

THE DANISH
INSTITUTE FOR
HUMAN RIGHTS

HUMAN RIGHTS
IN DENMARK

STATUS 2014-15
A SUMMARY

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CONTENTS

FOREWORD	4
1 INTRODUCTION TO HUMAN RIGHTS	5
2 IMPLEMENTATION OF HUMAN RIGHTS	7
3 ASYLUM	10
4 CHILDREN	13
5 DATA PROTECTION	16
6 ETHNIC ORIGIN	19
7 FAMILY LIFE	22
8 ADMINISTRATIVE CONTROL	25
9 DEPRIVATION OF LIBERTY	28
10 DISABILITY	32
11 GENDER	35
12 USE OF FORCE	39
13 HUMAN TRAFFICKING	41
14 RELIGION	43
15 FAIR TRIAL	46
16 THE RIGHT TO HOUSING	49
17 CITIZENSHIP	52
18 EDUCATION	55
19 EXPULSION AND EXTRADITION	57
20 ARMED CONFLICT	60
21 FREEDOM OF EXPRESSION	62
22 THE ELDERLY	65

FOREWORD

When we in Denmark compare ourselves with many other countries, we can conclude that the human rights situation here is on a solid footing. Nevertheless, there are a number of areas where there is a need for changes and improvements. Based on our status report, we have identified more than a number of issues and made more than 200 major and minor recommendations for legislative changes, additional studies and clarification of guidelines.

In Status 2014-15, we review 22 areas (see the table of contents page 3), where human rights are at stake. This report is a summary of the 22 individual thematic reports, each of which describes recent developments and offers recommendations. The thematic reports, which are 25-50 pages each, can be downloaded from our website: www.menneskeret.dk/status.

Each thematic report reviews the international and national legal framework and presents recommendations from the institute. As a new feature, the thematic reports also contain a description of recent developments in the human rights situation. This has been done in order to emphasize the dynamic character of human rights challenges and to highlight those

initiatives that have an immediate impact on developments in the respective sector.

A prerequisite for protecting and promoting human rights is to have an overview of the situation in all major areas and to systematically monitor developments. To monitor and report on the human rights situation in Denmark is one of the Danish Institute for Human Rights' core responsibilities as Denmark's National Human Rights Institution.

We place great emphasis being in dialogue with all major human rights actors and with the public. We therefore hope to continue to receive comments and suggestions for topics that can enhance the quality and usefulness of the status report. You can contact us at statusrapport@menneskeret.dk.

We hope that 'Status 2014-15' will provide a clear overview and thereby strengthen human rights in Denmark.



Jonas Christoffersen
Director

CHAPTER 1

INTRODUCTION TO HUMAN RIGHTS

DENMARK'S HUMAN RIGHTS OBLIGATIONS

Denmark has taken on human rights commitments both nationally and internationally. At the national level, the Danish Constitution provides for protection of a number of key human rights. Internationally, Denmark has entered into a number of agreements (conventions/treaties) on the protection of human rights. These agreements fall under various institutions, in particular the United Nations, Council of Europe and the European Union.

TWO TYPES OF RIGHTS

Human rights law distinguishes between civil and political rights on the one hand and economic, social and cultural rights on the other. The rights are interrelated, but there are significant differences in how they are implemented. Regardless of the type of right in question, discrimination must not occur. Freedom of expression, freedom of assembly and the right to a fair trial are examples of civil and political rights. Examples of economic, social and cultural rights are the right to health and the right to an adequate standard of living.

INTERPRETATION OF HUMAN RIGHTS

The international human rights are based on principles stating that any interference in these rights by the state must be legitimate and proportionate. A legality principle, a proportionality principle and a prohibition of discrimination also apply.

The legality requirement entails that interference with the protected rights must have a basis in national law, which must be made available and reasonably predictable.

The proportionality assessment includes, on the one hand, consideration for the protection of rights and on the other hand a consideration of opposing interests. Striking the right balance is based on a legal assessment of the significance of the opposing interests at stake: the importance of the right in question, the severity of the interference with the individual's rights, the significance of the objective/opposing interests being pursued, and the importance of the intervention for safeguarding the objective/the opposing interest.

The prohibition of discrimination means that a person or group of persons may not be treated less favourably than others without proper justification.

MONITORING OF HUMAN RIGHTS

When a convention or treaty has been adopted by an international organisation such as the United Nations, its member states must decide whether they will be bound by the agreement. This occurs when they decide to ratify the agreement. With ratification, the member state is obliged to comply with the contents of the agreement in its national law and practice.

Within the United Nations framework, member states will be monitored with respect to the human rights obligations that they have undertaken. This is carried out mainly by the committees associated with the various conventions, through the UN Universal Periodic Review (UPR) and through UN's special procedures.

Several monitoring bodies have been established under the Council of Europe, such as the European Court of Human Rights (ECtHR), which allows all persons the possibility of enforcing their rights.

In the European Union, human rights are most often termed 'fundamental rights'. The European Court of Justice and the European Union's Agency for Fundamental Rights monitor whether these rights are being respected.

Denmark protects, monitors and enforces human rights on several levels. Any citizen can demand that the public authorities comply with the international agreements that Denmark has ratified. Moreover, a case can be brought before the Danish courts if one or more provisions of the agreements have been violated. This also applies to violations of human rights ensuing from the Constitution and other national legislation.

The Danish Institute for Human Rights is tasked with contributing to the protection and promotion of human rights. This is carried out in collaboration with the international control mechanisms as well as other national monitoring bodies.

CHAPTER 2

IMPLEMENTATION OF HUMAN RIGHTS

In 2013 and 2014, the UN Committee on Economic, Social and Cultural Rights and the UN Committee on the Rights of the Child were given the authority to examine individual complaints regarding human rights violations. All the committees affiliated with the UN's nine core human rights conventions are now competent to consider complaints. Previously, the committees could only enter into a general dialogue with member states on how each convention could be strengthened nationally.

In 2011, Denmark was examined by the UN Human Rights Council under the Universal Periodic Review (UPR) mechanism. As a result of the review, Denmark received 133 recommendations for how it could improve human rights nationally. In 2014, the Danish Government submitted a voluntary mid-term report on the status of implementation of the recommendations. The result was that Denmark either fully or partially accepted a total of 107 recommendations.

The preparations for Denmark's next examination have begun in 2015 with public hearings in Denmark's four largest cities and in the Faroe Islands and Greenland. This

will be followed by reports from civil society organisations, the Danish Institute for Human Rights and Denmark's official report. The new examination will take place in early 2016.

In 2014, the government chose not to incorporate additional human rights conventions into Danish law. This occurred after the Incorporation Committee's report was published. Six of the Committee's 15 members recommended that Denmark incorporate six of the seven core UN conventions that Denmark has ratified. The members also recommended that Denmark accede to Protocol 12 to the ECHR, which contains a general prohibition against discrimination, and the possibility for the UN Committee on the Rights of the Child to deal with individual communications.

Of the remaining nine members of the Incorporation Committee, some could neither recommend incorporation nor accession to the protocols, while others would leave the final decision to the government and Parliament.

HUMAN RIGHTS IMPROVEMENTS

- On 23 September 2014, Denmark acceded to the optional protocol giving citizens access to complain to the UN Committee on the Rights of Persons with Disabilities.
- The Government has announced that Denmark expects to accede to the optional protocol to the Convention on the Rights of the Child regarding individual complaints in 2015.
- The Minister for Foreign Affairs has stated that in 2015, a new committee will be established under the Ministry of Foreign Affairs to coordinate the government's human rights work. The committee shall prepare an annual report on human rights developments in Denmark. The first report is expected to be prepared in 2015 and will, among other things, provide the basis for a general political debate in the Parliament.
- In this year's budget, the Government has allocated DKK 14.9 million to develop a publicly available database of judgments issued by the district courts, high courts, the Maritime and Commercial Court and the Supreme Court. The establishment of this judicial database has been under discussion for over 20 years.
- In 2014, the Act on the Danish Institute for Human Rights came into force in Greenland

NEW CHALLENGES

- The Government has decided not to incorporate six of the UN core human rights conventions into Danish law, since incorporation, in the government's view, would entail a risk of a shift of competence from the Parliament and the government to the courts.

DANISH ISSUES WERE EVALUATED BY INTERNATIONAL BODIES IN 2014

- In October 2014, the UN Committee on the Rights of Persons with Disabilities recommended that Denmark revises its equality legislation in order to ensure that persons with disabilities enjoy adequate protection.

AREAS WHERE HUMAN RIGHTS CAN BE STRENGTHENED IN DENMARK

International human rights conventions contain only limited regulation of how human rights in practice can be transferred to the national legal system; the only condition is that the protection of human rights must be effective. States therefore have great freedom to decide how they will ensure adequate human rights protection.

The implementation of human rights in Denmark can be strengthened in a number of areas. In the thematic report (in Danish) 'Implementation of Human Rights' we have touched upon the following topics:

- Accession to human rights treaties
- Incorporation
- Human rights action plan and systematic monitoring of human rights
- Revision of the Constitution, equality legislation and the Aliens Act.

RECOMMENDATIONS

The Danish Institute for Human Rights recommends, among other things, that Denmark:

- introduces a ban on discrimination on the grounds of disability applying outside the area of employment;
- introduces a ban on discrimination on the grounds of religion, sexual orientation and age outside the area of employment;
- in cooperation with the self-governance of Faroe Islands establishes a national human rights institution for the Faroe Islands;
- accedes to Protocol 12 to the European Convention on Human Rights;
- incorporates the UN human rights conventions into Danish law;
- includes a standard statement in bills describing the proposed act's impact on human rights;
- formulates a national human rights action plan, which, among other things, follows up on international recommendations for human rights and which would be anchored at interministerial level.

CHAPTER 3

ASYLUM

At the end of 2013, there were 16.7 million refugees worldwide, an increase from 15.4 million a year earlier. Of the 16.7 million refugees, 11.7 million belong to the UNHCR's mandate, a number that had risen to 13 million by 30 June 2014. The increase in the number of refugees is partly due to the humanitarian crises in Syria, Iraq, Sudan and the Central African Republic. The UN has placed all four crises in the most serious category, and it is the first time that there are four ongoing crises in this category at the same time.

The refugee situation worldwide has affected the number of asylum seekers coming to Denmark and to the rest of Europe. The number of persons entering Denmark rose significantly in 2014 compared to previous years. At the beginning of 2014, between 400 and 750 asylum seekers entered Denmark each month. In the four-month period from June to September, however, the number of those entering increased to, respectively, 1,012, 1,738, 2,308 and 3,150 asylum seekers. The number then declined, so that from October to December, the number of asylum seekers entering was, respectively, 1,862, 1,116 and 769.

The sudden increase in the number of asylum seekers entering Denmark has put pressure on the system, notably in terms of

accommodations for the newly arrivals, a need for flexible solutions in administering the cases due to the geographical spread of asylum seekers and on the resources needed for their further integration into the Danish society.

HUMAN RIGHTS IMPROVEMENTS

- In the spring of 2014, a major debate took place regarding whether the administrative practice of the Ministry of Justice, in refusing to extend humanitarian residence permits, was consistent with the Convention on the Rights of the Child. After considerable pressure from, among others, the Danish Institute for Human Rights and civil society, the Ministry re-opened 585 previously closed cases. 20 of these cases concerned extension of humanitarian residence for families with children, and in six cases, the families had not been advised of the possibility to seek a residence permit under section 9 c (1), which, among other things, concerns the children's attachment to Denmark. The Ministry decided that all decisions on humanitarian stay involving children must explicitly indicate that the best interest of the child has been considered in the assessment of the case. The Ministry also sent the review to other authorities so that

they could consider whether the best interests of the child were sufficiently considered in their casework and final decisions.

