



JOINT NGO SUBMISSION IN CONNECTION WITH DENMARK'S MID-TERM REPORTING ON THE IMPLEMENTATION OF THE 2021 UPR RECOMMENDATIONS (THIRD CYCLE), 29 February 2024



The authors of this report are the Danish UPR Committee and the following 32 organizations¹:

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- Amnesty International Denmark
- Association of Aliens' Lawyers
- Better Psychiatry – National Association of Relatives
- Children's Rights National Association
- Danish Helsinki Committee for Human Rights
- Danish Law Association
- Danish National Council for Children
- DIGNITY – Danish Institute Against Torture
- Disabled People's Organizations Denmark
- DRC - Danish Refugee Council
- Ellebæk Kontaktnetværk
- EuroMed Rights
- European Anti Poverty Network
- European Network against Racism
- Forsete – Legal and Criminal Policy Think Tank
- Intersex Danmark
- IRCT - International Rehabilitation Council for Torture Victims
- Joint Council for Child Issues
- KVINFO
- LGBT Asylum
- LGBT+ Denmark
- New Europe
- OASIS – Treatment and Counselling of Refugees
- Refugees Welcome
- Save the Children
- Save the Children Youth
- Danish Family Planning Association
- United Nations Association Denmark
- Women's Council Denmark
- KULU - Women and Development
- Youth for Human Rights

We would like to thank the Danish Government for involving civil society organizations in the preparation of its national mid-term report and generally in the UPR-process. We would also like to thank the Danish Institute for Human Rights for providing secretarial support and the Danish Red Cross for good sparring on many issues. Our answers mainly address recommendations accepted by Denmark fully or partly (Part A). However, one recommendation noted by Denmark is also addressed in the report (Part B).

¹ The UPR-Committee consists of organizations who are member of the Danish Human Rights Council.

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A: RECOMMENDATIONS ACCEPTED BY DENMARK

INCORPORATION OF HUMAN RIGHTS CONVENTIONS

UPR recommendation(s): 60.30 (Morocco); 60.31 (Saudi Arabia); 60.35 (Uzbekistan) – Integration of international obligations into national legislation

1) Status of Implementation

Denmark's position on the issue of incorporation of UN human rights conventions was subject to political debate and deliberations in 2014. The conclusion was that the conventions would not be incorporated into Danish legislation. Since then, no political initiatives have been taken regarding incorporation - neither by former governments nor by the present government, which came into office in late 2022.

Denmark replied in its mid-term report of 2023 that international obligations regarding human rights are implemented through norm-harmony or by transforming the content of the conventions into Danish legislation.

We welcome that Denmark has taken the initiative to criminalise torture in the Danish Criminal Code.

However, we take the view that Denmark has not fully implemented the above-mentioned recommendations.

2) Challenges

The non-incorporated human rights conventions have a lower legal status than Danish law. If there is a conflict between the two sources of law, Danish law would prevail in a court case. Therefore, a change of position by the Government to allow incorporation into Danish law would increase the protection of those rights that are enshrined in the human rights conventions.

3) Key recommendation

We recommend incorporating the UN human rights conventions into Danish law, including the UN Convention against Torture and the UN Convention on the Rights of the Child.

EQUALITY, RACISM AND ANTI-DISCRIMINATION

UPR recommendation(s): lack of clear anti-discrimination legislation and measures to fight discrimination: 60.38 (Republic of Korea); 60.40 (Nicaragua); 60.41 (Turkey); 60.42 (Chile); 60.43 (Libya); 60.44 (State of Palestine); 60.45 (Tunisia); 60.46 (United Kingdom of Great Britain and Northern Ireland); 60.47 (Malaysia); 60.49 (Bangladesh)

1) Status of Implementation

Denmark replied to many of the recommendations regarding discrimination in a general manner noting that the Government attaches great importance to combatting discrimination;

that all citizens in Denmark are equal before the law; and that public authorities cannot discriminate against citizens on any ground. However, examples of new measures to specifically address the anti-discrimination recommendations were missing from Denmark's mid-term report. We take the view that Denmark has not fully implemented the above-mentioned recommendations, as explained below.

2) Challenges

This report will focus on the below four contexts in relation to which further measures are required to prevent discrimination:

- 1) Duties at deportation centers;
- 2) Overall model for receiving refugees in Denmark;
- 3) Discrimination experienced by refugees; and
- 4) Inequality in representation in politics and in listed companies

Ad 1): Among persons, who are assigned residence at a deportation center in Denmark (i.e., Kærshovedgaard, Sjælsmark or Avnstrup)², we will focus on two groups: 1) rejected asylum seekers who await deportation and 2) foreigners who have received a deportation judgement. The framework of and the conditions at Kærshovedgaard are described in Annex 2. Three key restrictions on the freedom of movement exist for these persons, and non-compliance with these restrictions results in severe penalties (see Annex 2). First, these persons must reside at the center (i.e., duty-to-stay). Secondly, they must report to the center daily or three times a week (i.e., duty to report) and, thirdly, they must notify the center of absence. The duty-to-report can be justified either by immigration law considerations or for the purpose of 'prevention of crime or public disorder'. When justified by the latter, imposing the duty-to-report is discriminatory in our view. Reference is made to jurisprudence of the European Court of Human Rights.³

Ad 2): The response of the Danish Government to the war in Ukraine was strong support to Ukrainian refugees. New legislative measures were adopted, including most importantly, a special law that provided temporary residence to the refugees and facilitated quick access to housing and employment. They are also entitled to efficient reception by the Danish municipalities.⁴ The law, which runs until 17 March 2025, serves as a 'fast track' to integration into the Danish society and allows Ukrainians to obtain residence permits without seeking asylum and after only a few weeks of case work. It also provides for private accommodation and direct access to the labor market, schools, and childcare facilities. Moreover, the law also

² For facts on the deportation centers, see also <http://refugees.dk/en/facts/the-asylum-procedure-in-denmark/asylum-centers-and-deportation-centers/>.

³ A. and Others v. The United Kingdom, 19. February 2009 (sag 3455/05)

⁴ Special act on temporary residence permit granted to people who were displaced from Ukraine, 16. March 2022, <https://www.retsinformation.dk/eli/ta/2022/324>, renewed 12. December 2023, Lov om ændring af udlændingeloven, lov om midlertidig opholdstilladelse til personer, der er fordrevet fra Ukraine, og hjemrejseloven (Styrkelse af udlændingemyndighedernes og politiets værktøjer til kontrol af udlændinges indrejse og ophold i Danmark)ation.dk).

proposes increasing social allowance for Ukrainian women who are sole breadwinners in Denmark, while their spouse takes part in the war in Ukraine.

Thus, in conclusion, the aim of the law has been to provide Ukrainian refugees with the opportunity to have a normal everyday life in Denmark, as quickly as possible, and this includes e.g. work, education and childcare.

This approach should serve as a model for all refugees, irrespective of their origin, as it underscores the capacity of the Danish society to compassionately and effectively integrate refugees into our society.

Ad 3): Since 2014, the major Danish political parties have significantly changed their immigration policies and today their mainstream strategy is “tough on immigrants.” In our view, this shift in paradigm has entailed an increase in the discrimination experienced by refugees.

First, we note that the many refugees who receive pecuniary benefits for integration experience a dire financial situation and suffer from the hardships of the low level of benefit. They are very limited in their possibilities to maintain social relationships and participate in activities outside the home. This situation affects their children, who are not able to attend social activities such as sport and other leisure activities.

Secondly, refugees are not eligible to receive the same benefits as citizens residing in the country, as unemployed refugees cannot move away from the lowest allowance (the self-sufficiency and return allowance) until they have lived legally nine out of the last ten years in Denmark and had a full-time employment for 2 years and six months. Also, benefits for children, the elderly and the disabled are reduced according to how many years the person stayed in Denmark. Thus, this especially affects newcomers, the unemployed, children and the elderly, which results in inequality and poverty.

Thirdly, the former “ghetto law”, now re-named “law concerning parallel societies”, still includes a criterion for ethnicity (see below in section regarding housing).

Fourthly, immigrants also face great difficulties in meeting the strict criteria for permanent residency and citizenship. This results especially in discrimination towards those who are disabled or suffer from trauma (see further below in section on persons with disabilities)

Finally, Denmark has not yet taken concrete steps to fight discrimination against the individual in society⁵ such as hate speech and ethnic profiling⁶. Both very rarely addressed or

⁵ <https://www.humanrights.dk/publications/experienced-ethnic-discrimination-denmark>

⁶ <https://menneskeret.dk/sites/menneskeret.dk/files/media/document/Ethnic%20profiling%20-%20main%20results%20from%20three%20studies%2C%20April%202022.pdf>

prosecuted. The state does not seem to take perceived discrimination among ethnic minorities very seriously, but rather tends to dismiss it as overly sensitive.

