We regret that Denmark has tightened the rules for residence permit for such a vulnerable group. It should be noted that in 2009 only 28 residence permits to unaccompanied minors were given. It is therefore difficult to see the need to tighten up in this area.

On this basis, we urge the Danish Government to make new legislation which - again - offers the possibility of renewal of a residence permit after a child turns 18 and to offer exceptions in the current legislation to persons over the age of 18. Exceptions can either be built into the provision itself or by an easy access to the particular application of section 9c (1) of these cases (residence permit on "exceptional circumstances"). We also consider it quite problematic that no legal assistance is secured by law when the residence permit expires or if the minor will apply for residence permit under the Danish Alien Act, Section 9c (1). Rejected unaccompanied minors – who have had a relatively long stay in Denmark (5 years or more) and deportation has not yet been possible – may be granted a residence permit under section 9c(1) if 'exceptional circumstances' exists. The immigration authorities will evaluate the child's attachment to the Danish society versus his/her attachment to the country of origin. During the processing of such cases the child is only assisted by its guardian (if still underage) and the role of the guardians in terms of legal advice is only to support and guide the children during the asylum procedure. They communicate knowledge about procedures but they are not allowed to offer legal assistance since they are not qualified to do so.

Denmark has not implemented the recommendation. No changes have been made to the amendments to the Danish Aliens Act from 2011 with regards to the laws covering the unaccompanied children seeking asylum. According to the recommendation of the Committee on the Child, the best interest of the child should be the guiding principle in cases involving separated children and during refugee determination procedures (cf. CRC/C/DNK/CO/4/34 and 58) and durable solutions should be found. The reporting group does therefore still not find that rules in the Danish Aliens Act enforce the best interest of the child to be the guiding principle in finding a durable solution for separated children or for children in asylum seeking families.

Ensure that any decision obliging a foreigner to leave the country is in accordance with international standards and under no circumstances should a person needing international protection be expelled, in accordance with the Convention Relating to the Status of Refugees, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Covenant on Civil and Political Rights, to all of which Denmark is a party

120

Mexico

Denmark has partially implemented the recommendation. We acknowledge that Denmark - upon application - issues a residence permit to a foreigner if the foreigner falls within the provisions of the Convention relating to the Status of Refugees or if the foreigner risks the death penalty or being subjected to torture or inhuman or degrading treatment or punishment in case of return to his or her country of origin. However, we would like to emphasize that the principle of direct and indirect non refoulement also applies in cases of return to another EU country according to the Dublin Regulation. As we have seen from the European Court of Human Rights' judgement in the case of M.S.S. v. Belgium and Greece of 21 January 2011, the returning state should ensure that an asylum seekers return after the Regulation to another European country does not happen contrary to the principle of non refoulement. We urge the Danish Government to pay special attention to the principle of non refoulement in cases of Dublin-returns to e.g. Italy, Bulgaria and other countries where international organisations, national human rights NGO's and asylum seekers have

raised severe criticism of the conditions for asylum seekers and refugees and the risk of refoulement to the country of origin.

In Communication No. 464/2011, 3 December 2012 the UN Committee against Torture established that Denmark - in the rejection of the complainant's asylum request without seeking further investigation on his claims nor ordering a medical examination - had failed to determine whether there are substantial grounds for believing that the complainant would be in danger of being subjected to torture if returned. Consequently, the Committee against Torture concluded that, in the circumstances, the deportation of the complainant to his country of origin would constitute a violation of article 3 of the UN Convention against Torture. Denmark had in the mean-time deported the asylum seeker to Afghanistan and is currently, after the criticism by the UN Committee, searching for the complainant to bring him back to re-open the case. Denmark is urged to use all possible avenues to find the complainant and in the future abstain from expelling, extraditing or in any way transferring a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture or ill-treatment (A/c.3/68/L.33/Rev.1).

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Denmark should abstain from using diplomatic assurances when extraditing persons to prosecution as they do not provide protection or safeguards against torture or ill-treatment. As emphasized by the UN Special Rapporteur on Torture during his visit to Denmark in 2008, diplomatic assurances are an attempt to circumvent the absolute prohibition of torture and non-refoulement, and they are unreliable and ineffective.