- In 2014, the Aliens Act was amended in order to implement a number of changes to the Dublin Regulation. The Dublin Regulation ensures that an asylum application will be processed, and that it will be processed in only one country. Several of the changes were positive and in line with the institute's previous recommendations. For example, asylum seekers are now granted procedural stay in Denmark while the Refugee Board of Appeals processes a complaint regarding transfer to another EU country.
- Quota refugees were previously selected on the basis of their integration potential, but in 2014 the rules were amended so that consideration is given to whether a residence permit will entail a permanent improvement in the refugee's situation on the basis of his/hers needs and expectations.
- The rules on the granting of early retirement pension and state pension were amended in December 2014. The change abrogated a former provision from 2010, where the means of calculating a refugees' residence period in Denmark, on which the pension amounts were based, had been criticized.

NEW CHALLENGES

- The Aliens Act was amended in February 2015 so that a residence permit for asylum seekers

is granted for a shorter period in cases where the asylum seeker receives the residence permit to reside because of a particularly serious situation in the home country characterised by indiscriminate violence. A number of organizations, including the Danish Institute for Human Rights, have expressed concern about the uncertainty this creates for the foreigners.

See the thematic report on 'Family Life' for a description of the rules in the Act which concern family reunification.

DANISH ISSUES WERE EXAMINED BY INTERNATIONAL BODIES IN 2014

- In July 2014, the European Court of Human Rights concluded that it did not constitute a violation of the prohibition against torture when Denmark, in 2010, deported a rejected asylum seeker to Syria.
- In March 2014, the UN Human Rights Committee, in a concrete case, declared that it would constitute a violation of the International Covenant on Civil and Political Rights to return a person to Eritrea on the grounds that he, amongst others, could not prove he had left the country legally.
- In March 2014, the Council of Europe's Commissioner for Human Rights expressed concern that rejected asylum seekers, particularly children, have such a lengthy stay in asylum centres.

- In September 2014, the European Committee for the Prevention of Torture expressed criticism regarding the detention conditions for foreigners in Ellebæk Detention institution, including the detention of children, the health screening and the language interpretation services.

AREAS WHERE HUMAN RIGHTS CAN BE STRENGTHENED IN DENMARK

In the asylum area, there are a number of areas where Denmark can strengthen its efforts to protect and promote the rights of asylum seekers and persons granted residence permits due to asylum. In the thematic report (in Danish) on 'Asylum', we have touched upon the following topics:

- The impact of the return for the asylum case
- The transfer of asylum seekers to another EU country under the Dublin Regulation
- The particular conditions for unaccompanied minor asylum seekers
- Punishment for asylum seekers who enter Denmark using false papers
- Detention of vulnerable asylum seekers.

RECOMMENDATIONS

The Danish Institute for Human Rights recommends, among other things, that Denmark:

- adopts clear rules regarding with what legal basis, under which circumstances, on what conditions and how long a forced return can be suspended, and in cases of prolonged suspension of forced return, under what conditions the particular asylum applications shall be reopened in order to assess whether the causes of the continued suspension can entail the granting of a residence permit pursuant to the Aliens Act section 7;
- only detains minor asylum seekers, including unaccompanied minors, if the facilities can meet the specific needs of minors;
- further examines the consequences for the development and well-being of unaccompanied minors of being granted temporary residence permits that would normally expire when they reached the age of 18, as well as consider whether, on this background, there is reason to change the rules on the duration of the residence permit granted to unaccompanied minors;
- prior to or in direct connection with detention, introduces a mandatory and more comprehensive medical examination of all asylum seekers whom the police intend to detain, including the involvement of physicians, psychologists and others.

CHAPTER 4

CHILDREN

Over the years, there has been a focus on ensuring that vulnerable children receive necessary and timely assistance. In the political agreement Children's Reform, which entered into force on 1 January 2011 and which contains legal amendments and other initiatives, the overall objectives have been to support vulnerable children and young people's well-being, as well as to prioritize early intervention, continuity in the placement system and the rights of the child.

On 1 October 2013, the Abuse Package amendments of laws and regulations came into force. This set of abuse prevention measures aims to strengthen the municipalities' processing reports about concerns on child welfare. Within 24 hours of the municipalities having received a report, they must assess whether there is a need for urgent measures. The Abuse Package contains clear rules that municipalities must speak with the children early in the case proceedings so that abuse can be detected and stopped as quickly as possible. The municipalities must also formulate written emergency preparedness guidelines so as to prevent, detect and deal with cases of violence and sexual abuse against children and adolescents.

The Danish National Centre for Social Research (SFI), in a new report, has examined the well-being of 11-17-year-old children and adolescents who are placed in foster care or in residential institutions or similar facilities. The study shows that children and young people in foster care are significantly more satisfied with their placement than children and young people in residential institutions.

In January 2015, a judgment was delivered in the case of the Solhaven youth residential facility. The case concerned the question of where to draw the line between criminal assault and the legitimate use of force in working with maladjusted and troubled youth residing in the facility. All 12 former employees, including the director, were acquitted of assault, abuse and unlawful use of force.

The government has set up an expert committee on the use of force in relation to children and youth in placement, the Committee on the Use of Force (Magt-anvendelsesudvalget), to clarify the rules for use of force against children in placement and to make suggestions for a new regulatory framework. The committee will submit a report in spring 2015.

HUMAN RIGHTS IMPROVEMENTS

- As a follow-up to the Abuse Package, a survey was conducted of continuing and in-service training for professionals working with children and youth.
- The local municipalities have been given the mandate to maintain foster care to young people with disabilities until the youth turns 23 years of age.
- The Act on Social Service has been amended so as to provide enhanced measures against anti-social behaviour by the establishment of networking consultations (netværkssamråd).
- Funds have been allocated through 2017 for treating children and adolescents under the age of 25 who come from families affected by drug and alcohol dependency.
- Young people who have served a penal sentence, have been in custody or placed in surrogate custody must be offered reintegration measures.
- The Danish Prison and Probation Service plan to identify the factors resulting in young people being in the Prison Service's institutions. The survey will deal with, inter alia, the nature of the crime, the length of the sentences passed and the young person's age, and it will be used for an assessment of whether there is a need to amend the existing legislation.

UNSOLVED PROBLEMS

- Children continue to be subject to lack of protection against serious neglect. This emerges from a case taken up by the Parliamentary Ombudsman against a municipality which, despite 11 serious reports from, among others, police, schools and citizens, had not taken any action to assist siblings who lived under absolutely intolerable conditions.
- Children placed outside their home do worse than other children in almost all areas, including schooling, health and general well-being. Children placed outside their home continue to run much greater risk of not getting an education, and this applies especially to children who are placed at a later stage in their life.
- There continues to be a need to focus on cases where children are detained, both within and outside the criminal justice system.

AREAS WHERE HUMAN RIGHTS CAN BE STRENGTHENED IN DENMARK

Denmark has a number of challenges in the area of children's rights. In the thematic report (in Danish) on 'Children', we have touched upon the following topics:

- Protection of children from abuse
- Children as secondary victims
- Children and young people's situation when placed outside their home
- Deprivation of liberty of children because of crime
- Detention outside the criminal justice system and other uses of force against children.

RECOMMENDATIONS

The Danish Institute for Human Rights recommends, among other things, that Denmark:

- prohibits solitary confinement of children within the criminal justice system;
- ensures that the municipality's anti-abuse measures are well developed and supported to include the prevention and management of all forms of child abuse, including psychological abuse;
- ensures that there are enough qualified and specialised placement possibilities for children with special problems, and that the placement institutions are made aware of the children's cultural and religious background and any special needs;
- ensures that the healthcare agreements specify who is responsible for and who coordinates support for children whose parents must be, or are being, treated for substance abuse;
- clarifies in the legislation, administrative regulations and government practices that children have a right to express their views in all matters affecting them, and that their views must be given due weight in accordance with their age and maturity, also in connection with the use of force against them.

CHAPTER 5

DATA PROTECTION

The right to privacy and data protection has occupied much of the Danish and international debate over the past year. The revelations of the American whistle-blower and computer analyst Edward Snowden concerning the intelligence services' data collection and exchange confirm that protection of the right to privacy is under pressure.

At the UN level, this has led to the first UN resolution on the Right to Privacy in the Digital Age. The resolution states that the right to privacy is under pressure and that states are obliged to ensure that national law authorising surveillance be consistent with human rights standards in the field.

As a follow-up to the resolution, the UN High Commissioner for Human Rights, in 2014, initiated a hearing on surveillance-related legislation and supervision across the UN Member States. This has resulted in a number of recommendations, for example, that interference with the right to privacy cannot be justified solely by reference to the user's consent in using Internet services, that interference in the right to privacy must always have a legal basis and be proportionate, that mass surveillance and general data retention are particularly problematic from a proportionality perspective, and that the

intelligence services' broad access to collecting data requires effective legal safeguards and supervision.

In Denmark, data privacy entered the political agenda with the **Se og Hør** affair (a celebrity gossip magazine) in April 2014, which involved leaks to **Se og Hør** from the Danish electronic payment company Nets regarding the private spending of certain celebrities and others.

In addition, the European Court of Justice, in April 2014, ruled that the EU's Data Retention Directive was invalid. In June 2014, the Danish Parliament passed the Act on the Centre for Cyber Security, and in the autumn of 2014 there was a debate on reporting and exchange of personal data within the health sector.

The Parliament's Legal and Cultural Committee, in June 2014, established a parliamentary working group to explore options for strengthening protection and supervision of the processing of personal data. In January 2015, the working group submitted a report with a number of recommendations for public authorities' processing of personal data, technical requirements and standards so as to promote data security and supervision of data protection.

Finally, there have been ongoing cases of IT security breaches within Danish public institutions and private companies, including the leak of personal identity numbers and other personal data.

HUMAN RIGHT IMPROVEMENTS

- In March 2014, the European Parliament adopted a compromise proposal for the new EU regulation on data protection. The new rules provide, among other things, that a mandatory privacy assessment be conducted prior to the introduction of public IT systems and that privacy protection be built into the IT architecture ('privacy by design').
- As a follow-up to the European Court of Justice's ruling against the EU's Data Retention Directive, the Danish Ministry of Justice questioned whether the Danish rules on internet session logging were appropriate to achieve their purpose. In June 2014, the government decided to abolish internet session logging.

NEW CHALLENGES

- A report by the Danish Auditor General (Rigsrevisionen) from 2013 and 2014 revealed that several state institutions have inadequate protection of personal data. This can lead to unauthorised persons gaining access to these data. The many cases of leakage of personal information underscore the need to strengthen security and supervision in the handling of personal information by public institutions.
- With the creation of the Center for Cyber Security in 2012 and the adoption of a law on Center for Cyber Security in 2014, the state warning service for internet threats (GovCert) is now part of the Defence Intelligence Service (FE). This entails increased access to exchanging data between the FE and the warning service as well as increased access to exchange information between the intelligence services'. At the same time, the basis for data collection has been expanded. This makes the requirements for supervision and control over the centers processing and exchange of personal data much more urgent

AREAS WHERE HUMAN RIGHTS CAN BE STRENGTHENED IN DENMARK

Denmark has a number of challenges in terms of the citizens' right to protection of their data and communication. In the thematic report (in Danish) on 'Data Protection', we have touched upon the following topics:

- Data retention
- Social media
- Data protection in public administration
- Cloud computing
- Intelligence services and cyber security.

