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Report of the Working Group on the Universal Periodic Review*

Denmark

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

* The present document is being issued without formal editing.



The Kingdom of Denmark's response to the recommendations set out by the UN Human Rights Council in the Universal Periodic Review on 6 May 2021

1. The Government of the Kingdom of Denmark welcomes the 288 recommendations received during the third Universal Periodic Review of Denmark on 6 May 2021.

2. The Government's overall approach when considering the recommendations received is to accept recommendations where the Government can foresee measures before the next review, or where measures have already been or are being implemented.

3. After careful consideration, the Government is pleased to provide the responses below with further information in the table annexed. The Government of the Kingdom of Denmark accepts 202 recommendations and notes 86 as follows:

(a) 60.1, 60.3, 60.4, 60.5, 60.6, 60.7, 60.9, 60.10, 60.47, 60.48, 60.49, 60.50, 60.93, 60.94, 60.95, 60.100, 60.101, 60.102, 60.103, 60.106, 60.107, 60.108, 60.110, 60.112, 60.113, 60.114, 60.115, 60.116, 60.117, 60.118, 60.119, 60.120, 60.121, 60.124, 60.142, 60.143, 60.144, 60.147, 60.151, 60.155, 60.157, 60.159, 60.160, 60.161, 60.162, 60.163, 60.164, 60.169, 60.170, 60.171, 60.172, 60.174, 60.175, 60.176, 60.177, 60.178, 60.179, 60.180, 60.181, 60.182, 60.183, 60.184, 60.185, 60.188, 60.190, 60.192, 60.193, 60.203, 60.210, 60.212, 60.215, 60.216, 60.223, 60.224, 60.225, 60.227, 60.228, 60.232, 60.234, 60.237, 60.238, 60.239, 60.241, 60.242, 60.244, 60.245, 60.248, 60.249, 60.250, 60.251, 60.259, 60.260, 60.265, 60.267, 60.270, 60.273, 60.274, 60.275, 60.278, 60.279, 60.280, 60.282, 60.283, 60.284, 60.285, 60.286, 60.287, 60.288.

Accepted.

(b) 60.16, 60.25, 60.30, 60.31, 60.35, 60.38, 60.55, 60.64, 60.80, 60.91, 60.92, 60.98, 60.105, 60.111, 60.125, 60.126, 60.127, 60.128, 60.129, 60.130, 60.131, 60.132, 60.133, 60.134, 60.135, 60.148, 60.149, 60.150, 60.152, 60.153, 60.158, 60.187, 60.197, 60.201, 60.202, 60.204, 60.205, 60.206, 60.207, 60.208, 60.209, 60.211, 60.213, 60.214, 60.218, 60.219, 60.220, 60.221, 60.222, 60.229, 60.231, 60.235, 60.236, 60.254, 60.258, 60.281.

Accepted. See the annex for further information.

60.2, 60.15

Noted. The Government finds that many social and economic rights entail important macro-economic choices, which Denmark finds are better decided upon in a parliamentary setting – rather than in an expert committee in the isolated context of an individual complaint.

60.8

Noted. The Government does not plan to ratify the Convention – among other reasons because the definition of a mercenary is considered too broad.

60.11, 60.12, 60.13, 60.14, 60.21, 60.240

Noted. The Government does not intend to ratify the Convention on Migrant Workers and their families, as the convention does not consistently distinguish between legally residing and illegally staying workers.

60.17, 60.18, 60.20

Noted. See annex.

60.19

Noted. National deliberations are in progress as to the decision of ratification.

60.22, 60.23, 60.24

Noted. The reasons for entering the reservation still applies.

60.26, 60.27, 60.28

Noted. A number of thematic action plans are already in place in specific areas. This is the case in relation to amongst others the action plans on gender equality, against trafficking in human beings and against domestic violence. Denmark finds that a general, national action on Human Rights would not add value.

60.29, 60.32, 60.33, 60.34, 60.36

Noted. See the annex and the national report paragraphs 9 and 10.

60.37

Noted. The restrictive measures adopted by the UN and EU, which Denmark are legally bound by, are fully compliant with obligations under international law, including human rights.

60.39

Noted. The Government does not consider the provision in the Criminal Code regarding begging a stigmatizing provision and does not intend to repeal it. With regard to discrimination, see 60.40.

60.40, 60.41, 60.42, 60.43, 60.44, 60.52, 60.56, 60.84, 60.88, 60.89, 60.90, 60.173

Accepted. The Government attaches great importance to combatting discrimination. All citizens are equal before the law, and public authorities cannot discriminate citizens on any ground. Danish law also contains a number of acts on non-discrimination.

60.45, 60.72, 60.73, 60.74, 60.75, 60.77, 60.79, 60.81, 60.82, 60.83

Accepted. Denmark fully recognizes the need to fight racism in all its forms and this is a key priority for the Danish Government. As an example, the Government is currently developing an action plan focusing on combatting antisemitism.