3) Key recommendations

We urge Denmark to amend legislation so that duties-to-report to deportation centers can only be based on immigration law considerations.

We commend Denmark for implementing the approach from the Ukrainian crisis and propose it as a model for receiving other refugees seeking protection in Denmark.

A national action plan to combat racism should be formulated as soon as possible, involving all relevant stakeholders including civil society.

Denmark should remove the criterion of ethnicity from the law on parallel societies and abolish the special rules that only apply to inhabitants in those areas.

Social benefits should be the same for all inhabitants, neither depending on their length of stay nor their origin.

UPR recommendations: 60.212 (Belgium): Step up efforts to increase women's representation in politics and in companies

1) Status of Implementation

Denmark's mid-term report refers to the representation of women in political positions, but it lacks reference to measures that are planned or taken in order to increase their representation in political positions. Therefore, in our view, Denmark has not implemented the recommendation in this respect.

With regards to listed companies, i.e., larger private enterprises, the mid-term report describes measures taken and the support for the EU directive promoting women in company boards (Dir. EU 2022/2381).

2) Challenges

Although the equal representation of genders in the Danish Parliament is an important milestone after the election in 2022, women are still not equally represented in political positions in general in Denmark. The representation of women in Danish municipal politics increased as a result of the municipal elections in 2021, but it is still far below that in the countries with which Denmark usually compares itself.

A study by the Women's Council Denmark on the municipal elections in 2021 elucidated this point. It concluded that women, indeed, are underrepresented in the most powerful and paid

positions in municipal politics and that they generally find it more difficult than men to achieve real influence.

Sexism is a significant barrier for women in politics. KVINFO investigated the prevalence of sexism among municipal council members in Denmark in 2021. This showed that 51 % of women respondents had experienced discrimination based on gender. Since this, KVINFO has given recommendations to the Government, of which none has been implemented.

As far as company management is concerned, Denmark has strengthened regulations to increase the gender balance in management and boards in both the private and public sectors. This is a positive development, even though the regulation could be strengthened further.

Denmark's mid-term report highlights the fact that Denmark has supported the proposed EU directive on gender balance on the boards of listed companies, which is also positive.

However, the mid-term report leaves the impression that the Government has plans to implement the directive in Denmark. However, as yet the Government has not expressed this. If, on the other hand, the Government plans to apply for an exemption from the directive with reference to the existing Danish law, this should appear in the mid-term report.

3) Key recommendations

We encourage Denmark to take measures to increase women's representation in politics, including by tackling sexism in politics.

We also encourage the Government to fully implement the EU directive on women on boards of listed companies.

UPR recommendation(s): 60.101 (Chile) - Maintain the efforts to promote and protect the rights of lesbian, gay, bisexual, transgender and intersex persons, especially to protect the body integrity of intersex girls and boys

1) Status of Implementation

Denmark's mid-term report referred to a number of measures taken since 2020.

2) Challenges

In Denmark, surgery and treatment of intersex children are carried out and include e.g. hypospadias repair, vaginal-urethral separation, and removal of undescended testicles. They

are classified as medically necessary, despite evidence to the contrary. See further information provided by Intersex Danmark (Annex 1).

The issue of surgery and treatment performed on intersex children, at a younger age than when their consent is needed legally, has been addressed by various UN Treaty Bodies.⁷

We would also like to highlight the issue of professionals considering intersex children and adults, who do not identify with the sex they were assigned at birth, as transgender persons. This is problematic, as it is pathologizing.⁸ The sex they identify with can be consistent with some aspect of their sex development, such that their registered gender may be wrong.⁹ Moreover, health services designed to meet the needs of transgender people do not necessarily have capacity or skills to manage the healthcare of infants, children, adolescents or adults with intersex variations. Therefore, this stands in the way of some intersex people's right to bodily autonomy, physical integrity, self-determination and highest attainable health..

Finally, in Denmark, intersex and transgender women, who are incarcerated in prisons, have been placed in men's wards. They report been denied their rights, and they have experienced being ridiculed by other inmates - without guards stepping in - and by guards themselves. Female identified transgender and intersex inmates report being frisk searched by male guards and are denied the right to wear feminine attire in the prison.

3) Key recommendation

We recommend Denmark to increase efforts to better promote and protect the rights of intersex persons.

CHILDREN

UPR recommendation(s): 60.100 (Uruguay); 60.102 (Malta) – Modification of legal gender

1) Status of Implementation

Denmark's mid-term report refers to the on-going initiatives regarding minors who like to modify their legal gender and to the Government's interest in following up on the implementing of its LGBT Plan 2020-25.

⁷ Committee on the Rights of the Child, CRC/C/DNK/CO/5, 26 October 2017 para 24 and UN Committee against Torture, Concluding Observations, 8 December 2023.

⁸ Europarådets Bioetikudvalg *The Rights of Children in Biomedicine: Challenges posed by scientific advances and uncertainties (2017)*, p. 41 para 1: <https://rm.coe.int/16806d8e2f>

⁹ Background Note on Human Rights Violations against Intersex People, OHCHR, p. 29, para 3:: [BackgroundNoteHumanRightsViolationsagainstIntersexPeople.pdf \(ohchr.org\)](https://www.ohchr.org/documents/default.aspx?docid=46111)

2) Challenges

It is welcomed that the Ministry of the Interior and Health in August 2023 changed its practice. Thus, now whether an individual under the age of 18 has the right to modify their legal gender must be based on a concrete and individual assessment.

Furthermore, it is welcomed that the Government's legislative program for 2023/2023 states that new legislation will be presented then to allow minors to modify their legal gender.

3) Key recommendation

We welcome the expected amendment of the age limit for changing legal gender.

HUMAN RIGHTS, ENVIRONMENT AND CLIMATE CHANGE

UPR recommendation(s): 60.108 (Haiti); 60.110 (Bhutan): Take concrete measures to combat the negative impacts of climate change, both at home and abroad ; Continue its contribution to the international climate finance and continue its efforts in addressing the climate crisis, particularly in developing countries.

1) Status of Implementation

Denmark's mid-term report refers to general commitments regarding climate change.

2) Challenges

In February 2023, the third year in a row, the Danish Council on Climate Change stated that the government had not yet done enough to achieve the goal of a 70% reduction in carbon emissions by 2030, compared to the level of emissions in 1990. In November 2023, the Council stated that Denmark makes a very large climate footprint beyond its borders, and that this is not regulated by current goals or benchmarks.

There is a need for the Danish Government to live up to its global policy commitments on additional climate financing. The participation of Denmark in the establishment of the loss-and-damage fund is welcomed, but the fund must place human rights and marginalized groups at its core.

3) Key recommendations

Denmark must address its large climate footprint beyond its borders.

In addition, Denmark must deliver on its stated commitments by allocating additional climate financing to those suffering the greatest losses and damages due to the climate crisis. The additional funds for climate change initiatives should be in addition to the 0.7 development assistance of the BNI and not simply re-allocated funds from development or humanitarian assistance.

Denmark must help ensure that the loss-and-damage fund places human rights at its core. For all damage caused by climate change in developing countries, the fund must provide comprehensive, fast and effective remedy and redress to the communities thus affected. These are often already marginalized groups.

Denmark must help ensure that historical emitters of greenhouse gases make the largest financial contributions to the loss-and-damage fund, with additional funding based on the polluter-pays principle. The fund should offer grants rather than loans in order to avoid increasing the indebtedness of developing countries. Likewise, in order to ensure that all developing countries in need are eligible for funding, it should not be run by the World Bank.

HUMAN RIGHTS AND BUSINESS

UPR recommendation 60.113 (Islamic Republic of Iran) and related recommendations: Ensure that their businesses respect human rights and avoid environmental damage in other countries

1) Status of implementation

Denmark's mid-term report mentions that there is an ongoing process in the EU to adopt the Corporate Sustainability Due Diligence Directive (CSDDD).

2) Challenges

It is positive that the Danish Government supports this ambitious EU directive on due diligence for human rights and for the environment with a focus on large companies.

If the Due Diligence Directive were to become consistent both with the UN Guiding Principles on Business and Human Rights and with the OECD Guidelines for Multinational Enterprises, then the Directive will meet most of the UPR recommendations on business and human rights that Denmark has accepted. However, there is a large risk that the Directive will not live up to the UN and OECD requirements.

Amongst other things, it is imperative that the new regulation makes it mandatory for companies to conduct due diligence on their entire value chain, both upstream and downstream, and that victims of human rights abuses involving companies get proper access to legal remedies. It should also be made mandatory that companies have to work in depth to investigate their adverse human rights impacts and then mitigate them. Concerning impacted stakeholders and vulnerable groups, transparency and proper stakeholder dialogue are also essential. When the EU Directive is transposed into Danish law, and if the Directive does not ensure proper transparency and dialogue with impacted stakeholders, then the Danish government must go beyond the minimum requirements of the Directive.