RECOMMENDATIONS

The Danish Institute for Human Rights recommends, among other things, that Denmark:

- conducts an independent evaluation and analysis of the Executive Order on Data Retention and its accordance with Article 8 of the ECHR. The evaluation should, inter alia, assess the possibility of strengthening the legal safeguards, including that data retention be carried out with as limited scope as possible and over the shortest possible time interval.
- ensures that a privacy impact assessment (PIA) be included as permanent mandatory practice prior to the introduction of IT solutions that process personal information in the public sector;
- carries out an analysis and systematic assessment of the overall supervision of the intelligence services, including the Center for Cyber Security;
- investigates how the Danish supervision of processing and exchange of personal data on social media platforms can be enhanced.

CHAPTER 6

ETHNIC ORIGIN

Protection against discrimination on grounds of race or ethnic origin is guaranteed by law, both within and outside the workplace. In practice, however, many people are subjected to discrimination because of their ethnic origin. Generalizations, prejudices and negative stereotypes increase the risk of not only discrimination against individuals but also polarisation and stigmatisation of entire ethnic groups. There is a risk that this will happen even more - including between minority groups themselves - due to the attacks in Paris and Copenhagen.

In 2014, Aarhus was the first municipality to develop an 'exit program' to help people out of radicalised environments. The East Jutland Police and Aarhus Municipality's starting point for their anti-radicalisation efforts is that radicalisation and discrimination are connected. There is a risk that young people who experience discrimination or feel discriminated against and marginalised will be attracted to extremist groups. Also in 2014, the Municipality of Copenhagen has stepped up its efforts to prevent radicalisation.

In the health sector, the Danish Institute for Human Rights' 2014 report on equal access to health has generated discussion about the rules for using ethnic minority children as interpreters for their families in the Danish healthcare system. The report indicated that one in five GPs uses children under age 15 as interpreters to some extent.

The Board of Equal Treatment has issued decisions in cases of discrimination based on ethnic origin. For example, the Board determined that it was unlawful discrimination in a case where two persons of African ethnic origin were denied access to a bar.

The number of hate crimes has declined since 2011, when the hitherto highest number of 384 was recorded. In 2013, 245 hate crimes were recorded by the Danish Security and Intelligence Service (PET), of which 25.7% of the crimes were racially motivated.

HUMAN RIGHTS IMPROVEMENTS

- Copenhagen Municipality has launched its application 'Stemplet' for mobile phones, which will help citizens report discrimination and hate crimes.
- The Council for Ethnic Minorities has been strengthened with several new members appointed by the Ministry of Children, Gender Equality, Integration and Social Affairs. This is the first time that the minister shall be appointing a number of members of the council. In the future, the country's four largest municipalities will also be represented in the council.
- The Ministry of Justice has established a committee to ensure nationwide access to interpretation services of better quality. The committee will submit an analysis with recommendations for solutions by the end of 2015.
- The Ministry of Health and Prevention has taken the initiative to introduce a ban on the use of children as interpreters in connection with treatment by general practitioners, specialist physicians and in hospital.

UNSOLVED PROBLEMS

- According to the Integration Barometer, 45 percent of the immigrants of non-Western background and their descendants who were surveyed during the past year experienced discrimination because of their ethnic origin. The result from previous polls has shown a similar percentage.
- The difference in the rate of employment between persons of Danish origin, on the one hand, and non-Western immigrants and their descendants, on the other, continues to be significant.
- Only a very small proportion of the complaints received by the Board of Equal Treatment cover discrimination on grounds of ethnicity. Of those cases, the board only decides in favor of the complainant in relatively few of them, but with an increasing tendency. The explanation for this situation has not been fully explored.

AREAS WHERE HUMAN RIGHTS CAN BE STRENGTHENED IN DENMARK

Denmark has a number of challenges in terms of implementing the principle of equal treatment and non-discrimination regardless of race or ethnic origin. In the thematic report (in Danish) on 'Ethnic Origin', we have touched upon the following topics:

- The labour market
- Access to health
- Equal treatment of Greenlanders in Denmark
- Hate crimes
- Access to language interpretation.

RECOMMENDATIONS

The Danish Institute for Human Rights recommends, among other things, that Denmark:

- formulates a national action plan to combat hate crimes;
- establishes a certification system for certifying interpreters after they have completed their training or on the basis of a test of their interpreting and language skills;
- ensures that qualified interpretation services are available when a patient in need of interpretation is in contact with the Danish health system;
- ensures that a guide is produced describing the Act Prohibiting Discrimination within Employment which clearly describes when and how employers can promote non-discriminatory measures.

CHAPTER 7

FAMILY LIFE

The right to family life is a very important right that is subject to extensive regulation, especially in the areas of immigration and family reunification.

The thematic report on 'Family Life' is new with the status 2014-15 report.

HUMAN RIGHTS IMPROVEMENTS

- The minister for Children, Gender Equality, Integration and Social Affairs has launched a review of the guidelines for the Consolidated Act on Social Service so as to ensure that the assistance options offered to parents with disabilities is sufficiently clear.
- In certain situations, a foreigner cannot submit an application for a residence permit while residing in Denmark but must do so from abroad. In accordance with statements from the Danish Institute for Human Rights, this has been amended in the Aliens Act. A person who submits an application for family reunification in Denmark, for example, a parent to a child residing in Denmark but who subsequently leaves the country in accordance with their visa, will now no longer generally have a 5-year entry ban for a visa to Denmark.

- In January 2014, the Immigration Appeals Board changed its practice regarding the requirement for self-support. The change was based on four specific cases where the applicant had been refused family reunification because the resident had received unemployment benefits. The board found that the rules on family reunification conflicts with the consideration of employment, and that it was in better accord with Denmark's international obligations that these persons not be rejected family reunification because of the resident having received unemployment benefits.
- With the reform of welfare benefits in 2014, cohabiting couples over 25 were now obligated to take on mutual financial responsibility for each other within the welfare benefits system. As a follow-up to the budget agreement, this provision was revoked from 1 January 2016, but with half the effect in 2015. This means that the amount to be paid out in 2015 is a combination of the amount that the welfare recipient would be entitled to as non-cohabitant and the amount they would be entitled to under the rules governing reciprocal financial obligation.

NEW CHALLENGES

- Due to the increasing number of asylum seekers, the Danish Parliament passed a bill in February 2015 on temporary protection status for asylum seekers at risk of torture etc. because of a particularly serious situation in their homeland. Access to family reunification is limited for this group, such that in principle, they are not permitted to apply for family reunification during the first year of residence, though there are certain exceptions. The bill was met with major criticism, including from the Danish Institute of Human Rights, which has criticized the bill's exceptions to its starting point as being too strict and for not sufficiently taking into account people who are in very exceptional situations.
- The government has proposed making it easier to put children up for adoptions against the will of the parents. There is a serious risk that parents with disabilities are particularly affected by this proposal. This is due partly to the lack of clarity concerning the right of parents with disabilities to receive support in exercising their parenting role, which may cause unwarranted removal of children from their parents in cases where the parents with proper support, could have exercised their parenting role.

DANISH ISSUES WERE EVALUATED BY INTERNATIONAL BODIES IN 2014

- In March 2014, the European Court of Human Rights issued a judgment against Denmark regarding the Danish 'attachment-requirement' and the 28-year rule (26-year rule). The majority of the court found that the differential treatment had a legitimate aim and was not disproportionate, and that Denmark had not violated the ECHR. The minority, however, found that the 28-year rule was contrary to the prohibition of discrimination in the ECHR, both in the specific case and generally. The case has been referred to the Grand Chamber.

AREAS WHERE HUMAN RIGHTS CAN BE STRENGTHENED IN DENMARK

Denmark has a number of challenges in terms of protection of the right to family life. In the thematic report (in Danish) on 'Family Life', we have touched upon the following topics:

- Family reunification
- The right to be parents.

RECOMMENDATIONS

The Danish Institute for Human Rights recommends, among other things, that Denmark:

- ensures that access to family reunification within the first year of residence to a person who has obtained a residence permit on the basis of section 7 (3) be administered in accordance with Denmark's international obligations;
- concerning the Consolidation Act on Social Services, administrative orders and guidelines, clarifies the obligation of the municipal and state authorities to provide support for parents who, because of disability, need help or special support for parenting.

CHAPTER 8

ADMINISTRATIVE CONTROL INVESTIGATORY POWERS OF PUBLIC AUTHORITIES

Although the Danish Constitution stipulates that the authorities' access to private property, as a point of departure, requires a court order, the number of investigatory powers enabling the public authorities to gain access to private property without a court order has steadily increased over the years. In February 2013, there was a total of 240 of such powers, and by July 2014 this increased to 264.

It is also indicated in the Ministry of Justice's 2014 report on the authorities' use of coercive measures that in 2012, a total of 2,558 investigatory inspections were carried out in cases covered by the Ministry of Taxation, compared to 2,473 in 2011.

The Danish Customs and Tax Administration's (SKAT), in its 'Transparency Report' from 2013, reports that in the period from 1 July 2012 to the end of 2013, a total of 508 inspections were carried out investigating construction sites on private property (inspections with a view to detect undeclared and illicit work). In January 2015, SKAT indicated that in 2014, a total of 239 inspections on private property were carried out. Since July 2012, a total of 747 of such

inspections have been carried out. However, SKAT has no complete overview of how many of these inspections on private property resulted in subsequent charges of violation of tax and customs laws.

SKAT's handling of cases and methods have been the subject of criticism in recent years. Criticism comes in the wake of a number of widely publicized, individual cases of arbitrary treatment regarding the case handling. Finally, a commission of inquiry was set up to investigate the specific investigation carried out by SKAT regarding the potential tax evasion by Stephen Kinnock, husband of the Danish prime minister, which was leaked to the press prior to SKAT's decision. In September 2014, in its final report, the commission cited several problematic aspects in SKAT's case processing.

The thematic report on 'Investigatory Powers of Public Authorities' is new with the status 2014-15 report.

HUMAN RIGHTS IMPROVEMENTS

- The Minister of Taxation has established a modernisation forum, consisting of external stakeholders, in order to implement the modernisation of the Tax Control Act. The aim is partly to ensure a balance between the citizens' legal safeguards and effective tax law enforcement. The initiative can be seen as a reaction to some of the cases that have been publicized in recent years. The modernisation, however, will probably not include rules governing inspections or case handling in general.

NEW CHALLENGES

- The number of legal powers under which administrative authorities can carry out inspections without a court order has increased from 240 in 2013 to 264 in July 2014.
- In December 2014, a draft bill to extend the powers of **Udbetaling Danmark** (the authority that disburses pensions and social benefits) and to increase its ability to conduct data cross-tabulations of registers (to detect fraud) was circulated for consultation.

AREAS WHERE HUMAN RIGHTS IN DENMARK CAN BE STRENGTHENED

Denmark faces a number of challenges associated with the administration's investigatory powers in terms of human rights protection of privacy and personal data. In the thematic report (in Danish) on 'Investigatory Powers of Public Authorities', we have touched upon the following topics:

- SKAT's access to entering individual's private property
- Control of social benefits.