60.46, 60.51, 60.58, 60.59, 60.60, 60.61, 60.62, 60.63, 60.67, 60.69, 60.70

Noted. Denmark fully recognizes the need to fight racism in all its forms and this is a key priority for the Danish Government. However, we do not have current plans to develop a general action plan on racism and hate crimes, but we have a number of initiatives in specific areas with a view to fighting these types of discrimination. See also 60.45.

60.53

Noted. The Government does not find that there are provisions with discriminatory effect.

60.54

Accepted. While Denmark fully recognizes the need to fight racism in all its forms, we do not have plans to develop an action plan on racism as we have a number of initiatives in specific areas with a view to fighting these types of discrimination.

60.57

Noted. See 60.26 and 60.46.

60.65

Noted. See 60.46 and 60.85.

60.66

Noted. See annex for further information as well as 60.26, 60.39 and 60.87.

60.68

Noted. The Government does not plan to develop a general human rights action plan, see 60.26. With respect to discrimination, see 60.40. As regards the application of the term "ghetto", see 60.87.

60.71, 60.76

Accepted. See 60.40 and 60.45.

60.78

Noted. See annex for further information.

60.85

Accepted. The Government accepts to counter anti-muslim hatred. The Government finds the use of the term "Islamophobia" counterproductive. See also 60.40.

60.86

Noted. The Government finds it relevant and necessary to identify residential areas, where residents socio-economically and regarding the proportion of non-Western immigrants and descendants differ significantly from the national average. No social housing policy is about determining individual rights based on origin. See also 60.87.

60.87

Accepted. A political agreement has been reached to change the term "ghetto" used to designate disadvantaged residential areas in the legislation to "parallel societies" and "areas of transformation".

60.96

Noted. The Government considers that the Danish police maintain an active and positive dialogue with all communities.

60.97

Noted. The Government considers that the Danish police act in a non-abusive, non-humiliating and non-discriminatory way. Should a police officer act in such a way, a citizen can complain to the Independent Police Complaint Authority.

60.99

Noted. The Government notes that the Danish Pediatric Society's guidelines on Disorders (differences) of sex development (DSD) were published in 2019. The Government also notes that all non-emergency surgery requires informed consent. Until the person turns 15 the required informed consent is given by the parents. No matter the age, the preferences of the person under 15 should always be taken into account. It should also be noted that it is illegal to perform surgery on cosmetic indication for children under the age of 18.

60.104

Accepted. See 60.85.

60.109

Noted. The Government intends to continue to contribute to international climate finance with a particular focus on vulnerable countries both through its development cooperation budget (ODA) and through mobilisation of climate finance from other sources.

60.122, 60.123

Noted. Torture is already an offence in the Danish Criminal Code, as it is included in the provisions regarding violence, cf. Sections 244 and 245, among other provisions. Furthermore, torture is mentioned in Section 157 a in the Criminal Code. According to this provision, the use of torture is considered an aggravating factor in the sentencing of any crime.

60.136, 60.137, 60.138, 60.139, 60.140

Noted. The conditions for the use of solitary confinement of persons under the age of 18 are very strict and the possibility of such confinement is only used in exceptional cases. Persons under the age of 18 are only placed outside juvenile departments if it is assessed to be for the benefit of the individual. Reference is also made to the National Report, paragraph 78.

60.141

Accepted. The Government is committed to maintaining appropriate standards in prisons and does not agree to the premise set out in this recommendation.

60.145

Noted. The Government does not intend to repeal the ban. See annex for more information.

60.146

Noted. See 60.145. See annex for information on kosher and halal slaughter.

60.154

Noted. The first part of the recommendation concerning not treating child victims as offenders and providing assistance is accepted. The second part of the recommendation regarding a guaranteed residence permit for victims in Denmark is not accepted. See annex for more information.

60.156

Noted. The Government does not intend to review the conditions for granting residence permits to victims of trafficking. The Government finds that the current legislation is in accordance with Denmark's international obligations.

60.165, 60.166

Noted. Danish legislation promotes and protects family life. The Government leaves it to the citizens to decide how to organize their family life. Thus, a family may establish itself within the concept of marriage (same sex or other) or cohabitation or as couple not living together or as a person living alone. The different possibilities for establishing family life form the basis of childhood and the formation and well-being of children.

60.167, 60.168

Noted. Legislating as recommended would interfere with the social partners' autonomy to negotiate working conditions and would undermine the cornerstone of the Danish labour market model. See annex for further information.

60.186

Accepted. See 60.86 and 60.87. The criterion concerning non-western immigrants and their descendants can only be used in order to categorize a social housing area. The criterion does not determine individual rights on basis of origin.

60.189

Noted. The Government does not consider this regulation discriminatory (see 60.186). See also 60.87.

60.191

Accepted. Ethnic background is not used as a basis of national housing policies.

60.194, 60.195, 60.196, 6,198, 60.199, 60.200

Noted. All residents in Denmark have access to free public healthcare services. Non-residents have access to emergency hospital treatment in case of emergency, sudden onset of illness, birth, exacerbation of chronic disease, etc. These persons are also entitled to continued hospital treatment, where it according to the circumstances is not considered reasonable to refer the patient to further treatment in the patient's home country, or the patient's medical condition does not allow transfer to a hospital in the patient's home country. For more information see the annex.