3) Key recommendations

The Danish Government should ensure proper coherence between the obligations accepted as part of the UPR and the EU Corporate Sustainability Due Diligence Directive.

The Danish Government should also ensure that transposition of this directive into Danish law in fact also lives up to both the UN Guiding Principles on Business and Human Rights and to the updated OECD Guidelines for Multinational Enterprises, even though the EU directive itself does not live up to them. Otherwise, the Government will not live up to its UPR obligation.

Finally, the Danish Government should propose further initiatives that will ensure that Danish companies live up to human rights. These initiatives could include guidance, support and supervision of company activities.

In the event that the EU Directive does not materialise, it is important that the Danish Government ensures that it still lives up to its UPR obligation. It is our clear expectation and recommendation that the Government then puts in place ambitious Danish legislation on due diligence and access to legal remedies.

UPR recommendation: 60.116 (State of Palestine) – Enact specific legislation to conflict-affected areas and provide guidance and advice for business enterprises on ensuring respect for human rights to prevent and address the heightened risk of corporate involvement in gross human right violations in conflict-affected areas, including situations of foreign occupation

1) Status of Implementation

Denmark's mid-term report refers to the ongoing process in the EU to adopt Due Diligence legislation on Business and Human Rights and the Environment (the CSDDD).

2) Challenges

New wars have erupted since 2021. This makes it increasingly important to ensure that companies avoid complicity in human rights violations in war and armed conflicts, directly or indirectly. This is contrary to current practice by the Danish Government. In particular, supply and export of weapons and military equipment or parts thereof need full attention through mandatory export control and guidance of companies.

3) Key recommendations

The Danish Government must ensure that companies under its jurisdiction avoid getting involved in human rights violations in wars and other forms of armed conflicts, including occupation, through strict adherence to export prohibitions for war and conflict zones.

In particular, the Danish Government is urged to ensure that companies under its jurisdiction do not act in a way that conflicts with rulings of the UN Security Council, the International Court of Justice (ICJ) and the International Criminal Court (ICC), as well as with the mandatory provisions of the EU and the UN.

The Danish Government must live up to its legal obligations under the Arms Trade Treaty and the Council Common Position 2008/944/CFSP. These emphasize the need for a case-by-case assessment of export licenses. If there is a risk that exported arms will be used in violation of international humanitarian law, the export should be forbidden.

PROHIBITION AGAINST TORTURE AND INHUMAN OR DEGRADING TREATMENT

UPR recommendation(s): 60.124 (DPR Korea) – Cease torture and cruel and inhuman treatment in places of detention, particularly for persons with an immigration background

1) Status of Implementation

Denmark's mid-term report refers to Denmark's commitment to maintain appropriate standards in prisons.

2) Challenges

As mentioned in our joint report to the UN Committee against Torture, October 2023, there are a number of issues in places of detention that could entail inhuman treatment (see Annex 3). This includes the use of pre-trial detention with conditions of de facto solitary confinement; involuntary exclusion from and the use of pepper spray.

3) Key recommendation

Denmark is urged to implement the conclusions of 8 December 2023 made by the UN Committee against Torture and recommendations by the European Committee for the Prevention of Torture (CPT), including the recommendations related to the prevention of inhuman treatment in places of detention.

UPR recommendation(s): 60.136 (Ireland); 60.140 (Sweden) – Reduction of solitary confinement as a disciplinary measure in places of detention

1) Status of Implementation

Denmark's mid-term report refers to the latest legislative amendments with regards to solitary confinement.

2) Challenges

As mentioned in our joint report to the UN Committee against Torture, October 2023, there are still a number of concerns in relation to the use of solitary confinement as a disciplinary measure (see Annex 3).

3) Key recommendation

Denmark is urged to implement the recommendations about solitary confinement that are included in the concluding observations of 8 December 2023 by the UN Committee against Torture.

UPR recommendation(s): 60.141 (Bolivarian Republic of Venezuela) – Take measures against serious overcrowding in prisons, terrible prison conditions and the violation of inmates' rights

1) Status of Implementation

Denmark's mid-term report refers to Denmark's commitment to maintain appropriate standards in prisons.

2) Challenges

At present, the Danish Prison and Probation Service is seriously challenged by lack of capacity, as well as lack of prison officers. Pre-trial detention facilities and prisons are overcrowded with an occupancy rate of 101 %.

The Danish Prison and Probation Service's multi-year agreement for the years 2022 – 2025 is to increase capacity with 326 beds before the end of 2025, and the Service is planning to rent an extra 300 beds in Kosovo. Also, four new reintegration prisons with a total of 77 beds are to help the capacity challenge along with extended use of home detention with electronic monitoring. It has been decided to strengthen the recruitment of prison officers and to better their work conditions. A very new pay agreement will increase the salary of prison officers.

Due to lack of capacity and prison officers, common areas in wards have been taken out of use in order to serve as capacity. The access to in-prison employment, spare time activities, visits and phone use have been reduced. In some institutions, two inmates are housed in a single cell of as low as 7 square meters, that is less than the minimum standard of 8 square meters.

In pre-trial detention facilities, some inmates are, in fact, in their cell for 23 hours per day.

These conditions are disturbing, as the conditions and the prisons themselves in some cases are close to violating EMRK Article 3.

For years to come, the Danish Prison and Probations Service will lack beds and staff. As well, it is disturbing that the occupancy rate is increasing. We welcome that the Danish Government recently has asked the Criminal Code Council (Straffelovrådet) to suggest alternatives to imprisonment. This is a positive development. However, this will take time, and the current situation calls for urgent action.

Even if the Prison and Probation Service succeeds in renting prison beds in Kosovo, it will be difficult to live up to the requirements set out by the Danish parliament. These specify that the sentence being served must be according to Danish rules on the enforcement of sentences and be according to Denmark's international obligations. A particular challenge is that Kosovo is not a member of the Council of Europe and thus not party to the European Court of Human Rights. Therefore, a prisoner would not be able to lodge a complaint against the state of Kosovo for torture, inhuman or degrading treatment.

3) Key recommendations

Denmark should make efforts to implement the recommendation on how to address overcrowding, as recommended by the UN Committee against Torture, December 2023:

Improve the conditions of detention in all places of deprivation of liberty and alleviate the overcrowding of penitentiary institutions and other detention facilities, including through the application of non-custodial measures and the recruitment of an adequate quantity of trained staff.

THE RIGHT TO HEALTH

UPR recommendation(s): 60.125 (Italy); 60.126 (Sweden); 60.127 Austria) – Use of Coercion in psychiatric institutions

1) Status of Implementation

Denmark referred to the Mental Health Act and that the use of fixation or coerced medication can only be used in accordance with the Act.

2) Challenges

The Mental Health Act, section 14, stipulates that fixation must only be used short-term and to the extent necessary to prevent harm against the patient or others, to prevent the patient from following or harassing other patients, or if the patient vandalizes property in a significant degree. However, a patient can be restrained for more than a few hours if the restraining of

the patient ensures the life or security of the patient or others. When restraining a patient, only belt-, hand- and foot-restraints and gloves may be used.

The use of mechanical restraint, e.g., fixation by belt, is widespread in Danish psychiatric institutions. For this reason, since 2014 there has been an increased political attention to the reduction of the use of coercion in psychiatric institutions.¹⁰

In the period from January to December 2021, the total number of initiated restraints was 4623. In the period from January to December 2022, the figure was 4904. Thus, there has been an increase of 6 % from 2021 to 2022.¹¹ After the ECtHR's ruling in *Aggerholm v. Denmark*, there have been several cases regarding the use of coercion in psychiatric institutions.¹² In some of these cases, a complaint has been filed against Denmark before the European Court of Human Rights.¹³ The case of *Makki v. Denmark* is still pending: the complainant was restrained by belt for 11 days in a psychiatric hospital.

On 7 August 2023, the National Audit Office published a note regarding the plans to reduce the use of coercion in the Danish psychiatry. The Office found that the initiatives by the Danish Ministry of Health were not sufficient.¹⁴

3) Key recommendations

Denmark should ensure that:

- Precise and comprehensive justification is provided before initiating and maintaining restraints by belt.
- Proper monitoring and assessment by doctors is provided in the case of the continued use of restraints by belt.

UPR recommendation(s): 60.197 (Australia); 60.201 (China); 60.202 (Ethiopia) – Equal access to health services

1) Status of Implementation

Denmark's mid-term report refers to the right of all citizens to public health services and that affordable language translation is available.

¹⁰ DIGNITY and Better Psychiatry, Briefing Note: The Use of Coercion at Psychiatric Institutions, 25 May 2023...

¹¹ The Danish Health Authority, Annex report to the Ministry's report on Monitoring of coercion in psychiatry, 1 May 2023..

¹² DIGNITY, Better Psychiatry and Danish Institute for Human Rights, Communication to the Committee of Ministers for the the Execution of Judgements and of Terms of Friendly Settlements in the Case of *Aggerholm v. Denmark*, 17 March 2022.