RECOMMENDATIONS

The Danish Institute for Human Rights recommends, among other things, that Denmark:

- refines and clarifies the scope of SKAT's powers to carry out inspections of construction work on private property, including when inspections are deemed necessary, and that efforts will be made to limit these powers, taking into account the nature of the interference.
- prospectively provides information on the relationship between inspections and subsequent legal charges brought for violation of tax and customs legislation and any eventual other legislation.
- establishes objective and reasonable criteria for the selection of persons subject to investigation for abuse of welfare benefits, so that the selection is limited and based on specific data, and to set specific rules for appeal and for monitoring of these control measures.
- clarifies the Danish Agency for Labour Market and Recruitment's (STAR) summary statement of the use of airport inspections (controlling those leaving Denmark temporarily thereby not being available for the Danish labour market and thus illegally collecting social benefits, including the total number of persons who have been

inspected, the number of cases brought and the number of cases of resulting in restitution of fraudulent benefits and other sanctions, so that the number of unnecessary enforcement actions may be calculated.

- sets up rules for access to one's own information and correction and potential deletion of information in the 'suspicion lists' (*undringslister*) of those suspected of social benefits fraud.

CHAPTER 9

DEPRIVATION OF LIBERTY

Deprivation of liberty is one of the most intensive interferences to which an individual can be subjected. It is therefore a fundamental human rights principle that deprivation of liberty should be used only as a last resort.

In 2014 there has been a decrease in the number of inmates in Danish prisons and remand prisons. Overall, however, there has been a considerable increase in the number of inmates over the past 15 years. The consequence of this has been the curtailing of the rights of a large group of people as well as a number of significant challenges within the institutions under the Prison and Probation Service, in the form of high occupancy rates or overcrowded conditions.

At the same time, there has been a positive trend towards greater use of alternatives to imprisonment, in the form of community service and electronic tagging. In 2014, the government and several parties in Parliament have agreed to set up a committee to examine the need for a reform of the rules on verdicts of compulsory treatment under the Criminal Code.

The Danish prison system is characterised by a significant number of open prison spaces that allow regimes which are less restrictive compared to the high security prisons. In addition, the Prison and Probation Service emphasizes dynamic security, with the goal of establishing a good level of communication and culture between inmates and staff.

At the same time, Danish practices of remand custody are characterised by a very restrictive regime that often limits the inmate's opportunities and freedom more than what may occur during the actual serving of time in a closed prison.

In addition, the prisons have at their disposal one of the most intensive interventions a democratic State can use against its citizens in peacetime, in the form of solitary confinement of inmates. This can be described as a kind of prison within the prison. The use of certain forms of solitary confinement remains widespread and is routinely used in the Prison and Probation Service's institutions.

In 2014, it was revealed that solitary confinement measures carried out under the Sentence Enforcement Act have been used with children on 158 occasions during the period 2009 to 2013, including in the form of punishment cells for periods of up to two weeks. In only few of these cases did the children have access to meaningful contact with other inmates.

Inmates in the Prison and Probation Service's institutions do not have the same access to health care and patient compensation as do other citizens, and the health system in the Prison and Probation Service's institutions is not subject to the same kind of professional monitoring as the rest of the healthcare system. Hence, in 2015, the Parliamentary Ombudsman and Ministry of Health will investigate the fact that health workers in the penal institutions are not required to report errors in the treatment of inmates, as well as the fact that inmates are not covered by the Patient Compensation Association regulations.

HUMAN RIGHTS IMPROVEMENTS

- During 2014, there has been a decrease in the number of inmates, and thus in the occupancy rate of the Prison and Probation Service institutions. This development is very positive, but the occupancy level is still significantly higher than 15 years ago.
- The use of solitary confinement during remand custody pursuant to the Code of Civil Procedure (solitary confinement) is still at a historically low level.
- The Prison and Probation Service, following an appeal by the Danish Institute for Human Rights and the Children's Council, has recommended that all prisons and detention centres that they limit the use of solitary confinement measures administered to 15-17 year olds as much as possible.
- A child-parent contact facilitator for inmates has been introduced in all prisons and detention centres. This is a very important step towards improving the situation of inmates' children and to better ensure their rights.

NEW CHALLENGES

- The use of remand custody remains at a high level, and many suspects remain in custody for long periods of time. The remanded persons still represent a disproportionately large proportion of the total number of inmates in the Prison and Probation Service's institutions.
- The use of solitary confinement during remand custody continues to remain at a very high level and has increased significantly during the last 10-15 years.
- Many inmates still end up in voluntary solitary confinement (voluntary exclusion from other prisoners) in Danish prisons and detention centres.
- A significant number of inmates are subjected to violence or threats from fellow inmates, and female inmates are subjected to sexual harassment by fellow inmates.
- A significant number of prison officers report being subjected to violence or threats from inmates.
- A very large number of inmates in the Prison and Probation Service's institutions have mental health problems, and a significant number are mentally ill.

DANISH ISSUES WERE EVALUATED BY INTERNATIONAL BODIES IN 2014

- The European Council's Committee for the Prevention of Torture visited Denmark in February 2014. Among other tasks, the Committee inspected several prisons and detention centres. Later in the year, the Committee submitted a report from its visit and presented numerous recommendations to the Danish authorities.

AREAS WHERE HUMAN RIGHTS CAN BE STRENGTHENED IN DENMARK

In the area of deprivation of liberty, there are a number of areas where improvements can be made in Denmark. In the thematic report (in Danish) on 'Deprivation of Liberty', we have touched upon the following topics:

- Remand custody
- Overcrowding in the Prison and Probation Service's institutions
- Solitary confinement
- Disciplinary punishment of inmates
- Violence and threats in prisons
- Detention of mentally ill inmates
- Women in prison
- Children of inmates.

RECOMMENDATIONS

The Danish Institute for Human Rights recommends, among other things, that Denmark:

- significantly reduces the use and length of remand custody;
- considers alternatives to solitary confinement and restrict the use of all forms of solitary confinement in Danish prisons;
- ensures that inmates in remand custody gain better access to meaningful social contact and meaningful activities;
- ensures that mentally ill persons in remand custody or serving a prison sentence are subjected to conditions that take account of their special needs, including that the plan for having mental health professionals associated with all detention centres be implemented;
- undertakes a closer examination of the extent and nature of violence and threats within the Prison and Probation Service's institutions.

CHAPTER 10

DISABILITY

For persons with disabilities, there are still key outstanding issues relating to the individual's right to equal treatment. The government, for example, has not proposed a general ban on discrimination on grounds of disability.

Persons with disabilities still have lower levels of education and employment, and they participate less in associations than persons without disabilities. Between 37 percent and 48 percent of persons with major physical or mental disabilities report being discriminated against because of, among other things, disabilities. There are still major problems with coercive measures used in psychiatric treatment and lack of respect for the right to self-determination and inclusion.

- The government has prepared a status report on their disability policy action plan 2013, which follows up on the development of the initiatives.
- An earmarked funded project on the reduction of coercive measures in mental health treatment during the period from July 2012 to November 2014 has reduced the number of physical restraints and incidents of coercive restraints using straps in the 34 participating psychiatric wards by, respectively, 26 percent and 27 percent.
- The Ministry of Health has added amendments to the ministerial order on sterilisation and castration, which, among other things, underscore that individuals must never be sterilized against their will.

HUMAN RIGHTS IMPROVEMENTS

- Denmark has ratified the Optional Protocol to the Convention on the Rights of Persons with Disabilities. This means that individuals can now present complaints to the UN Committee on the Rights of Persons with Disabilities about alleged violations of the CRPD.

- The new social supervision system for, among other things, residences for persons with disabilities, came into force on 1 January 2014. This system monitors how these residential facilities support the individual residents' self-determination and inclusion into society.

The government has launched a review of all relevant guidelines under the Consolidated Act on Social Services in order to clarify the right of parents with disabilities to have assistance in fulfilling their parenting roles.

- Danish public transport companies recognize that persons with disabilities should be able to use regular buses to the greatest degree possible, and the transport firms **Midttrafik** and **Movia** are in dialogue with disability organisations to improve access to their buses. The Ministry of Transport supports the work of creating more inclusion.
- Sign language has been recognized as an official Danish language.
- The government supports the cooperation between the Danish Institute for Human Rights and the Danish National Centre for Social Research (SFI) on selection of ten gold statistical indicators that will measure the implementation of the CRPD.

NEW CHALLENGES

- The government has proposed making it easier to put children up for adoptions against the will of the parents. There is a serious risk that parents with disabilities will be particularly affected by this measure. This is partly due to the lack of clarity about the right of parents with disabilities to receive support

in exercising their parenting role, which may cause unwarranted removal of children from their parents in cases where the parents with proper support, could have exercised their parenting role.

- In February 2015 the Ministry of Health proposed amendments to the Danish Mental Health Act. Although the proposal strengthens individual self-determination in some cases, it does not contain a prohibition on forced physical restraints lasting more than 48 hours in mental health treatment, which has been one of the critiques made by the institute.

DANISH ISSUES WERE EVALUATED BY INTERNATIONAL BODIES IN 2014

- In October 2014, the UN Committee on the Rights of Persons with Disabilities presented its concluding observations on Denmark's compliance with the CRPD. The Committee expressed its concern that Denmark does not have a general ban on discrimination on grounds of disability, and that large institutions intended for persons with disabilities continue to be built.
- The Council of Europe's Committee for the Prevention of Torture, in a report from September 2014, expressed strong criticism of prolonged use of physical restraints in mental health treatment in Denmark.

- In a judgment from 2014 the Court of Justice of the European Union declared that there is no general, independent prohibition on discrimination on grounds of obesity in EU law. Severe obesity may constitute a disability under the Council Directive 2000/78/EC if, in interaction with various barriers, it prevents the individual from exercising their full and effective participation in working life on an equal footing with other workers.

AREAS WHERE HUMAN RIGHTS CAN BE STRENGTHENED IN DENMARK

Denmark faces a number of challenges in relation to the protection of persons with disabilities. In the thematic report (in Danish) on 'Disability', we have touched upon the following topics:

- Accessibility
- Coercive measures in psychiatric treatment
- Self-determination
- Political participation
- Inclusion in the labour market
- Equal access to healthcare.

RECOMMENDATIONS

The Danish Institute for Human Rights recommends, among other things, that Denmark:

- introduces a ban on discrimination outside employment on the grounds of disability (see the thematic report on 'Implementation of Human Rights').
- introduces an expiration date for the prolonged use of physical restraints in psychiatric treatment of over 48 hours, so that the use of physical restraints in psychiatric treatment of over 48 hours will be phased out;
- ceases supporting municipal loans for the construction of new large-scale residential facilities for persons with disabilities;
- changes the electoral law so that persons who have been appointed a guardian under the Guardianship Act section 6 will retain the right to vote and to stand for election;
- reforms the Danish Guardianship Act in order to promote supported decision-making.

CHAPTER 11

GENDER

Denmark is the fifth best country in the world in terms of equality between men and women according to the annual Gender Gap Report published by the World Economic Forum. This is an improvement from 2013, when Denmark was in eighth place. One explanation for the positive development lies in the area education, where among other things, the number of women in higher education has been increasing.

Despite the increase in women's education, there have been virtually no changes over the last decade in closing the wage gap between men and women. According to the Gender Gap Report 2014, Denmark occupies 12th place in terms of economic equality. Across the entire Danish labour market, the wage gap between men and women remains at 17 percent, measured in standard calculated hourly earnings.

HUMAN RIGHTS IMPROVEMENTS

- In February 2014, as the 11th country in the world, the Danish Parliament voted to ratify the Istanbul Convention on preventing and combating violence against women and domestic violence. The Convention, drawn up by the Council of Europe, comprises a strong legal foundation in combating violence in close relationships. The Istanbul Convention is a safeguard and addresses issues such as physical, sexual and psychological violence, forced marriages, harassment, abortion, stalking, oppression and coerced sterilization and mutilation to the woman's genital organs.
- In May 2014, the Danish Parliament passed a bill that compels small companies with fewer than ten full-time employees to provide gender-disaggregated wage statistics. In the future, these firms will receive gender-disaggregated wage statistics annually sent by Statistics Denmark or by their employer organisation. This act shall enter into force on 1 January 2015, and the first gender-disaggregated wage statistics for small firms will be prepared no later than 1 September 2016.