60.217

Noted. It is a basic principle in Denmark that the criminal law provisions are drafted in a gender-neutral manner whenever possible. Thus, the provisions in the Criminal Code concerning violence apply irrespectively of the gender of the victim. Denmark does not intend to change this position by adopting specific provisions regarding violence against women.

60.226

Noted. As a main rule, a child acquires Danish citizenship by birth if born to a Danish mother, a Danish father or a Danish co-mother, regardless of where the child is born and whether the child is born in or out of wedlock. In January 2020, the Danish Parliament passed a bill that introduced an abolishment of the automatic granting of Danish citizenship to children born in conflict zones covered by an entry and stay prohibition. The amendment implies that children, who are born in areas covered by an entry and stay prohibition under section 114 j of the Danish Criminal Code will not automatically acquire Danish citizenship at birth, if their Danish parent, from whom they would normally acquire citizenship, has entered the zone in violation of the prohibition – unless the child thereby becomes stateless. At present, there are 19 Danish children in Al-Hol and the Roj camps in North-Eastern Syria, which the Danish authorities know through contact with their relatives in Denmark or representatives. The Danish Government has decided to repatriate these children. In regard to five of the children, their repatriation will be subject to consent from their (in total three) mothers, who are no longer Danish citizens and who will therefore not themselves be offered repatriation.

60.230

Noted.

60.233

Noted. The Government does not see the added value in an action plan.

60.243, 60.246, 60.247

Accepted. Danish immigration 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.

60.252, 60.253, 60.261

Accepted. The Government finds that the Danish legislation already fully meets the material requirements of the recommendation. Denmark has ratified the United Nations Refugees Convention of 1951 and the European Convention on Human Rights. It is the assessment of the Government that Denmark is already fully complying with the obligations of the convention regarding the principles of non-refoulement. The Government notes that detention according to the Danish Aliens Act only takes place as a last resort.

60.255, 60.256, 60.257

Noted. According to the current Danish legislation, only refugees who are granted temporary protection status are required to wait three years for family reunification. This applies unless Denmark's international obligations state otherwise. The three-year waiting period does not apply to 1951-Convention refugees and refugees with protection status. A specific case concerning the three-year waiting period is currently pending before the European Court of Human Rights in the case of M.A. vs. Denmark.

60.262

Noted. The Government finds that the conditions and treatment of foreign nationals without legal stay in Denmark are in accordance with Denmark's international obligations. The Government does not plan to review the legislation regarding treatment of foreign nationals at the Ellebæk Centre, but is considering the need for a separate regulation of disciplinary sanctions for foreigners deprived of their liberty. See 60.263.

60.263

Noted. The Government finds the existing detention procedures and living conditions reasonable, adequate and in accordance with Denmark's international obligations.

60.264

Accepted. Under the Danish Aliens Act it is possible to detain asylum seekers and migrants in a number of specified situations, including risk of absconding in cases of return. Detention may in general only be used if less coercive measures, such as confiscation of passports, are deemed insufficient. Cases concerning minors fall under these provisions, but as a general rule, minors are not detained after the provisions in the Aliens Act. The same rule applies regarding the use of less coercive measures in cases concerning minors.

60.266.

Noted. Family reunification for children who are between 15 and 18 years old is granted when it is required by Denmark's international obligations. A decision is based on an individual assessment and special emphasis is placed on the best interest of the child. The reasoning behind the more lenient access to family reunification for children below the age of 15 is to ensure a successful integration when the child relocates to Denmark at an early age. However, the framework is always administered in accordance with Denmark's international obligations. As regards to 3-year waiting period, see 60.255.

60.268

Noted. The Government has taken the lead on exploring the possibility of externalizing asylum procedures and subsequent protection to a third country with the aim of breaking the incentive structures of irregular migration and thus being able to provide more and better assistance in the regions of origin and along the migratory routes. It is the assessment of the Government that Denmark is fully complying with international obligations to ensure adequate protection in law and practice for asylum seekers, and a future externalization scheme will also be established in accordance with Denmark's international obligations.

60.269

Noted. The Danish police is obliged to treat all people equally. The Danish police must follow certain procedures in immigration cases that do not involve a criminal act. Immigration cases are processed by the Ministry of Immigration and Integration.

60.271

Noted. In accordance with the 1961 UN Convention on the Reduction of Statelessness and the 1989 UN Convention on the Rights of the Child, applicants, who are born stateless in Denmark, can be placed on a bill on naturalisation without fulfilling the regular requirements for acquiring Danish citizenship.

60.272

Noted. The present requirements, which are formulated in accordance with the 1961 UN Convention on the Reduction of Statelessness and the 1989 UN Convention on the Rights of the Child, are deemed adequate to prevent statelessness among children born in Denmark.

60.276, 60.277

Noted. The Government finds the legislative framework to be in line with Denmark's international human rights obligations.