¹³ *Dam v. Denmark* (application no. 1349/21), *M.P. v. Denmark* (application no. 25263/22) and *Makki v. Denmark* (application no. 10297/23).

¹⁴ The National Audit Office of the Parliament, Note on efforts to reduce the use of coercion in the Danish psychiatry, August 2023. Available at: [Notat om opfølgning i sagen om indsatsen for at nedbringe brug af tvang i psykiatrien \(rigsrevisionen.dk\)](https://www.rigsrevisionen.dk/notat-om-opfoelgning-i-sagen-om-indsatsen-for-at-nedbringe-brug-af-tvang-i-psykiatrien).

2) Challenges

After three years of residence in Denmark, immigrants lose their right to free translation in meetings with general practitioners as well as in hospitals. By then they are expected to be able to speak sufficient Danish. Undocumented women have no access or right to consultations with a midwife during pregnancy, and only acute births are free of charge at hospitals. Provoked abortions or planned cesarians are not. After the birth, the mother and child have no access to wet-nurse or regular health control, including vaccination.

The self-payment for translation affects immigrants' access to health care in practice, as many choose to manage without a translator or ask a family member for help. This jeopardizes the communication between the patient and the doctor, causing a serious risk of misunderstandings, about which the Danish Medical Association has warned strongly.

For undocumented migrants and in some cases migrant workers without access to public healthcare in Denmark, the Danish Red Cross runs four non-profit health clinics offering basic medical assistance and consultations with e.g. doctors, midwives, and physiotherapists. The clinics are promoted to their target group online and through various networks, but there are still many who do not know they exist.

3) Key recommendations

We recommend that the Danish state abolish the requirement of self-payment for translation after three years of residency in the country, and that the state should provide free interpretation for any foreigner who needs it when communicating with the public sector in important matters such as health or legal affairs.

We also recommend that access to a midwife, to hospital services such as giving birth and wetnurse all are secured even for undocumented women and their children, and that adult asylum seekers are granted full rights to health service.

SEXUAL AND GENDER-BASED VIOLENCE

UPR recommendation(s): 60.129 (Nicaragua); 60.130 (Bahamas); 60.131 (Liechtenstein) - Establishing of effective mechanisms to prevent and prosecute sexual and gender based violence

1) Status of Implementation

Denmark's mid-term report underlines that Denmark attaches great importance to this matter.

2) Challenges

In our view, Denmark has not successfully implemented effective measures to prevent sexual and gender-based violence (SGBV).

Rape

In 2021 amendment were made to Section 216 in the Danish Criminal Code changing the legislation on rape to be based on the lack of consent.

While the provision for rape as lack of consent is a milestone, rape is unfortunately still widespread. The vast majority of rapes are still not reported, and only a small proportion of the reports lead to convictions. According to Statistics Denmark, in 2022, in all 1,925 reports were filed and 1,209 charges were brought for rape, and 138 were convicted. At the same time, the Ministry of Justice's victim survey estimates that 14,000 women are subjected to rape or attempted rape per year.

Comprehensive sex and gender education

In light of the 2021 legislative amendments to Section 216, sex educators see a need for strengthening young people's knowledge and understanding of rape and consent.

Comprehensive sex and gender education plays a key role in teaching young people about non-stereotyped gender roles, consent, mutual respect, the right to personal integrity, and in preventing sexual violence. However, according to survey results from the Danish Crime Preventive Council, prepared by Aarhus University,¹⁵ strongly stereotyped and erroneous notions about rape abound among young people, especially in 16-20-year-old men. This is a problem, as myths about rape can increase the risk of abuse. This same report also points out that a strengthened information effort, which can spread the understanding of consent and break down gender stereotypes and myths about rape, can reduce the number of rapes, contribute to a larger proportion of victims reporting to the police and that fewer are retraumatized in the attempt to deal with their situation.

The Crime Prevention Council has recommended following good experiences from abroad, especially concerning prevention.¹⁶

While sex education is technically mandatory in Danish schools, it is not prioritized sufficiently. Compared to other subjects, it is not specified how many lessons students should receive, and most teachers teaching the subject are not qualified. It is a significant step forward that sex education is now mandatory in upper secondary education (since 2023). However, the content of sex education and number of lessons students need have not been

¹⁵ Sarah van Mastrigt & Terese Hartmann, [Unges stereotype holdninger til voldtægt](#), Det Kriminalpræventive Råd, 2021.

¹⁶ Ibid.

specified. Furthermore, it has not yet been decided if sex education should be mandatory in *other* relevant parts of the education system.

Denmark should require courses on gender, sexuality and diversity in all levels of education of teachers in order to provide them with the to address gender stereotypes and prevent gender-based violence.

Perpetrators

Within recent years, Denmark has set aside more funds to increase the capacity of treatment of perpetrators, outpatient counselling to people exposed to domestic and gender-based violence, and training in risk assessment for public employees. Thus, there has been progress in preventive intervention and treatment programmes.

However, since intervention and treatment of both perpetrators and victims are essential to prevent and stop violence, further strengthening is still needed. For example, outpatient treatment is neither nationwide nor financed on permanent a basis.

Established treatment programmes seem insufficiently coordinated. For example, not all victims of domestic violence taking lodging with shelters are notified when the perpetrator is released from prison, despite legal requirements of this, or from psychiatric hospitals, fails to appear in treatment programmes, or makes threats towards the woman or the shelter during meetings at the municipality office. Thus, it is challenging to ensure the security of victims of violence. As long as municipalities do not need to offer or impose treatment on perpetrators of domestic violence, the help depends on the respective municipality's practice and cooperation with the woman in question and the NGOs in the field. Furthermore, it depends on the awareness and motivation of the perpetrator whether he or she is offered treatment.

Police: interdisciplinary and specialized teams

As of 2021, all police districts in Denmark have interdisciplinary teams for cases relating to domestic physical and psychological violence, rape, stalking and honour-related crimes. In each police district, the specialised team consists of three civilians (so-called key persons) with various analytical and social work educations. The specialised teams hold several functions in case handling, cooperation with other authorities, and education of police and frontline staff of other authorities on the above-mentioned complex crimes.

The specialised teams constitute a great resource and improvement of the police's understanding of and competence in handling complex cases of gender-based violence and rape, stalking and honour-related crime. In addition, the teams can present innovative and knowledge-based approaches to handling cases, etc.

Many work assignments and expectations are placed on the specialised teams in each police district. The police director of the given police district employs the key persons for the

specialised team. There are no formal, national guidelines for the teams' work, so the teams' assignments differ from district to district. In many police districts, the respective teams have made positive initiatives for victims of gender-based violence. However, the lack of national guidelines leaves victims (and perpetrators) with different case handling and investigation depending on the police district. This does not contribute to a uniform treatment of victims (and perpetrators) on a country-wide level.

Furthermore, the recent criminalisation of psychological violence and stalking, as well as other factors related to interpersonal violence, has led to a considerable rise in the number of police reports of often complex cases. This, however, has not caused further allocation of financial and personnel resources to the police, which may hamper the specialised teams in meeting the great expectations placed on their work.

Also, the lack of national guidelines makes evaluating the specialised teams' contribution to the police handling of gender-based violence cases difficult, if not impossible, as there is no common framework to measure against.

3) Key recommendations

Denmark should establish practical experiments and research-based interdisciplinary knowledge about strategies on prevention of domestic and gender-based violence and the effect of various possible primary prevention efforts at daycare, preschool and school age.

Denmark should implement systematic primary prevention of sexual violence and intimate partner violence, with special attention to vulnerable groups including interventions promoting understanding of consent and breaking down gender stereotypes and myths about rape.

Denmark should set a number of mandatory lessons in sex education in schools and upper secondary schools and strongly consider sex education to become mandatory in *other* parts of the educational system, especially with regards to youth education/post-secondary education, including vocational and other technical schools.

Denmark should establish and secure permanent funding for more qualified outpatient counselling and support outside shelters for women exposed to violence, with professionals specialised in gender-based violence and social and legal issues. In addition, outpatient counselling should be a right – not an option for the few – and thereby reflected in the Consolidation Act on Social Services.

Denmark should ensure sufficient statistical data on perpetrators convicted of sexual violence and domestic violence as seen in other areas (e.g., the statistical data on people convicted of gang crime or terrorism). Denmark should require perpetrators convicted of domestic violence to receive psychological, psychiatric and/or medical treatment.

Denmark should institute national guidelines and a common structural framework for the specialised teams in the police district, defining their common work assignments and obligations. This would uniform the teams' contribution to police handling cases on domestic physical and psychological violence, rape, stalking and honour-related crime. The guidelines should also cover police participation in intersectoral cooperation, such as with social welfare and health authorities and specialised NGOs.

Presently, the specialised teams consist of only three key persons in each police district. Given the teams' extensive and diverse workload and difficulties meeting the needs of the police, Denmark should ensure a greater personnel capacity for each specialised team.