- In June 2014, the Danish Parliament adopted the Act on change of legal gender identity. From 1 September 2014, transgendered persons will be able to obtain a new personal identity number without having to have undergone sexual reassignment surgery. The law strengthens the rights of persons who experience a mismatch between their biological sex and the gender with which they identify.
- In 2012, regulation intended to enhance the gender composition of the executive boards of public and private companies were introduced. In October, the Danish Business Authority issued its first report evaluating the new legislation, based on a sample from the Ministry of Business and Growth's area. 73 percent of companies have set target figures, and 50 percent have established a policy for gender equality. Although there is clearly room for improvement, it is positive that progress are being monitored so as to ensure representation of women at senior management levels.

CHALLENGES IN RELATION TO EQUAL RIGHTS AND OPPORTUNITIES FOR MEN AND WOMEN

- Despite the Danish Equal Pay Act , men earn on average more than women in Denmark. In 2013 and in more detail in 2014, the European Commission identified the lack of definition of work of equal value, unclear wage creation and procedural difficulties (long-running treatment of cases and lack of effective sanctions) as the primary challenges to reduce the wage gap. The Institute for Human Rights' study of equal wage cases in 2014 also shows that it is quite difficult and burdensome to pursue a complaint for equal pay compensation
- The statistics indicate that the health services do not have the kind of contact with especially unskilled, single men and men residing in rural areas to the same extent or in the same way as with women. To integrate the gender perspective into the core public services can contribute to higher quality, more efficient use of resources and promote gender equality.
- According to the Consolidation Act on Gender Equality, public institutions with more than 50 employees must submit an equality statement to the Minister for Children, Gender Equality, Integration and Social Affairs in odd-numbered years. Recent gender equality reports show that 61 percent of the state institutions and 76 percent of the municipalities do not have

gender equality objectives for the delivery of core services. In addition, the ministries of resort are responsible for conducting gender assessments, which are impact assessments of new legislative proposals, in order to be able to utilise the public resources in the best way possible and to counteract the negative consequences for gender equality. In the 2013/2014 parliamentary session, only 25 bills, or approximately one in eight, have been gender assessed. Actual gender statistics from Statistics Denmark could help to upgrade and evaluate public gender equality initiatives and the gender equality consequences of new bills.

Both cases had previously been adjudicated by the Board of Equal Treatment. The cases have caused some debate the kind of cases the board should take up, and on whether to introduce a form of limitation on how trivial/important a case should be to be taken up. In March 2015, a broad political agreement was reached on streamlining the complaint process to the Board of Equal Treatment. The board will continue to hear complaints from persons with an individual, timely and specific interest. Beyond this, the board can deal only with cases of a principle character or general public interest brought by the Danish Institute for Human Rights.

IMPORTANT CASES IN THE DANISH COURTS IN 2014

- The Eastern High Court has handed down widely publicized judgments on gender equality. In one case, the court found it to be a breach of the Gender Equality Act that the Copenhagen Hotel Bella Sky had reserved a floor of the hotel exclusively for women. In another case, the High Court found that it was legal for hairdressers to use the different pricing categories for 'Man's cut' and 'Lady's cut'.

AREAS WHERE HUMAN RIGHTS CAN BE STRENGTHENED IN DENMARK

Denmark has a number of challenges in gender equality. In the thematic report (in Danish) on 'Gender', we have touched upon the following topics:

- Enforcing the principle of equal pay
- The gender-segregated education choices
- Gender mainstreaming
- Equal access to goods and services for both sexes
- Parents, children and equality
- Violence in close relationships.

RECOMMENDATIONS

The Danish Institute for Human Rights recommends, among other things, that Denmark:

- launches initiatives that ensures a more gender-balanced distribution of parental leave;
- adopts legislation obligating Statistics Denmark to collect and disseminate data disaggregated by gender to be available for public authorities, including the municipalities;
- ensures that the institutions carrying out educational counselling for young people present educational opportunities to the youth that are not limited by gender stereotypes in education and can thus challenge the young people in their educational choices;
- specifies the mainstreaming obligations in the Act on Equal Pay to Men and Women and strengthen the Act's §6(a) in order to ensure systematic monitoring of equal pay developments in Denmark, as a follow-up to the Wage Commission's recommendations on equal pay;
- ensures a uniform and effective handling of cases of domestic violence in all police districts, so victims receive immediate and adequate protection and further escalation of violence is prevented, including through the use of personal attack alarms.

CHAPTER 12

USE OF FORCE

The violent riots among groups of bikers and gangs in the first half of 2013 have led to increased efforts to combat biker- and gang-related crime, both in terms of preventive measures and tightening of legislation.

Whether it is this effort that has led to a reduction of the conflicts in 2014 is not known with any degree of certainty, but it is clear that 2014 has seen significantly fewer stop-and-search zones than in 2013.

At the same time, data from the Danish Prison and Probation Service indicates that the use of force in Denmark's prisons and detention centres is increasing and that a similar picture emerges in relation to use of force by the police.

Studies also show that the Danes are among the most secure peoples in Europe and among those with the greatest confidence in the police. In recent years, however, both national and international organs have recommended that Denmark introduce individual identification of police officers. In 2014, the government decided to accept these recommendations.

HUMAN RIGHTS IMPROVEMENTS

- In the spring 2014, the government decided to introduce a system of individual identification of police officers.
- The number of stop-and-search zones has declined significantly in 2014, and the use of these zones has been of much shorter duration. In relation to the zones' geographic extent, despite injunctions from the Ministry of Justice to tighten the scheme, the stop-and-search system has not been administered in accordance with the procedures outlined in the Danish Police Act.

NEW CHALLENGES

- The Prison and Probation Service has recommended greater use of pepper spray in the country's prisons and detention centres, so that pepper spray will no longer be carried solely in risk situations but instead will become part of the prison staff standard work uniform. The government has decided

to follow the recommendation, despite international recommendations against it opposed to this.

- The disturbances among biker and gang groups in 2013 have led to a tightening of rules on 'no-go' zones. The Institute for Human Rights has previously criticized this policy for lack of legal substance and lack of access to judicial review. The institute has reiterated this critique in its legal brief.

DANISH ISSUES WERE EVALUATED BY INTERNATIONAL BODIES IN 2014

- The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), in its report to the Danish Government following its visit in February 2014, has criticized the use of pepper spray in Danish prisons and detention centres.

AREAS WHERE HUMAN RIGHTS IN DENMARK CAN BE STRENGTHENED

In Denmark, the authorities may, under specified conditions, use force and intervene to maintain a society of law and order. Against this policy stands the interests of the individual, such as personal freedom, respect for physical integrity and more general, the rule of law. In the thematic report (in Danish) on 'Use of Force', we have touched upon the following topics:

- Pepper spray
- Stop-and-search zones
- Preventive detention according to the Danish Police Act
- Use of tracking devices (pejling) by the Police.

RECOMMENDATIONS

The Danish Institute for Human Rights recommends, among other things, that Denmark:

- clarifies the scope of the use of pepper spray in prisons and detention centres, including that pepper spray must basically not be used in enclosed spaces or against inmates over which the staff has full control;
- clarifies the boundaries of stop-and-search zones in terms of time and geographic extent;
- continues to focus on preventing the risk of discrimination in connection with stop-and-search inspections and prepare publicly available statistical material to describe activities in this area;
- inserts a clear and precise legal authority in the Danish Administration of Justice Act §791(a), which regulates the area of observation by means of electronic tracking devices on freely accessible places in the public sphere.

CHAPTER 13

HUMAN TRAFFICKING

In the period 2010-2012, the EU registered 30,146 victims of human trafficking. It is only the second time that Eurostat has published statistics in this field, and in its report, Eurostat stresses that the figures should be interpreted with caution.

The periods are not comparable, but in the period 2007 through 2013, 347 people were identified as victims of trafficking in Denmark. The Danish figures have been steadily increasing, but there is a high probability that the number of actual victims of trafficking in Denmark is higher than the official figures. This is an indication that human trafficking is a difficult area to expose.

Human trafficking is also difficult in terms of legal prosecution, but in April 2014, the Copenhagen City Court handed down a verdict against nine persons accused of human trafficking. All nine were found guilty, and with the exception of one of the accused, who was sentenced to two years in prison, the others received prison terms of two years and six months. In addition, all those convicted were to be expelled from Denmark and permanently banned from re-entry.

HUMAN RIGHTS IMPROVEMENTS

- The action plan to combat human trafficking for 2011-2014 has been evaluated. Overall, the evaluation shows that Danish efforts to combat human trafficking are relevant, and that this also applies to the comprehensive and inclusive cooperation structure, which includes authorities and civil society. However, the evaluation points out that consideration should be given to how to place potential victims directly into shelters instead of in detention and custody, in cases where the Centre against Human Trafficking is responsible for identifying the victim.

UNSOLVED PROBLEMS

- The majority of trafficking victims who are identified are women. Therefore, there is a risk that the support and facilities available to trafficked men do not correspond to the resources available to trafficked women.

AREAS WHERE HUMAN RIGHTS CAN BE STRENGTHENED IN DENMARK

Denmark can improve its efforts to prevent human trafficking. In the thematic report (in Danish) on 'Human Trafficking', we have touched upon the following topics:

- Identification of victims of trafficking and their rights as trafficking victims
- Forced labour.

RECOMMENDATIONS

The Danish Institute for Human Rights recommends, among other things, that Denmark:

- investigates in detail, in the assessment of transfer under the Dublin Regulation, the extent to which the rights of a victim of human trafficking in the receiving country are considered;
- ensures that potential trafficking victims are offered qualified language interpretation;
- ensures that persons who may be victims of trafficking are not deprived of liberty but obtain residence in a 'safe house' while the identification process is taking place.

CHAPTER 14

RELIGION

In 2013 and 2014, freedom of religion has been subject to increasing pressures, both globally and in Denmark, including persecution or harassment of religious minorities and religiously motivated extremism and terrorism.

Because of Denmark's role in the 'cartoon crisis' in 2005, the terrorist attack on the French magazine **Charlie Hebdo** on January 7, 2015 gave rise to increased Danish debate on democratic values and the integration of ethnic minorities in Danish society. In addition, the threat level against Muslims and Jews in Denmark increased.

On 14 and 15 February, 2015, just over a month after the terrorist attack in Paris, two persons were killed in a terror attack in Copenhagen, one during a public meeting on 'Art, Blasphemy and Freedom of Expression' and the other at the central Jewish synagogue. The synagogue attack has increased focus on the situation of religious minorities in Denmark.

In January 2015, Parliament adopted an 'Action Plan for the Prevention of Radicalization and Extremism'. The action plan does not involve the relevant religious leaders as actors in the proposed initiatives.

Circumcision of boys on religious grounds (a Jewish and Muslim ritual) was the subject of extensive debate in Denmark in 2014. The Danish Institute for Human Rights published a Policy Brief on this issue, and the Parliament's Interparty Network for Sexual and Reproductive Health and Rights, in cooperation with the Danish Parliament Foreign Affairs Committee, conducted a hearing on 22 October to discuss, among other things, the human rights issues associated with the circumcision of boys.