121	Take the necessary legal or administrative measures to ensure that migratory status does not depend on conjugal relations in cases in which gender violence is reported	Mexico
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122	Give due consideration to the cultural and religious sensitivities of newly arrived foreigners and migrants when designing social integration policies and programmes	Pakistan
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123	Review the requirements for migrants and asylum-seekers to obtain permanent residence and citizenship and consider removing retroactive elements of these requirements	United States
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Denmark has implemented the recommendation. The rules have been reviewed and the requirements are now more lenient – although still comparatively strict. They do not include retroactive elements. Still, the Aliens Act, section 9(13) on family reunification exempts sponsors who are granted permanent residence according to the Act in force from fulfilling a number of requirements that sponsors who are granted permanent residence according to previous (now repealed) rules must fulfil. The requirements are comparable to the actual requirements for permanent residence and therefor the arrangement may be characterized as a kind of retroactive element.

124 Strengthen its protection of trafficking victims, specifically by offering longer-term alternatives that would allow them to stay in the country on a work or residency permit, rather than solely offering repatriation or asylum United States

125 Further streamline the Aliens Act to ensure that acts which may lead to expulsion are in line with international refugee and human rights law Netherlands

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According to the political programme of the present government from Oct. 2011 the Government will examine the Aliens Act in order to see if the act is in accordance with the UN Convention on the Rights of the Child, and see which initiatives and changes might be necessary to make. Unfortunately this study has not been made. The reporting group finds that the deportation of rejected asylum families after several years of stay in Denmark shall take the best interest of the child and the child's right to private life into consideration, and accordingly, make the necessary changes to the Aliens Act.

126 Strengthen safeguards against potential refoulement of persons in need of international protection, including by closely monitoring the situation in the countries of origin of the asylum-seekers Republic of Korea

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127	Take further concrete steps to ensure the rights of all its citizens in relation to the 24-year rule	United Kingdom
128	Ensure that non-Danish residents can also fully enjoy their basic human rights, paying special attention to access to justice	Brazil
129	Implement the recommendations of the Committee on the Elimination of Racial Discrimination with regard to the conditions for family reunification of spouses	Sweden
130	<p>Implement the legal provisions and, where necessary, adopt legal reforms to guarantee family reunification of foreigners who have settled in Denmark, particularly family members of refugees, in accordance with the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, as well as the 1954 Convention Relating to the status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness</p> <p>Denmark has not implemented the recommendation. In principle, a person who has been recognized as a refugee in Denmark has the legal right to be reunited with his or her spouse and/or children below the age of 18 years. However, we often see examples where family reunification to e.g. a spouse is rejected even if the person in Denmark has status as a refugee. The Danish practice of family reunification states, that a marriage which has not been entered into before the flight of the person living in Denmark as a refugee does not automatically give the right to family reunification even if the marriage now constitutes a family life as defined in the European Convention of Human Rights Article 8. According to the Danish Government, the reason for this is that you cannot have a "legitimate expectation" to get family reunification if you did not have a family life as defined in Article 8 before the flight. In cases like this the Danish Immigration Service makes an assessment as to whether the refugee in Denmark can still be considered to be at risk of persecution as defined in the 1951 Convention Relating to the Status of Refugees upon return to the country of origin. If the Danish Immigration Service finds that the person is not at risk of persecution anymore, they will refer the family to enjoy their right to family life in the country of origin. This assessment does not meet the normal legal standards of the Danish asylum procedure and the refugee does not have the possibility to make an appeal to the Refugee Appeals Board in case of the before mentioned assessment from the Danish Immigration Service but a complaint has to be forwarded to the Immigration Appeals Board, which deals with general cases of family reunification etc. We find it necessary to enhance legal certainty by establishing a right to appeal the assessment of continued risk of persecution to the Refugee Appeals Board as The Refugee Appeals Board has the appropriate expertise and an asylum lawyer will be able to assist in order to ensure the appropriate treatment of this particular type of case.</p>	Ecuador
131	<p>Ensure that detention of refugees, migrants and asylum-seekers is applied only as a last resort</p> <p>Denmark has not implemented the recommendation. We regularly visit the immigration detention centre Ellebæk (once or twice a week) in order to provide legal counselling to detained asylum seekers. Occasionally we also visit prisons and other detention facilities where asylum seekers are sometimes held. We find that asylum seekers are too often detained without sufficient regard to their possible vulnerability, including mental illnesses and history of trauma and torture. We find that there is not sufficient care for and attention to vulnerable asylum seekers during</p>	Slovakia