UPR recommendation(s): 60.132-60.135 (Tunisia, Australia, Cyprus and Dominican Republic) – Continue efforts to increase protections for victims of gender-based violence during investigations, including regular training for relevant professionals on the National Police Guidelines

1) Status of Implementation

Denmark's mid-term report refers to various initiatives, including training of police officers.

2) Challenges

Denmark has launched a new action plan on intimate partner violence, but there are still serious barriers for help for immigrant women who are victims of intimate partner violence and have gained their residency permit by family reunification.

Victims who are immigrants with a residence permit based on family reunification may be hesitant to leave their violent partner for fear of losing their residence permit. These victims need to prove not only that violence occurred but also that they left their partner as a direct result of the violence. Therefore, some victims stay in violent relationships and do not receive the help that they are entitled to and do not get access to justice.

In the (Baseline) Evaluation Report on Denmark,¹⁷ GREVIO strongly encouraged the Danish authorities "... to increase the level of attention paid to women victims of gender-based violence in policy documents and funding choices and to ensure the full recognition of the different forms of violence against women covered by the Istanbul Convention as gender-based violence."

The Action Plan against Partner Violence and Homicides¹⁸ from June 2023 recognises women as victims of violence and domestic violence, and as more often exposed to severe physical violence. Generally, the Action Plan is gender-neutral, as also indicated by its title.

¹⁷ GREVIO, (Baseline) Evaluation Report on Denmark, 24 November 2017, para 10.

¹⁸ Regeringen, [Handlingsplan mod partnervold og partnerdrab](#), 2023.

Primary prevention of gender-based violence has never been a priority in any of the national action plans. All the previous action plans have used the word *prevention* several times, but primary preventive measures (prevention of violence *before* it occurs) have been largely absent.

3) Key recommendations

In accordance with the recommendation by the Danish Institute for Human Rights regarding victims of violence who have gained their residency permit by family reunification, we urge Denmark to change the law so authorities are obliged to trust the statement of the victim of violence unless they have real reason to doubt the victim's statement.

Denmark should provide a long-term, gender-sensitive, national strategy based on a holistic and comprehensive effort. The effort should rest on an understanding of the interconnectedness of all forms of violence against women and of femicides. It should include physical, psychological, sexual, economic and digital violence against women, femicide, partner homicide, stalking and social coercion and other honour-related crimes. The actions should include permanent primary prevention of all the mentioned forms of violence against women. Thus, the actions should include early detection, protection of and support and treatment for all victims of intimate violence and at risk of partner killings, adults as well as children. Also, actions should be directed towards perpetrators.

FREEDOM OF THOUGHT, CONSCIENCE AND RELIGION

Recommendation(s): 60.142 (Romania); 60.144 (Nicaragua) – Freedom of religion and belief

1) Status of Implementation

Denmark's mid-term report refers to the guarantees of personal freedom enshrined in the Danish constitution and the European Convention on Human Rights.

2) Challenges

Our focus is on freedom of expression, which is one of the most fundamental freedoms in a democratic society. This freedom is current in Denmark due to the new ban on so-called "improper treatment of religious writings of significant importance to a recognized religious community." This restriction entered into force in December 2023, when the Danish Parliament adopted an amendment to the Danish Criminal Code [article 110e (2)].

This could lead to situations in which citizens use their right to express criticism of religion and then risk being punished by the state.

In our view, the new Danish legislation is problematic because it introduces a general ban. This is not the way forward, as the specific expression and action must always be assessed in its proper context. It matters who is the author of the expression and what was the intention, context and form of the expressions, as well the damage caused by the expression.

We are concerned that the imprecise restriction of freedom of expression in the Criminal Code risks criminalizing speech about faith and religion.

3) Key recommendations

Denmark must ensure freedom of expression as long as it does not contribute to hatred or violate the rights of others.

Specific cases regarding freedom of expression should be assessed on a case-by-case basis taking into consideration e.g., context, intention, consequences etc.

Denmark should also ensure the rights of minority persons and prevent hatred directed against minorities.

HUMAN RIGHTS AND MODERN SLAVERY

UPR recommendation(s): 60.149 (Jordan); 60.148 (Iraq) – Full investigation in cases of human trafficking and effective prosecutions. See also UPR recommendation(s): 60.151 (Nigeria); 60.153 and 60.158 (China).

1) Status of implementation

Denmark's mid-term report refers to the political agreement of 2020, according to which new resources are to be allocated to the police to investigate trafficking. Denmark's report also refers to a new amendment to the Criminal Code.

2) Challenges

The Danish sex industry is strong and widespread with a large market for women from African and Eastern European countries. If the women either are caught or report anything to the Danish authorities, they lose their income and they will be deported from Denmark.

Despite the new initiatives, which are mentioned in the Danish mid-term report, the number of cases against human traffickers remains low, and the victims have no incentives to report and collaborate with the police, let alone witness against their traffickers. As long as the victims gain nothing from collaborating with the police, and the Danish authorities do not offer them any other income or any kind of protection, the situation will remain unchanged.

There is no access for these women to a residence permit in Denmark, and only a short time for "reflection" is available. Moreover, there is a risk of violation of the principle of non-

refoulement in cases related to trafficking (see NGO joint report to the UN Committee against Torture (under LOIPR 7), Annex 3).

3) Key recommendations

The Danish authorities should upgrade efforts to identify victims of human trafficking and offer them support based on their needs.

Prosecution of criminal networks is only possible if the victims will witness and cooperate. Therefore, the authorities must offer them security and protection, which will most often include a residence permit and a secret identity.

The trafficked women should therefore legally be entitled to a residence permit, at least in the most severe cases.

THE RIGHT TO WORK AND WORKERS' RIGHTS

UPR recommendation(s): 60.178 (Peru); 60.179 (Togo); 60.180 (Uganda); 60.181 (Zambia) – Women's access to employment

1) Status of Implementation

With regards to immigrants, Denmark's mid-term report refers to the agreement between the Danish Government and two political parties (the Danish Peoples' Party and Danish Democrats). The agreement, from October 2023, introduced a new work scheme/work obligation of a 37-hour work week for certain groups. Only by fulfilling this work scheme can the immigrant receive full cash benefits.

2) Challenges

Barriers to the employment of immigrant women continue to exist, as we explain below.

In order to receive educational assistance and cash assistance, a person must have had legal residence in Denmark for at least 9 out of the past 10 years. Likewise, the employment criterion mentioned above means that the individual must have been in ordinary full-time employment for at least three-and-a-half years or must have exercised self-employment corresponding to this period within the last four years.

The group not fulfilling these criteria will have to work 37 hours a week to receive cash benefits. However, some of the immigrant women who do not meet these criteria are not able to take on 37 hours of work a week due to a number of barriers, including lack of education, language skills and experience.

The obligation to work entails a risk that some immigrant women, who might be able to take on less than 37 hours of employment a week, instead will leave the labor market to stay at home to support the spouse. This will leave them in a more dependent and less empowered

position. For some, it has been useful to participate in volunteer work, mentoring and other kinds of activities run by the civil society. This way they can gain skills to be able to engage in a full-time job.

3) Key recommendations

We encourage the Government to ensure that the 37-hour-a-week work duty is designed so that various employment efforts support the woman's situation. This includes overcoming barriers to employment and developing a greater understanding and confidence in her own abilities, qualifications and opportunities.

The hours so calculated should include language lessons, network building, participation in civil society and other activities that thus support the woman's network, break isolation and improve the possibility of entering and maintaining employment and education.

HUMAN RIGHTS AND POVERTY

UPR recommendation(s): 60.182 (Czechia); 60.183 (Austria); 60.184 (Bahamas); 60.280 (Lithuania) – Establishing of measures to combat poverty

1) Status of Implementation

Denmark has changed the status of its position towards recommendation 60.182 from accepted to partly-accepted. The focus in Denmark's reply is on combatting poverty among vulnerable groups.

2) Challenges

In 2015, the official poverty limit was abolished. The current government does not plan to reintroduce a poverty limit.

According to the survey of living conditions carried out by Statistics Denmark in 2023, 10 % of the Danish population was economically vulnerable.¹⁹ This is an increase of three percent compared to 2022 and the highest level in ten years. The increase in the economically vulnerable population can be seen in light of the high inflation, including large price increases for energy and food during 2022.

The following will focus on a) refugees and b) women.

a) Refugees

First of all, we refer the reader to the section above in the present report on EQUALITY, RACISM AND ANTI-DISCRIMINATION. As explained, in Denmark the reduced "self-sufficiency and return allowance" is often not sufficient to pay basic needs, including rent and food. As

¹⁹ [Levevilkårsundersøgelsen 2023 \(dst.dk\)](#)

explained, this situation affects mainly newcomers, long-term unemployed, children and the elderly, and it does produce inequality and poverty.