Also of importance to the Jewish and Muslim minorities, in February 2014, a ban was imposed on religious slaughtering of animals without prior stunning.

The Board of Equal Treatment, in January 2014, announced a decision in a case where an external examiner in the school system, citing his religious beliefs, refused to shake hands with a student of the opposite sex. The board determined that a message that the school had sent out to the students prior to the examination, stating that the censor would not shake hands with female students, was covered by the concept of harassment as stipulated in the Act on Equal Treatment of Men and Women. The board did not take a position

on the examiner's refusal to shake hands with women on religious grounds, only on the school's letter to the students.

Finally, the European Court of Human Rights, in July 2014, issued a judgment on the French 'burqa ban'. The Court held that it was not in breach of a French woman's fundamental rights that French law generally prohibits the concealment of the face in public. The judgment can have significance for the debate on introducing a similar ban in Denmark.

DANISH ISSUES WERE EXAMINED BY INTERNATIONAL BODIES IN 2014

- Danish issues were evaluated by the Council of Europe's advisory committee on the framework convention for the protection of national minorities in 2014. The Committee regrets the ban on ritual slaughter and argues that even if the ban seems to have only a minor practical impact on access to meat slaughtered according to religious traditions because most of the meat is imported, the ban sends a negative signal to Jews and Muslims regarding a lack of respect for their right to practice their religious rituals. The Committee recommends that the Danish authorities adopt a sensitive approach to the issue of ritual animal slaughter and, in dialogue with the relevant actors, consider solutions that take religious freedom into consideration.
- The Committee also concludes that the outcome of the debate on circumcision of boys is likely to have implications for the practice of religion, especially among Jews and Muslims. The Committee encourages the Danish authorities, in dialogue with the relevant groups, to search for pragmatic solutions that take into account the child's health but at the same time do not unduly interfere with the practice of religious customs.

AREAS WHERE HUMAN RIGHTS CAN BE STRENGTHENED IN DENMARK

Freedom of religion is one of the classic human rights. It includes the right to have, exercise and change one's religion, have non-religious and atheistic convictions, as well as the right not to have any religion or belief. Freedom of religion is closely linked to other rights, such as freedom of expression and the right to respect private life. Religious freedom can also come into conflict with other rights and with principles of equal treatment. In the thematic report (in Danish) on 'Religion', we have touched upon the following topics:

- Religious divorce
- Religious minorities under pressure
- Protection against religiously motivated discrimination.

RECOMMENDATIONS

The Danish Institute for Human Rights recommends, among other things, that Denmark:

- involves the relevant leaders of religious communities in a dialogue about specific measures, including regulation of religiously-based customs and traditions, as well as measures against radicalization and extremism;
- introduces a prohibition on discrimination outside employment on grounds of religion, sexual orientation and age (see the thematic report on 'Implementation of Human Rights').

CHAPTER 15

FAIR TRIAL

In 2014, the district courts heard approximately 175,000 new criminal cases and approximately 46,000 new civil cases. The number of criminal cases has increased slightly since 2013.

Overall, the amount of time taken for a case to go through the judicial system has diminished slightly compared to 2013. In 2014, it took about four months for a criminal case to reach district court, about nine months for a civil case under the small claims process, and 17 months for an ordinary civil case with the main hearing.

In addition, there are eventual proceedings before the High Courts, where appeals take seven to eight months in criminal cases and 14 months in civil cases. In first instance trials, the processing time is approximately 21 months.

Each year, the justice area undergoes a number of changes. In 2014 alone, the Administration of Justice Act was amended nine times. Among other things, procedures for cases being submitted to the Supreme Court have been amended to ensure that the Supreme Court's resources are used on cases of principle or of significant public importance, just as the rules for adjudicating civil cases have generally undergone a major revision. In addition, among other things, the possibility of body search at the entrance to the courtrooms has been introduced, as has the possibility to hold court hearings in specially secured courtrooms.

HUMAN RIGHTS IMPROVEMENTS

- the Supreme Court's ability to take on new cases has been limited to cases of legal principle and of general importance for the application of the law and legal developments.
- The government and the Courts of Denmark administration (Domstolstyrelsen) have announced that during 2015, a publicly accessible database of judgments will be established containing judgements from the district courts, high courts, the Supreme Court and the Maritime and Commercial Court, including both civil and criminal cases. In this way, the principle of public access to justice will obtain a whole new meaning. This is partly because all citizens will be able to search the judicial database for relevant decisions and because the existing possibilities to obtain a total overview of case law in specific areas of jurisprudence may be expected to be greatly improved.
- The government has responded positively to a new report on financial costs of criminal cases. The report proposes a number of changes, including that the guilty party should pay only the costs of their legal defence, that court costs should be decided in the actual verdict, that ability to pay be taken into account, and that provision be made for debt relief of court costs in line with other debts to public authorities. The extent to which

the government will propose amendments following the report's proposals remain unclear.

NEW CHALLENGES

- The Administration of Justice Act has been amended so that the High Court, under certain circumstances, may dismiss a civil lawsuit in the second instance if there is no prospect that the case will have a different outcome than in the District Court. This innovation in Danish law has been introduced without a more detailed assessment of the possible consequences for the principle of the rule of law and access to justice.

In 2013, the government proposed that the minimum amount to be sought in appealing a civil case should be raised from DKK 10,000 to DKK 50,000. After a number of critical responses in the consultation process, including from the Danish Institute for Human Rights, the government reduced its proposed minimum of DKK 20,000, which was passed by Parliament. The DKK 20,000 minimum is slightly higher than if the amount alone had been adjusted according to the price and wage index (DKK 17,000).

AREAS WHERE HUMAN RIGHTS CAN BE STRENGTHENED IN DENMARK

The right to a fair trial is a fundamental right in all constitutional states. In the thematic report (in Danish) on 'Fair Trial', we have touched upon the following topics:

- Legal aid and free legal assistance
- Departure from the right of access to documents in criminal cases
- Interference in secrecy of communications
- Punishment and disciplinary measures for acts committed by inmates.

RECOMMENDATIONS

The Danish Institute for Human Rights recommends, among other things, that Denmark:

- undertakes a comprehensive and fundamental analysis of the legal aid area, including the financial framework, in order to examine the extent to which the existing legal aid arrangements should be changed in order to ensure that all citizens have effective access to the judicial system;
- considers the introduction of a system so that disciplinary proceedings will not be undertaken in cases where a police report has recorded a punishable offense committed in one of institutions of the Prison and Probation Service. This should be seen in light of the practice in the other Nordic countries and recent case law of the European Court of Human Rights.

CHAPTER 16

THE RIGHT TO HOUSING

Reference is seldom made directly to economic and social human rights in legislation, regulatory decisions and case law. This also applies to the right to housing. However, laws are often adopted, and authorities and courts make decisions, that can have importance for this area.

Many different factors influence developments in housing; for example, the society's general level of prosperity, the development of regulation of the welfare state and trends in housing prices can all impact the number of people able to manage their housing situation, as well as the kind of instruments the state can use to help those who are unable access appropriate housing.

The thematic report on 'Right to Housing' is new with the status 2014-15 report.

HUMAN RIGHTS IMPROVEMENTS

- The Appeals Board, as a result of the public debate on discrimination on the grounds of race and ethnic origin in the private rental sector, has mapped the extent and documented the discrimination that takes place. On this basis, the Appeals Board's Unit for Anti-discrimination, in 2015, initiated a number of measures designed to reduce discrimination in the private rental sector.
- The housing policy agreement of 2014 is aimed at improving conditions in the public housing sector, especially in disadvantaged areas. This agreement, however, contains no solutions to the fundamental problem, which is the lack of affordable rental housing to meet the needs of citizens receiving the lowest income transfers.
- The Ministry of Housing, Urban and Rural Affairs, in 2014, has calculated the number of disadvantaged residential districts. The ministry concluded that there has been a decline in the number of disadvantaged districts from 33 to 31, and at the same time, small improvements have been seen in the level of employment in these residential districts.

- The Court Administration's overview of eviction cases and actual evictions (i.e., evictions carried out by the bailiff's office) shows a decrease from 2012 to 2013. The figures for the first half of 2014 indicate that the number of eviction cases has stagnated, while the number of actual evictions has fallen slightly.
- On several occasions in 2014, Parliament has adopted regulations allowing young people who receive the lowest level of social benefits to also receive rent subsidies.
- In light of the significant increase in the number of homeless young people from 2007 to 2013, funds from the earmarked social reserve pool – the so called 'satspulje' – were allocated in 2013 and 2014 for the prevention of youth homelessness.
- In the fall of 2014, a fund was set up for the implementation of the Homelessness Strategy in further 26 municipalities. However, the size of the fund is limited, and fewer than half the Denmark's municipalities have received support for implementation of the strategy.
- The Ministry of Children, Gender Equality, Integration and Social Affairs, in December 2014, has finally resolved the issue over access of homeless EU citizens to shelters, reception centres and night cafés, from which they had previously been excluded. However, it is still uncertain how the municipalities will ensure this right in practice.

NEW CHALLENGES

- Surveys by the National Centre for Social Research (SFI) show that from 2009 to 2013, the number of homeless persons has increased by 17 percent. Youth homelessness has nearly doubled, and the number of 'street sleepers' has also increased.
- In 2014, the Danish Supreme Audit Institution (Rigsrevisionen) conducted a study on developments in the number of inexpensive rental apartments that persons receiving the lowest level of social benefits were able to afford. The study shows that from 2007 to 2013, there is a significant drop in the number of affordable apartments.
- The Appeals Board, in 2014, ruled that homeless people do not have the right to appeal refusal of access to or expulsion from a homeless shelter. This represents a significant limitation of homeless persons' access to effective legal remedies.
- Recent years have seen a marked increase in the use of the Criminal Code's anti-begging provisions used against (mainly foreign) homeless. Data for the first half of 2014 indicate a slight decrease in the number of warnings given to foreigners for begging, while the data indicates a minor increase in the number of convictions for begging involving foreign citizens.

AREAS WHERE HUMAN RIGHTS CAN BE STRENGTHENED IN DENMARK

Denmark has a number of challenges in terms of ensuring the right to housing and the rights of the homeless. In the thematic report (in Danish) on 'Right to Housing', we have touched upon the following topics:

- Access to housing
- Eviction of tenants
- Homelessness
- Criminalization of homelessness.

RECOMMENDATIONS

The Danish Institute for Human Rights recommends, among other things, that Denmark:

- sets a specific goal for and continuously monitor developments in the supply of affordable public housing that people with the lowest incomes can pay;
- implements a systematic registration of the use of any of the alternative letting rules (udlejningsredskaber). It should be possible to aggregate the data collection by social and economic status, disability, gender, and immigrants/descendants;
- takes initiatives to ensure that landlords in the private sector do not discriminate against ethnic minorities, particularly young men from ethnic minorities;
- develops a comprehensive policy for dealing with foreign homeless persons in accordance with human rights standards;
- registers the application of the Administrative Act on Public Order (ordensbekendtgørelsen) separately from offenses related directly to homelessness, such as sleeping in a public space, in order to clarify the extent to which homeless persons are being punished for acts directly related to homelessness

CHAPTER 17

CITIZENSHIP

In the area of citizenship, we can see contrasting developments. On the one hand, the possibilities to obtain Danish nationality have improved in recent years, since both the requirements for naturalisation and the practice of granting exemptions from the requirements have been relaxed. In addition, the children of immigrants have again been able to acquire Danish nationality by making a declaration to that end to the State Administration (Statsforvaltningen).