detention. When the migration or the traumatic experiences - maybe even torture - has caused the asylum seeker to develop PTSD or similar diseases, this asylum seeker is obviously even more vulnerable, and detention should be avoided or used with great caution. It should be mentioned that we have never heard of a case where the court has denied detention and referred the Police to use sufficient but less coercive measures. From various sides we have been informed that this is very rarely even discussed at the court proceedings which should ensure the principle of less coercive measures. We urge the Danish Government to provide effective safeguards through legislation to ensure that it is being stressed that detention is the last resort and that less coercive measures should be used. One of our observations is also that many asylum seekers show a lack of understanding of the reasons for their detention and the further procedure. We are concerned that the Danish National Police often and without a sufficiently thorough explanation present the detainee with a form to sign whereby the detainee waives his/her right to a court hearing and agrees to another four weeks of detention. We urge the Danish Government to ensure sufficient training of the Danish National Police in these matters. Detention of asylum seekers for several months is not unusual. Given that asylum seekers are detained without having committed any crime several months of detention is very long. And in light of the issues mentioned above months of detention is unreasonably long. We urge the Danish Government to monitor closely the length of detention for asylum seekers and to take action to minimize detention in length and as a whole.

Issues of concern with regard to particularly vulnerable groups of persons who have been deprived of their liberty – asylum seekers:

The detention facility in Ellebaek for rejected asylum seekers awaiting deportation.

Adjacent to the primary accommodation centre for asylum seekers in Denmark, the Sandholm Camp, lies the detention facility named Ellebaek. Ellebaek is used primarily for detaining rejected asylum seekers awaiting deportation, and about whom the police find reason to believe that they will abscond, go underground, etc. in order to evade deportation. Furthermore, Ellebaek, is used to detaining asylum seekers who do not cooperate loyally in accounting for their claim for asylum in Denmark, do not attend asylum interviews for which they have been summoned etc.

On 7-9 May 2012 Amnesty International's Medical Group carried out a medical examination of persons in custody in Ellebaek. (Participation was voluntary and covered 22 detainees out of a total of 43 detainees on the said dates). The medical examination was based on the principles laid down in the UN Istanbul Protocol. PTSD was assessed in pursuance of the World Health ICD-10 Classification, so that all of the below criteria must be met in order to reach the diagnosis of PTSD:

A: Previous exposure to exceptionally grave strain/stress (to the degree of catastrophe)

B: 1) Recurring reliving of the trauma in "flashbacks", insistent/compulsory/pressing memories, or 2) Strong discomfort by exposure to circumstances reminding the person of the trauma.

C: Avoidance of everything/anything that revives memories/reminds of the trauma.

D: 1) Partial or complete loss of memory/remembrance of the traumatic experience, or 2) continuous/persistent symptoms of mental/psychological hypersensitivity or alert with at least two of the following symptoms: trouble falling asleep/interrupted sleep, irritability or bursts of anger, concentrations difficulties, hyper virgility (increased alertness/watchfulness), inclination /impulse to cower.

E: Symptoms appear/begin within six months of the traumatic experience.

Conclusion of the survey

- 27% of the detained asylum seekers examined were torture survivors.
- 33% of the torture survivors suffered from PTSD.
- One person among the non-torture survivors was found to be psychotic.
- On average the examined persons suffered from pains in two organ systems. 27% were in continuous treatment with pain-relieving medication.
- 63% of all the examined persons had a WHO-Five well-being score below 13, equivalent of "poor well-being".
- The survey is a spot check, which describes the situation at a given time, and it deals with a relatively small group. Further research is, therefore, recommended by the Medical Group.
- It is the opinion of the Medical Group that the results of the survey indicate that the present legislation and guidelines do not ensure that particularly vulnerable groups are not deprived of their liberty in Ellebaek. Amnesty International's Medical Group finds that there is a need for establishing a formalized screening system, which ensures that vulnerable asylum seekers, such as torture survivors and mentally ill persons, are not deprived of their liberty.

Detention of foreign children.

The reporting group finds that two issues need further attention regarding detention of foreign children.