Secondly, refugee parents who have come to Denmark recently are only eligible for the extra child benefits according to a vesting principle, so that the full rate is only achieved after 6 years. Thus, after the first year in Denmark, a refugee parent receives only 16.7% of what a Danish parent receives. Moreover, the benefit, which is given to all parents in Denmark regardless of their income, aims at ensuring that extra expenses for children can be met, such as warm clothes in winter. Surveys show that child poverty has a strong negative impact on the rest of the child's life, including a heightened risk of unemployment and crime.

Thirdly, also for elderly with refugee background there is a high risk of economic vulnerability. To be entitled to a full national pension, one must have resided in Denmark for at least 40 years from the age of 15 to 65. People who have not lived in Denmark long enough to obtain the full pension are only granted a reduced pension.

There exists true economic inequality in Denmark between the majority population and ethnic minorities. According to the Government, reduced benefits should urge refugees into maintaining their self-sufficiency. However, studies show that, on the contrary, ethnic-based poverty increases, and even may lead to higher crime rates²⁰.

b) Women

Due to the lack of equal pay for men and women in Denmark, women are at a higher risk of economic vulnerability than men, e.g. women with refugee background, female single parents, and retired women.

According to the survey on living conditions conducted by Statistics Denmark, single-parent households are those with the largest proportion of economically vulnerable people. Of the 162,000 single-parent households with at least one child at home, 46,000 of these, or 28%, were economically vulnerable in 2023. Women obtain a lower pension than men due to men's higher average wage. Even though women set aside a larger proportion of their salary for retirement than men, they have fewer pension savings when they reach retirement.²¹

3) Key recommendations

Denmark should give all inhabitants with residence permits in Denmark access to the same social benefits and should therefore 1) abolish the low benefit for certain refugees; 2) abolish the vesting principle for child support and 3) improve the retirement pension for refugees.

https://migrant-integration.ec.europa.eu/library-document/denmark-effect-reducing-social-support-benefits-refugee-employment_en

²¹See <https://rockwoolfonden.dk/udgivelser/lowering-welfare-benefits/>
<https://socialraadgiverne.dk/faglig-artikel/fattigdom-skader-integrationen/>

In particular, Denmark should take urgent measures to address the gendered aspects of economic vulnerability. This affects e.g. women with refugee background, female single parents and retired women.

THE RIGHT TO ADEQUATE HOUSING

UPR recommendation(s): 60.187 (Sri Lanka); 60.190 (Cambodia); 60.192 (Malta); 60.193 (Finland) – Respect the right to adequate housing

1) Status of Implementation

Denmark's mid-term report refers to several measures that are supposed to respect the right to adequate housing.

2) Challenges

We disagree with the Government's statement in the mid-term report and would like to stress the recommendations of the UN Committee on Economic, Social and Cultural Rights, which recommended Denmark in 2020:

- to provide permanent housing to refugees (para 26) and
- to increase the stock of affordable housing units (para 50).

The section below will focus on refugees. First of all, the former "ghetto-law", now re-named "law concerning parallel societies", still includes a criterion for ethnicity (see above in the section regarding discrimination). Individuals living in areas covered by the above-mentioned law are at risk of eviction, and they are subjected to special rules if they stay.

Secondly, the law reduces the number of social housing units. This affects the most vulnerable people in the population of Denmark.

Thirdly, newly arrived refugees have lost their right to permanent housing. They are now offered temporary housing, that often does not live up to Danish standards.

Finally, the reduced benefits for refugees (see section above in the present report) make it almost impossible for refugees to find affordable housing.

3) Key recommendation

We urge Denmark to implement the recommendations of the UN Committee on Economic, Social and Cultural Rights and thus ensure the right to adequate housing for refugees living in Denmark.

DISABLED PEOPLE

UPR recommendation(s): 60.231 (Mauritius); 60.232 (Philippines); 60.234 (Dominican Republic) – Measures to combat discrimination against people with disabilities

1) Status of Implementation

Denmark's mid-term report refers to the legislative act that prohibits discrimination on the basis of disabilities.²²

2) Challenges

The below will focus on two issues: a) women with disabilities and b) criteria for obtaining permanent residence in Denmark and Danish citizenship.

a) Women with disabilities

In Denmark, there are 23 women's shelters that have access for women with disabilities. Persons with disabilities, particularly mental and cognitive disabilities, are highly overrepresented as victims of rape and other types of sexual assault.²³ A taboo exists regarding violence against women with disabilities. Moreover, an inflexible support system often tied to the domestic situation, making it even more challenging to reach out for support for this group.

In our view, there is a lack of specialised knowledge about women with disabilities among staff at shelters. This creates uncertainty about how to help this group.

Furthermore, there is uncertainty about how to access specialised resources, such as assistance or disability aids.

Finally, there is a lack of data on women with disabilities who have been exposed to violence, and there is a lack of specialized support for this group.

b) Criteria for obtaining permanent residence in Denmark and Danish citizenship

Refugees and migrants who are disabled find it hard to live up to the criteria for permanent residency and Danish citizenship. There is access to dispensation, but in practice very few dispensations are granted.

Illiteracy is acknowledged as a disability by the Danish health authorities but not accepted as a ground for dispensation for permanent residency and citizenship.

²² LOV nr 688 af 08/06/2018 with subsequent amendments.

²³ Frederik Rom Taxhjelm & Peter Hjaltason, *Seksuelle overgreb på botilbud. Analyse af udsathedens for mennesker med handicap*, Institut for Menneskerettigheder, 2022. See also Emily Ledingham, Graham W. Wright & Monika Mitra, *Sexual Violence Against Women With Disabilities: Experiences With Force and Lifetime Risk*, *American Journal of Preventive Medicine*, Volume 62, Issue 6, June 2022, pp. 895-902

3) Key recommendations

Denmark should establish specialised support for women with disabilities who are exposed to violence.

Denmark should make existing and new shelters and treatment facilities accessible for women with disabilities and offer specialised programmes for LGBTQ+ individuals.

Denmark should conduct research to examine the needs for, and effect of, counselling, support, and treatment that is offered to women with disabilities and who are exposed to violence.

Denmark should take urgent measures to address the high rate of cases of sexual violence committed against women with disabilities, in particular, against women with intellectual or psychosocial disabilities.

Meeting the criteria for obtaining permanent residency and Danish citizenship should be possible for all who make an effort, and there should not be discrimination against people with less school background and/or mental or physical disabilities. Thus, Denmark should make dispensation for permanent residency and Danish citizenship available in practice for all refugees and migrants who are disabled or suffer from a sickness which prevents them from fulfilling the current demands.

MIGRANTS, REFUGEES AND ASYLUM SEEKERS

UPR recommendation(s): 60.239 (Montenegro); 60.244 (Georgia) – Improve the integration of non-citizens and minorities. UPR recommendation(s) 60.243 (DPR Korea); 60.247 (Portugal) – Protection of fundamental rights of migrants

1) Status of Implementation

Denmark's mid-term report refers to the Danish Integration Act²⁴, approved by the Danish Parliament in 2020, which establishes the legal framework for integration in Denmark. The law regulates how newly arrived immigrants are integrated in Denmark, their rights and duties.

The municipalities are responsible for the integration effort and must offer all newly arrived immigrants an integration program with the purpose of getting immigrants into the labor market. Immigrants receive e.g. up to five years of free Danish language training that serves the purpose of integrating immigrants into the labor market and into civil society. Immigrants receive social benefits if they cannot support themselves. Municipalities are also responsible for providing refugees and their children with temporary housing (see above in section regarding housing).

²⁴ LBK nr 1146 af 22/06/2020 with amendments.

2) Challenges

We would like to stress our main concern that the inherent focus on temporary residency in the Danish Aliens' Act might be a hindrance to the integration of non-citizens and minorities in Denmark.

Civil society organisations have published a joint position on this matter, calling for easier access to permanent residence.²⁵

By way of example, we are concerned about the strict criteria that must be fulfilled for permanent residency for refugees, e.g., regarding length of time spent in the country, language skills and ability to support oneself.²⁶ For instance, the requirement of a minimum of eight years' temporary residency in Denmark before one can apply for permanent residency in our view is too high.²⁷

Likewise, in order to be granted permanent residency, a person must have had full-time employment or self-employment in Denmark for at least 3½ years of the last 4 years. Therefore, it is of concern that education, vocational training, and higher education do not count towards the fulfillment of the employment requirement. This has the effect that many young people must choose between a permanent residence permit, which they can only obtain by working, or an education in Denmark.

3) Key recommendation

Refugees should have easier access to obtain permanent residence because they need lasting solutions and security for their future.

UPR recommendation(s): 60.250 (Ukraine) - Further increase efforts aimed at protection of asylum seekers and migrants

1) Status of Implementation

Denmark's mid-term report notes that Danish asylum law and policies are in full accordance with Denmark's human rights obligations, including the principle of non-refoulement. The recommendation is therefore considered already implemented.