On the other hand, there has been a decrease in the number of foreigners who become Danish nationals each year. This is due to a number of administrative factors and the fact that the consequences of the relaxed conditions for acquisition of Danish nationality have not yet been reflected in practice. In addition, there are a number of ongoing human rights challenges that remain after 2014.

HUMAN RIGHTS IMPROVEMENTS

- The new naturalisation agreement concluded on May 23, 2013 by the governing parties and the Red-Green Alliance resulted in a new administrative regulation on naturalisation. Among other measures, there was a change in the requirement of 'knowledge of Danish society'. Applicants must now pass a citizenship test, which emphasizes features of everyday life and active political life encountered by nationals in modern society.
- The citizenship test was introduced in 2014, replacing the former naturalisation test, which also involved historical and cultural topics.
- With the agreement on naturalisation in May 2013, the parties had a strong focus on reducing the time for processing applications for acquisition of Danish nationality while ensuring that the handling of the cases was of high quality. At the time, the waiting period in the Ministry of Justice was 14-16 months, and the service goal was to reduce this to an average processing time of seven months by the end of 2014. This goal has not been achieved, and the present objective is to achieve the seven-month processing time by the end of 2015.

IMPROVEMENTS THROUGH CHANGES OF THE DANISH NATIONALITY ACT

- Young people who are born and raised in Denmark, have been entitled to Danish nationality, under certain conditions, by submitting a declaration to the State Administration (Statsforvaltningen).
- Any child with a Danish father, mother or co-mother acquires Danish nationality automatically at birth, regardless of whether the child is born in or out of wedlock, and regardless of whether the child is born in Denmark or abroad.
- Dual nationality was accepted for both emigrants and immigrants by an amendment of the Nationality Act of December 2014. The amendment on the acceptance of dual nationality enters into force on 1 September 2015. At the same time, there will also be a change of the application fees so that all children will be exempted from paying fees when applying for Danish nationality.
- Finally, there have been positive developments in case law. According to the Danish constitution, naturalisation of foreigners must be granted by the legislature. Accordingly, it has been the general understanding that the courts cannot review decisions on naturalisation. However, on September 13, 2013, the Supreme Court ruled that an applicant who has not been included

in a naturalisation law could contest the case in court on grounds that Denmark may have violated its obligations under international law, such that the applicant could thereby claim damages or compensation.

- The view on the inability to test a refusal of naturalisation in court was overruled by the Supreme Court on the grounds that even if naturalisation is a legislative process, it is assumed that Denmark's international obligations are being met by the legislature. Hence, an applicant may therefore bring his or her case before the court to test whether this has been the case. However, an applicant cannot use the court to claim that he shall be granted Danish nationality, since the grant of nationality belong to the exclusive competence of the legislature.
- A number of cases are now pending in the courts for review of rejections of naturalisation.

AREAS WHERE HUMAN RIGHTS CAN BE STRENGTHENED IN DENMARK

Denmark can strengthen its efforts in relation to non-citizens with close ties to Denmark. In the thematic report (in Danish) on 'Citizenship', we have touched upon the following topics:

- Procedures for granting of nationality
- Establishment of a commission for a nationality law reform
- Protection against statelessness at birth
- Children and young people's right to a nationality
- Nationality for immigrants, refugees and stateless persons
- Exemption from the requirements for naturalisation
- Loss of nationality
- Retaining nationality.

RECOMMENDATIONS

The Danish Institute for Human Rights recommends, among other things, that Denmark:

- establishes an expert commission to prepare a nationality law reform
- changes the nationality legislation so that nationality, as far as possible, may be granted pursuant to the law by administrative authorities;
- ensures that all the Naturalisation Committee's rejections of naturalisation contains reasons in writing, including refusals of exemption from the general naturalisation requirements and refusals due to security assessments;
- amends the Nationality Act so that children born in Denmark automatically are granted Danish nationality at birth if they are not entitled to acquire the nationality of any other country by birth;
- changes the nationality legislation so that the acquisition of Danish nationality is eased for persons who have resided in Denmark for more than nine years prior to their 18th birthday.

CHAPTER 18

EDUCATION

Denmark continues to face a number of challenges when it comes to ensuring the right to education and human rights education.

The public school reform of 2014 and the trend towards greater inclusion should generally be considered a human rights improvement, but the reform raises a number of practical challenges. Together with the reform of teacher's education B.Ed. in 2013, the reform creates challenges for bilingual pupils' access to education in Danish as a second language.

Within secondary and higher education, there are significant challenges that the reforms in 2014 have not adequately addressed. This applies, for example, to the specially organized youth education (STU) designed for young people with disabilities, which is still not at a level that qualifies students for advancing further in the education system nor is job qualifying in itself.

In 2014, the government prepared a status report for the Disability Policy Action Plan 2013 which followed up the plan's many initiatives, including those in education, one year after the plan had been launched.

HUMAN RIGHTS IMPROVEMENTS

- In August 2014, human rights education was significantly strengthened in primary and lower secondary school subjects and topics. This applies to the obligatory curricula called the Common Objectives for the subjects history, social studies, health and sex education and family life education, as well as for guidelines and study plans for several other school subjects.

NEW CHALLENGES

- In 2014, Gallup conducted a survey for the Danish Institute for Human Rights and UNICEF Denmark focusing on Danish pupils' awareness of children's rights. The survey showed that there are still far too many, almost half the respondents, who indicated that they only slightly or not at all were familiar with children's rights.
- The public school reform has not guaranteed equal access to mother tongue education for children coming from outside the EU/EEA countries, the Faroe Islands and Greenland.

- The public school reform has not ensured that the language screening of pupils in need of training in Danish as a second language will be carried out by teachers who are trained for the task. Danish as a second language is also eliminated in the new teacher training curriculum.
- In relation to the management of the reform of the educational stipend (SU) system in 2014, which, among other things, tightens the obligation for students to show sufficient progress in their studies, the challenge is to ensure that the stipend reform does not have a disproportionate affect on students with disabilities.
- Following the vocational education reform from 2014, there remains the outstanding issue of equal treatment of young people with disabilities in gaining access to education that gives them specific job qualifications.
- In connection with the reform of the education of care and youth workers (pedagogues) in 2014, it has not been specified that the students must receive instruction in the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities.

AREAS WHERE HUMAN RIGHTS CAN BE STRENGTHENED IN DENMARK

In the field of education, Denmark can increase its efforts to ensure access to education and to ensure that pupils in primary and lower secondary schools as well as students in key

professional education programs receive training in human rights. In the thematic report (in Danish) on 'Education', we have touched upon the following topics:

- A need for an action plan for human rights education
- Inclusion
- Accessibility
- Teaching Danish as a second language and mother tongue instruction
- Attrition in vocational training among ethnic minority boys
- Learning environment and being/// and bullying.

RECOMMENDATIONS

The Danish Institute for Human Rights recommends, among other things, that Denmark:

- establishes a national action plan for human rights education for the entire education sector;
- ensures the access to appeal all municipal decisions on adaptation and support for school pupils, regardless of whether the decision relates to the adaptation and support is for less than nine hours per week.

CHAPTER 19

EXPULSION AND EXTRADITION

Whereas there have been many – and sometimes extensive – changes to the rules relating to the expulsion of foreigners in previous years, there have no significant developments in this area since Status Report 2013, neither with regard to expulsion nor to extradition. However, it is especially expulsion that continues to attract much attention due to publicity given to individual cases, generating debate over the existing rules and possible changes in these.

One bill, however, that does not regulate expulsion or extradition but the confiscation of passport and residence permit, received much attention in the autumn of 2014:

- In December 2014, the government presented a draft law intended to prevent recruitment of 'foreign fighters' for participating in armed conflicts abroad. The bill provides for the confiscation of a Danish national's passport and revocation of a foreign citizen's residence permit if the individual participates or has participated in activities that may pose a danger to national security, public order or another State's national security.

The bill was the object of substantial criticism, including from the Danish Institute for Human Rights, which criticised the bill's concepts as too vague, entailing the risk that persons who did not participate in illegal activities might be included.

In this connection, it is also noted that:

- The Ministry of Justice, on October 8, 2014, requested the Criminal Law Council to assess whether the current regulations in the Criminal Code contain sufficient safeguards to prevent participation in and recruitment to armed conflicts abroad, and to suggest possible criminal law measures that can strengthen efforts in this area. The Criminal Law Council is expected to submit its report in the first half of 2015.

In 2014, other studies were also completed and initiated which could affect the situation of expelled aliens currently on 'tolerated stay' in Denmark:

- The Parliamentary Ombudsman, in December 2014, issued a statement on the situation of foreigners on 'tolerated stay' with residential and reporting obligations at the Sandholm

Center (which houses asylum-seekers and those being expelled from Denmark. The Ombudsman found no grounds to declare that the general conditions at the Sandholm Center were in violation of the ECHR but concluded that because of the general human and humanitarian considerations, there are grounds for a general reassessment of the conditions.

- The Ministry of Justice, in November 2014, decided to establish a working group consisting of representatives from the Ministry of Justice, the National Police and the Immigration Service that would examine what could be done to ensure better enforcement of the reporting and residence obligations for people with 'tolerated stay'. In this respect, the working group shall examine ways to increase the penalty for non-compliance, to reduce payment of benefits and to increase the use of electronic ankle monitors. The working group will complete its work on 1 March 2015.

HUMAN RIGHTS IMPROVEMENTS

- The Public Prosecutor's Office prepared in 2014 a summary of case law of the European Court of Human Rights concerning cases of expulsion because of criminal activity, including cases where the Court held that expulsion was in violation of the right to family life, i.e., Article 8 of the ECHR.

REAS WHERE HUMAN RIGHTS CAN BE STRENGTHENED IN DENMARK

Expulsion and extradition of persons from Denmark is an area with well-known human rights challenges. In the thematic report (in Danish) on 'Expulsion and Extradition', we have touched upon the following topics:

- expulsion by judicial decision due to crime
- expulsion of foreigners suspected of terror
- the use of diplomatic assurances in connection with, among other things, expulsion
- Foreigners residing under the 'tolerated stay' provisions.

RECOMMENDATIONS

The Danish Institute for Human Rights recommends, among other things, that Denmark:

- amends the Aliens Act's provisions on expulsion due to criminal activity, so that they are more clearly in line with Denmark's international obligations in this area pursuant to Denmark's international obligations, in particular Article 8 of the ECHR and the European Court of Human Rights' practices related to this.
- amends the Aliens Act so that immigration authorities, in cases of a rejected asylum seeker scheduled to be expelled, can continuously assess whether 'special grounds', such as family reasons, have arisen that would compel the authorities, on their own initiative, to reassess the rejected asylum application so that the individual could regain a residence permit in Denmark. Weight can be given to whether the individual, over a longer period, has been imposed residence and reporting obligations, and whether expulsion appears to be futile.
- reassesses the rules on residence and reporting obligations imposed on foreigners with tolerated stay, so as to ensure that the situation of these foreigners does not conflict with Denmark's human rights obligations.

- secures that Danish authorities regularly take concrete and individual decisions on whether it would be contrary to the prohibition on inhuman and degrading treatment cf. Article 3 of the ECHR to impose over a prolonged period residence and reporting obligations under the tolerated stay provisions.