1. Detention of separated children with false documents. The reporting group wants to stress the importance of a review of the guidelines for treatment of cases, in which asylum seekers use false documents in relation to entering Denmark that also covers separated children aged 15-17. According to the guidelines, separated children can be prosecuted and imprisoned for false identification papers if they receive subsidiary protection in Denmark. And separated children who have entered on false documents and have not received refugee status or protection status will not be able to apply for protection under the special rules in the Danish Aliens Act regarding separated children. The reporting group is deeply concerned about the harm it may cause children not to receive the same protection as other separated children, if they have entered the country with false papers. We also fear the effects it might have on a child who have received a subsidiary protection status to begin its integration in Denmark with a prison sentence and a criminal record. We strongly encourage the Danish state to review the guidelines and bring them in line with the Convention on the Rights of the Child and the Gen. Comments no. 6.
2. Detention of separated children prior to forced return: If it is determined that there is a risk that a separated child will resist cooperation prior to a forced return, the child might be detained with adults who are also awaiting deportation. The Danish government argues that the children are not detained in adult prisons with criminals (§ 37, stk. 10). The reporting group finds that it should be stressed that the detention of children in migration can only be done as a last resort and for the shortest possible period. In the exceptional situation that a child is detained, the child should be separated from adults (and not just adults who committed the crime). "Special arrangements must be made for living quarters that are suitable for children and that separate them from adults, unless it is considered in the child's best interests not to do so. Indeed, the underlying approach to such a program should be "care" and not "detention". CRC/GC/2005/6 (63).

132 Assess in an open and transparent manner the consequences of flights conducted over Danish territory and landings that took place in the context of the Central Intelligence Agency extradition programme Switzerland

After the change in government in 2011 the Danish government and Greenland agreed that the Danish Institute for International Studies (DIIS) should conduct an independent investigation. The report was published in 2012 and is available at: (http://subweb.diis.dk/graphics/Publications/Andet2012/CIA-flyvninger/Et-er-jura-at-forstaa_final.pdf).

DIIS was appointed to investigate double play/foul play between Denmark and USA in the preparation of the Inter-Ministerial statement (CIA-statement) on secret CIA flights on Danish and Greenlandic territory. Moreover, DIIS was, based on information and relevant material made available by the Danish central administration, to conduct a verification of the findings and conclusions of the inter-ministerial statement.

The independent investigation was subject to a deadline, and DIIS did not have the same free access to information as the inter-ministerial statement was based on, this included that access to requested information was subject to approval by the Ministries and furthermore, that DIIS did not have the opportunity to interview relevant Ministers and officials or present them with their findings. Therefore, DIIS states that the conclusions of the report have been made with some caution.

DIIS concludes that the claims made with respect to suspected foul play/ double play in the issuing of the Inter-ministerial Statement was unfounded. That the conclusions of the CIA-statement are, on the basis of DIIS investigation of the available written documents, correct. However, the CIA-statement did not include information about the interpretation of existing law by the Danish Ministry of Justice, namely that USA can freely transport prisoners through the airspace without Danish consent, as long as the aircraft does not stopover on Danish territory. The Ministry of Justice's position on the legality of use of Danish airspace should have been included in the report and has not been made public in connection with the publication of the 2008 Inter-ministerial report. Furthermore, the perception of the Ministry of Justice is contrary to the political guarantee provided by the USA in 2008 that prohibited all rendition flights without the prior express permission by the Danish State. Finally, the report concludes that the guarantee given by the USA should not be interpreted as a broad legal guarantee including all transports of detainees but political guarantee safeguarding against extraordinary renditions, especially seen in the light of the interpretation of the Ministry of Justice.

133 Carry out an inclusive evidence-based evaluation of the Danish antiterrorism legislation Netherlands

The Danish government has not carried out an inclusive evidence-based evaluation of the Danish anti-terrorism legislation. The previous government presented a 50 page overall summary of the anti-terrorism legislation, which was basically a summary of the powers given to the authorities – as perceived by the very same authorities, including the Ministry of Justice, The National Police, the Security and Intelligence Service – who all stated that the powers given to them had been administered with discretion and restraint. But the report held no indication of the possible practices in consequence of these powers – as seen by independent researchers or others - and certainly no questions as to the possible side-effects in terms of weakened judicial oversight with the use of these powers.