2) Challenges

²⁵ <https://www.ms.dk/sites/default/files/publikationer/publikationer/2022/Flygtninge%20policy.pdf>

²⁶ Report from Rockwoolfonden, October 2018, <https://rockwoolfonden.s3.eu-central-1.amazonaws.com/wp-content/uploads/2023/01/Newsletter-Oktober-2018-Permanent-residence-permit-policies.pdf?download=true>

²⁷ Please find link below to the requirements at The Danish Immigration Service: <https://www.nyidanmark.dk/en-GB/You-want-to-apply/Permanent-residence-permit>

In 2015, 2016 and 2019, the Danish Aliens Act was changed drastically in what has been called "the paradigm shift" in Danish immigration law.²⁸ The new legislation means that all residence permits are given "with the aim of temporary stay" rather than permanent stay. Refugees are now only granted temporary stay for one or two years, after which the continued need for protection will be reviewed. This is also the case for UNHCR resettled refugees and Convention refugees.

Furthermore, cessation regulations were changed²⁹ so that the Refugee Convention's strict cessation clauses only apply for Convention refugees, whereas other refugees can have their residence permits revoked, if the general conditions in their country of origin have improved, even slightly and not necessarily are of a stable or permanent nature.

Before 2019, an assessment should have been made of whether revocation would be especially burdensome for the refugee due to his/her ties to Denmark. Now revocation will happen unless it is contrary to Denmark's international obligations; this is a much harsher and more narrow assessment compared to previous practice.

It is a key concern that refugees do not get lasting protection and security for their future but instead only a temporary stay that does not support their integration into the Danish society.

3) Key recommendation

As the need for protection and a durable solution is the same for all refugees, the Danish legislation should be changed so the cessation clauses in the Refugee Convention apply irrespectively of which status a refugee is given, thus preventing return of refugees before the need for protection has, in fact, ceased.

UPR recommendation(s) 60.254 (Czechia) – Ensure that the policies on detention and return of migrants and asylum seekers respect the international standards and the principle of non-refoulement, UPR recommendation(s): 60.261 (Uganda) - Take measures to reduce the detention period for asylum seekers and consider the use of such detention as an option of last resort

1) Status of Implementation

Denmark's mid-term report notes that Danish asylum law and policies are in full accordance with Denmark's human rights obligations, including the principle of non-refoulement. The recommendation is therefore considered already implemented.

²⁸ L174 af 27/ 2/ 2019 Retsinformation

²⁹ Prior to 2015 the cessations clauses of the Refugee Convention applied to all forms of protection.

2) Challenges

In Denmark, asylum seekers and other foreigners without legal stay are obliged to stay in three different kinds of facilities:

- 1) **asylum centers** are for people who have just arrived and/or have a pending asylum case;
- 2) **deportation centers** are open camps with strict access control and digital registration of mandatory stay. These are used for rejected asylum seekers who refuse to collaborate on returning and for people who have been expelled by a court order for committing a crime but still face persecution in their home country (so-called Tolerated Stay).
- 3) Immigration Center Ellebæk is a **closed detention center** that is run under the prison regulations and used for asylum seekers and other foreigners, most often if the police suspects they may go underground, while deportation is being planned, in connection with the EU's Dublin cases or cases of entry with false documents.

The below section will address: a) deportation centers; b) administrative detention at Ellebæk; and c) refoulement to Croatia.

A) Deportation centers

Residence at one of the three deportation centers in Denmark is required for rejected asylum seekers awaiting deportation and for foreigners who have received a deportation ruling but cannot be deported to their country of origin due to a risk of persecution..³⁰ The political vision with the conditions at the centers has specifically been to create an environment as intolerable as possible within the framework of the conventions in order to motivate the residents to leave Denmark.

On various occasions, and most recently when reporting to the UN Committee against Torture (see Annex 3), we have continued to raise our concerns as civil society organisations about the legal framework of and the conditions at deportation centers.

Below, we will provide further information about current challenges.

A1) Duties to stay at, report to and notify the deportation center

The residents are not deprived of their liberty. However, they must live at the center (so-called duty-to-stay), they must report to the center daily or at least three times a week (duty-to-report), and they must notify the center of any absence (duty-to-notify). Compliance with the duties to stay at the center used to be checked by an electronic registration system, the Salto system and now called AMS. This was suspended by the Attorney General in December 2020 due to the extent and nature of detected irregularities.³¹

³⁰ The relevant legislation includes L 152 of 28 February 2002; L 291 of 30 April 2021; L 1397 of 27 December 2008; L 446 of 13 April 2019, and L 982 of 26 May 2021.

³¹ Arrested and remanded prisoners whose cases were based on the Salto system were released and information from the Salto system was not allowed to be included in court hearings. At the same time, then Minister of Justice Mr. Matias Tesfaye

If the residents do not comply with the duties, severe penalties are imposed. By way of example, for 6-9 violations in one month, the resident can be sentenced to 60 days in jail, and if this is repeated, 3 months in jail. In case of aggravating circumstances (e.g. long absences), the penalty can increase to up to 4 years in prison.³²

The current legal framework³³ will hold most residents at the return centers, subjected to the various duties mentioned³⁴. The authorities do not assess the proportionality of these duties in relation to the right to private and family life. There is no right to complain about the authorities' decisions regarding the duties.

A2) Conditions at deportation centers

It is our key concern that the living conditions at the Danish deportation centers are at risk of violating the human rights of rejected asylum seekers and persons with a deportation judgement.

Deportation center Kærshovedgaard: Additional information about Kærshovedgaard is provided in Annex 2.

The residents here only have very limited access to health services (i.e., the treatment must be necessary, urgent, or pain-relieving). Likewise, they have limited access to see family and network outside the center, as well as to meaningful activities. This leaves the question of whether the living conditions are at risk of violating the residents' human rights.

In our view, the degrading conditions take the power of action away from the residents in relation to making informed choices about their situation in Denmark and to moving on in their lives and away from Kærshovedgaard, for example by traveling back to their country of origin.

Moreover, residents at Kærshovedgaard who do not cooperate about their return journey generally have no right to work at the center or to study, and they do not receive any economic support.

The deportation center Avnstrup: In May 2023 the Commissioner for Human Rights of the Council of Europe visited Denmark and the center at Avnstrup. She specifically noted and

stated that it had been decided as soon as possible to launch an external and impartial investigation of the IT system and its practical use. The investigation was expected to be completed within the coming quarter, i.e. the 1st quarter of 2021. The Ministry of Immigration and Integration stated on 8 December 2023 that the investigation report is still not available.

³² CIR1H nr 10088 af 04/10/2022. Rigsadvokatmeddelelsen, afsnittet: Behandling af sager om overtrædelse af opholds-, underretnings- og meldepligt

³³ L982 Hjemrejseloven / The Danish Act regarding the Return of Foreign Nationals with No Leave to Stay, 26. May 2021, <https://www.retsinformation.dk/eli/lt/2021/982>

³⁴ An agency under the Ministry of Immigration and Integration which, among other things, is tasked with determining whether or not a foreign national is obliged to reside at a return centre, ensuring that foreign nationals abide by those residence requirements and determining whether or not a foreign national is cooperating with the immigration authorities on their departure.

mentioned the general atmosphere of desperation and uncertainty among the adults at the deportation center Avnstrup, which inevitably impacts the children.

The Commissioner noted that some of the residents had witnessed upsetting incidents, such as families being forcibly taken away by police. The staff at the centre reported a number of symptoms among children residing at the centre, including sleep and eating disorders, stomach problems, impaired learning, anxiety and insecurity in the form of exaggerated alertness. In interviews conducted among older children, significant recurring sentiments included feelings of hopelessness and resignation due to a lack of opportunities, as well as concerns about the risk of becoming involved in crime and abuse.³⁵

The Commissioner recommended Denmark to consider introducing a more flexible approach to residential and reporting duties.³⁶

B) Administrative detention

Administrative detention pursuant to the Danish Aliens Act can be up to 18 months for rejected asylum seekers (see NGO joint report to the UN Committee against Torture, Annex 3). Administrative detention is also used towards asylum seekers during processing of their asylum case if the person has already received a deportation order, e.g. in relation to a short sentence.³⁷ In asylum cases pursuant to the Dublin Regulation, asylum seekers are almost systematically held in detention if they have been registered two times or more in other European countries.³⁸

Asylum seekers and refugees are often traumatized and in a vulnerable situation. Amnesty International has documented that torture survivors and traumatized individuals are detained at Ellebæk. Likewise, that Danish health authorities do not systematically transfer information about these individuals' health conditions to Ellebæk or other deportation centers, even if informed consent has been given.³⁹

Asylum seekers in the detention center Ellebæk are often unaware of their right to legal counselling, due to the lack of information given to them, lack of access to telephones and limited access to visits.