CHAPTER 20

ARMED CONFLICT

In 2014, a number of initiatives and investigations were launched and were continued, which could shed light on and strengthen compliance with international humanitarian law and human rights under conditions of international military operations and armed conflicts:

- Work on developing the Danish military manual continued in 2014, and public meetings were held on the manual. The military manual will supposedly address a number of the questions that have arisen in recent years in connection with Denmark's active international military efforts, including the extent to which Danish forces are committed to human rights in connection with participation in international operations abroad and the interaction between international humanitarian law and human rights. Among other issues, the manual will touch on the protection of detainees and on Danish obligations for extradition of detainees to another state.
- In November 2014, however, the Minister of Justice announced that the work of the Commission of Inquiry on Danish participation

in the wars in Iraq and Afghanistan has been delayed partly because of prolonged process of obtaining security clearance from the Danish Security and Intelligence Service (PET) and internal disagreements within the Commission.

- The Ministry of Defence, in 2014, conducted a reorganisation of the Military Prosecution Service (FAUK), one aim of which was to strengthen the MPS's independence in investigating alleged violations of military conduct. In the opinion of the Danish Institute for Human Rights, there is a need for further action to strengthen the independence of the Military Prosecution Service.
- The Danish Institute for International Studies (DIIS), in 2014, issued a report on the use of interpreters in military conflicts that discusses how the security risk imposed on interpreters can be reduced in future Danish operations. The report recommends, among other things, that the armed forces conduct a specific risk analysis for each conflict in order to identify potential risks for interpreters and thereby reduce these risks. The report also recommends that the Danish government

support and promote the adoption of international rules on the protection of interpreters in conflict zones.

AREAS WHERE HUMAN RIGHTS CAN BE STRENGTHENED IN DENMARK

In recent years, Denmark has participated in several international military operations and actively participated in several armed conflicts, including in Afghanistan, Iraq, Libya and most recently in Mali in 2013 and in Iraq in 2014.

Denmark's participation in these conflicts has created a number of new issues in relation to international law obligations and Danish law and practice. First, when is it legal to take part in an armed conflict (*jus ad bellum*). And second, which rules of international law regulate the conduct of the war (*jus in bellum*).

In the thematic report (in Danish) on 'Armed Conflict', we have touched upon the following topics:

- Under what legal basis do the Danish armed forces operate
- Detention and deprivation of liberty of prisoners of war
- Transfer of prisoners
- Protection of children
- Rights of Danish soldiers, interpreters and of other support personnel
- Monitoring of violations of human rights and international humanitarian law
- Training in international humanitarian law and human rights.

RECOMMENDATIONS

The Danish Institute for Human Rights recommends, among other things, that Denmark:

- clarifies the extent to which Danish forces involved in international military operations are bound by human rights, the Danish Constitution and by other Danish legislation;
- in future mission-specific directives, specifically addresses the Danish forces' commitments in relation to children's rights to special respect and protection under both international humanitarian law and human rights law;
- clarifies whether the Military Prosecution Service (FAUK) and its investigations meet the requirements from, among other things the ECHR, including whether FAUK in practice possesses the necessary independence from the armed forces;
- considers establishing or designating a permanent monitoring and advisory body to assist the armed forces and the government to monitor and ensure that Denmark fulfils its international humanitarian law and human rights obligations during international military operations;
- strengthens the teaching of international humanitarian law and human rights in the armed forces.

CHAPTER 21

FREEDOM OF EXPRESSION

Freedom of expression has been intensely debated over the past year. The tragic attacks in both Paris and Copenhagen in early 2015 underscore the fact that real and serious threats may be linked to exercising one's freedom of expression and assembly, especially via expressions through art and satire, which have a great media-related impact across borders and cultural and language barriers.

The attacks in Paris and Copenhagen have also led to renewed debate on punishment for incitement to terrorism, and the prosecution authorities are now in the process of examining a large number of cases in which people have expressed sympathy for terrorist acts or have publicly made death threats and other criminal utterances against specific parts of the population.

Since the cartoon crisis in 2005, there has been public and political debate about the extent to which Danish law should take account of freedom of expression. In this connection, the Criminal Law Council has reviewed the legal implications of a possible abolishment of the Criminal Code's provisions prohibiting blasphemy and has stated that the prohibition

does not preclude sharp criticism of religion and religious dogma. The government has therefore decided not to propose repealing the blasphemy ban. The Danish Institute for Human Right, however, recommends a repeal of the ban on blasphemy, as human rights does not protect against blasphemy of religion. A ban on the burning of religious works and similar acts can also be enforced by other means.

In 2014, a number of MPs were reported to the police for having made statements about what they saw as a preferred judicial sentence in an ongoing trial. The prosecutor, however, assessed that MPs have a special latitude to make statements in legal policy debates, and that the statements did not risk unduly influencing judges and jurors.

Finally, the Parliamentary Ombudsman found it highly reprehensible that the public institution and media enterprise Danish Broadcasting Corporation (DR) had imposed professional censure on a journalist and presenter in violation of the constitutional protection of freedom of expression for certain statements that this individual had made writing as a private person in an opinion piece in a newspaper.

UNSOLVED PROBLEMS

- Based on the Criminal Law Council's assessment, the government has decided not to propose an abolishment of the Criminal Code's ban on blasphemy in order to have a legal instrument to punish public burnings of holy books such as the Bible or Koran, against which in such cases the authorities would be unable to intervene.
- There is a growing tendency of threats, attacks and hate speech against persons participating in the public debate. This may entail a risk that citizens refrain from entering the debate out of fear. The Council of Europe's Commissioner for Human Rights has expressed concern about the extent of hate speech in the public debate concerning ethnic and religious minorities, pointing out the special responsibility of politicians and the media in this regard. The Commissioner has also expressed concern over the limited number of hate speech convictions but has praised the Public Prosecutor's guidelines for handling these cases.

NEW CHALLENGES

- An increased level of fear and risk of physical and verbal attacks and threats against individuals and media who exercise their right to freedom of expression and participate in the public debate.
- Risk of fear of participating in events and meetings and the risk of participating in the public debate following the attack on the freedom of expression meeting that took place in Copenhagen in February 2015.
- Lack of clarity regarding the concept 'public' in connection with criminalized utterances communicated on social media.
- That fear of terror and violence leads to restrictions on the rights of all citizens, in terms of maintaining the anti-blasphemy provisions and increased application of the Criminal Code restrictions on freedom of expression and freedom of information as part of the fight against terrorism.

AREAS WHERE HUMAN RIGHTS CAN BE STRENGTHENED IN DENMARK

Denmark has a number of challenges related to freedom of expression. In the thematic report (in Danish) on 'Freedom of Expression', we have touched upon the following topics:

- Public employees' freedom of expression
- Hate speech
- The blasphemy ban in the Danish Criminal Code.

RECOMMENDATIONS

The Danish Institute for Human Rights recommends, among other things, that Denmark:

- abolishes the criminalization of blasphemy from the Criminal Code (§140);
- in addition to the overview of case law and guideline already published, periodically publishes statistics from police, prosecutors and courts' treatment of cases of hate speech under Criminal Code §266(b) as well as periodically publishes information for the use of the Criminal Code's §81, no. 7 on aggravating circumstances for attacks motivated by the victim's legal expressions.
- launches initiatives to raise awareness of the rules on the freedom of expression of public employees, particularly as concerns their loyalty obligations.

CHAPTER 22

THE ELDERLY

Over the past year, both the European Council and the UN have focused on the protection of the rights of the elderly.

- The Council of Europe's Committee of Ministers has adopted a recommendation calling on member states to strengthen their efforts to protect the human rights of elderly people.
- In the United Nations, a working group is developing a similar recommendation or possibly a legally binding convention;
- The Council of Europe's recommendation contains, among other things, recommendations to protect the elderly against violence and abuse, as well as recommendations on the principles for balancing the needs of vulnerable, incapacitated elderly people for obtaining care and treatment, on the one hand, with maximum involvement of the elderly, and on the other, legal guarantees ;
- In a Danish context, there is still a lack of knowledge about violence and abuse of the elderly, and there is a lack of attention and tools to deal with suspected abuse;

In the regions, however, there is an emerging focus on the area:

- The Capital Region has prepared guidelines for healthcare personnel so that they can better identify and deal with signs of abuse of patients, and the Mid-Jutland Region plans to introduce a similar system.
- The other regions have not formulated any policy in this area.

The state authorities have been working with the rights of the elderly, particularly the rights of those who are particularly vulnerable and legally incapacitated, but new measures have yet to be adopted:

- The National Board of Social Services (Socialstyrelsen) has conducted a follow-up study on the legal amendment that would ease the procedures for equipping a person with dementia with a warning alarm or tracking device, and the Board has found that such measures would help improve confidence on the part of both persons with dementia and their relatives. Nevertheless, a survey October 2014 shows that within the last year 15 demented people had strayed from their

homes and had died. Thus, the use of alarm and tracking systems can never be a solution in itself but must be supplemented by other forms of care, including adequate staff resources.

- The Ministry of Health has been working on the problem that legally incapacitated patients who resist treatment may not receive treatment according to the Health Act, no matter how urgent their need for treatment is. Representatives of the implicated professional groups have pointed out that the law may have health-threatening consequences if a sick patient refuses to accept necessary treatment.

The Health Law's focus on the patient's right to self-determination does not accord with the Social Service Law's requirement that the municipality must provide care when it is required for persons who cannot take care of their own interests. This gives rise to uncertainty on the part of both health and nursing staff. In March 2014, the Minister for Health informed the Parliamentary Committee on Social Affairs that there is a plan to present some models that can take account of these issues, but that the area is complicated and cannot be subjected to hasty decisions.

In addition, the joint public digitalization strategy, based on mandatory digital self-service for all citizens, had been further implemented in 2014. An exemption from having to use the system must be sought separately for each area covered by the mandatory digital contact, and it remains with the authorities to decide who may be exempted from this regulation.

There is still a large group of elderly, around 30 percent of those over age 65, who do not have the skills to use digital communication or access to the Internet at home. In the case of elderly people with disabilities or elderly who do not have easy access to public transportation, there appear to be serious problems in assuring that this group has sufficient access to public authorities.

In 2014, new legislation was proposed that would give the elderly increased right to self-determination and could strengthen elderly people's dignity and autonomy:

- The bill concerns the 'future powers of attorney' as an alternative to guardianship. Via a future power of attorney, elderly persons can appoint someone who can take of their financial and personal affairs at a later time when they themselves are no longer able to do so, for instance due to dementia.

AREAS WHERE HUMAN RIGHTS CAN BE STRENGTHENED IN DENMARK

Elderly people have the right to dignity, personal integrity and must be protected from degrading treatment. Denmark can strengthen its efforts to ensure elderly people's rights in several areas. In the thematic report (in Danish) on 'The Elderly', we have touched upon the following topics:

- Protection of vulnerable elderly from abuse
- Care of elderly persons with dementia
- Digitalization of communication with the public authorities.

RECOMMENDATIONS

The Danish Institute for Human Rights recommends, among other things, that Denmark:

- amends the Health Act in order to meet the critical medical needs of permanently legally incapacitated patients, regardless of whether they refuse treatment;
- amends the Social Services Act's administrative notice on the use of force and related guidelines so that caregivers are not placed in situations where they must choose between not providing necessary care to people with dementia and others with significant and permanent disabilities versus providing care on an unauthorized basis;
- provides relatives or others who can give surrogate consent to healthcare treatment the right to be involved in all important decisions in the performance of healthcare measures for people with dementia;
- attaches considerable weight to citizens' own assessment of their IT skills and access to the necessary IT equipment when assessing whether to grant an exemption from the obligatory digital communication with public authorities;

- ensures that in cases where elderly people are refused exemption from the obligation to communicate with authorities via the digital self-service arrangement, that they have access to review by an independent authority, and ensure that the authorities inform about such means of appeal.