³⁵ Report on Denmark following the Commissioner for Human Rights' visit in Denmark: [Report on Denmark following the Commissioner for Human Rights' visit from 30 May to 2 June 2023 \(coe.int\)](#)

³⁶ *Ib.*

³⁷ A deportation order can be issued in case of a 10–20-day sentence for illegal entry/false documents, but this often turns into many months of detention while the asylum case is processed.

³⁸ If there are more than two Dublin hits, it does not seem that the authorities are really considering whether less intrusive measures are sufficient to, for example, ensure the asylum seekers' presence.

³⁹ Amnesty Internationals Lægegruppe: 'Frihedsberøvede asylansøgere i Ellebæk' (2013). https://amnesty.dk/wp-content/uploads/media/1874/frihedsber__vede_asylans__gere_i_elleb__k_2013.pdf

We raised our concern about the conditions at Ellebæk in our joint report in October 2023 to the UN Committee against Torture (annex 3), and the Committee reiterated its serious concerns in December about the use of administrative detention in Denmark and the conditions at Ellebæk (see Concluding Observations of 8 December 2023).

Moreover, after her visit to Denmark in May 2023, the Commissioner for Human Rights of the Council of Europe recommended the development and implementation of effective alternatives to administrative detention.

C) Risk of return of asylum seekers from Denmark to Croatia under the Dublin Regulation⁴⁰ in breach of the principle of non-refoulement.

There is massive documentation and 'witness statements' from asylum seekers, that support that they are exposed to push-backs in Croatia. However, in March 2023 in the first cases on Dublin transfer to Croatia, the Danish Refugee Appeals Board decided⁴¹ that asylum seekers can be sent to Croatia if Croatia can provide a guarantee that they will take the applicant's case under consideration.

Then, in August 2023, Denmark did receive a guarantee from Croatia. It stated that the Republic of Croatia guarantees that examination of the application of international protection of the said person will take place in accordance with national legislation and obligations under EU and international laws.

We find that the guarantee is insufficient. Protection against refoulement and the right to seek asylum are basic principles of the Refugee Convention. Croatia has demonstrably violated this in several cases, e.g. in that Croatian authorities have committed abuses and pushbacks of asylum seekers.⁴²

In addition, available background information indicates that there is no access to effective legal remedies in Croatia for people who are subjected to pushbacks and are denied access to the asylum procedure⁴³. This is particularly troubling, as the applicant appears to have no legal avenue to secure his/her right if the Croatian authorities do not honor the guarantee.

⁴⁰ Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person. [EUR-Lex - 02013R0604-20130629 - EN - EUR-Lex \(europa.eu\)](#)

⁴¹ For information on the Refugee Appeals Boards practice on return to Croatia, see [Praksis - Flin](#)

⁴² Human Rights Watch report with detailed description the continued and comprehensive practice of push-backs of asylum-seekers from Croatia to Bosnia-Herzegovina "Like We Were Just Animals", 3. Maj 2023, <https://www.hrw.org/report/2023/05/03/we-were-just-animals/pushbacks-people-seeking-protection-croatia-bosnia-and> and report by DRC, 'Border Monitoring Factsheet', March 2023. https://pro.drc.ngo/media/rmdlrrkl/2023_03_border-monitoring-factsheet-final.pdf

⁴³ CPT, Report to the Croatian Government on the visit to Croatia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), 3. December 2021 <https://rm.coe.int/1680a4c199>, og HRW, "Like We Were Just Animals", 3. Maj 2023, <https://www.hrw.org/report/2023/05/03/we-were-just-animals/pushbacks-people-seeking-protection-croatia-bosnia-and>

It is assessed that Croatia does not provide a concrete and adequate guarantee that they are now in compliance with EU legal and other international obligations. This leaves the asylum seekers with a real risk of being returned to a country in breach of the principle of non-refoulement.

D) Refugee Children

With regards to access to family reunification, the Danish Alien Act differentiates between children above and below the age of 15. Children above 15 do not have the right to be reunited with their parents, unless there are special circumstances. However, the definition of a child is a person under the age of 18. This means for children between 15 and 18 that limiting their reunification with their parents is both in violation of the Rights of the Child and a discrimination between majority families and immigrant families. The issue of poverty as a result of discrimination regarding child allowances is addressed above.

3) Key recommendations

Ad A) Deportation centers

All residents of a deportation center should be allowed to remain at home with their family or at least be given better conditions to uphold their family life. This also goes for rejected asylum seekers until they can be returned to their country of origin.

Failure to comply with the three duties at deportation centers should not be sanctioned with prison sentences. Moreover, it should be possible to complain about decisions regarding these duties.

Ad B) Administrative detention

With regards to administrative detention and the conditions at Ellebæk, Denmark should implement the recommendations of the UN Committee against Torture, of the CPT and of the Commissioner for Human Rights. Denmark should thus ensure in practice that detention be used as a measure of last resort and that traumatized refugees never are held in detention.

Ad C) Risk of return of asylum seekers

Denmark should ensure that the principle of non-refoulement is respected when transferring asylum seekers from Denmark to Croatia (chain refoulement).

Ad D) Refugee children

Children should have the same access to family reunification whether they are below or above the age of 15.

B: RECOMMENDATIONS NOTED BY DENMARK

UPR recommendation(s): 60.271 (Belgium); 60.272 (Chile) – Prevention of Statelessness

1) Status of implementation

Denmark's mid-term report refers to the 1961 UN Convention on the Reduction of Statelessness and the 1989 UN Convention on the Rights of the Child, and that applicants, who are born stateless in Denmark, can be placed on a bill on naturalisation without fulfilling the regular requirements for acquiring Danish citizenship.

2) Challenges

In November 2023, UNHCR issued 10 recommendations to Denmark on how to prevent statelessness.⁴⁴

The more relaxed rules for obtaining Danish citizenship apply only to stateless persons who were born in Denmark.

All other stateless persons must first meet the general criteria for obtaining a permanent residence permit and then the conditions for obtaining citizenship. Only one of the general conditions has been relaxed for them, as the requirement of nine years of residence in Denmark has been reduced to eight years.⁴⁵

Statistics show that the legal possibility to waive one or more conditions for obtaining Danish citizenship is not de facto an option for most applicants. In 2021, the Committee on Citizenship (Indfødsretsudvalget) decided 24 cases, and in three cases an exemption was granted. In 2022, four exemptions were granted out of a total of 39 cases.⁴⁶

In April 2023, the association ABC Denmark prepared a report on the resettled stateless Bhutanese refugees in Denmark. This report examines why it has proven difficult, if not impossible, for this group to obtain a permanent residence permit and gain Danish citizenship.⁴⁷ The report concluded that after more than a decade in Denmark, only 17 out of 845 of the Bhutanese refugees had succeeded in obtaining Danish citizenship, and only 45 of the 845 had obtained a permanent residence permit.

⁴⁴ See <https://data.unhcr.org/en/documents/details/105131>

⁴⁵ UNHCR, 2019, *Mapping Statelessness in Denmark*, p. 73. UNHCR states in the report, that is doubtful whether this relaxation is sufficient for Denmark's obligations under Article 32 of the 1954 Convention to be fulfilled

⁴⁶ <https://www.ft.dk/samling/20222/almindel/ifu/spm/7/svar/1930573/2661650.pdf>

⁴⁷ <https://abcdanmark.dk/wp-content/uploads/2023/06/Statistical-data-report-on-permanently-resettled-Bhutanese-refugees-in-Denmark.pdf>

For the younger stateless refugees who were born outside of Denmark, it is only possible to apply for a permanent residence permit when they turn 18 years old, and only if they have lived in Denmark for at least eight years by that time.

For an 18-year-old stateless who has not yet spent at least eight years in Denmark, the person must meet all requirements listed in the law for citizenship, including having worked for at least 3½ years. This means the stateless refugee who comes to Denmark as a child or young adult must wait for many years to become a citizen, even though there is no other country than Denmark they could call home.

This is not in accordance with the best interests of the child, as set out in the convention on the Rights of the Child (CRC).⁴⁸ In its guidelines on statelessness, UNHCR refers to the CRC as a key tool when looking at cases of statelessness amongst children.⁴⁹

3) Key recommendations

For stateless persons access to Danish citizenship should be facilitated in accordance with Denmark's commitment to this and in accordance with international standards and UNHCR's recommendations.

The various requirements regarding language, knowledge of Danish society etc. should be relaxed for stateless applicants, or at a minimum for stateless persons who are recognized as refugees in Denmark.

Specifically, it is proposed that the requirement for length of residency be lowered from the eight years, so that stateless refugees can be granted a permanent residence permit before this and thus apply for citizenship earlier than the current requirement.

⁴⁸ Convention on the Rights of the Child, 20. November 1989, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

⁴⁹ UNHCR Guidelines on Statelessness No. 4, 21. December 2012, <https://www.unhcr.org/fr-fr/en/media/guidelines-statelessness-nr-4-ensuring-every-childs-right-acquire-nationality-through>