

Udenrigsministeriet/Ministry of Foreign Affairs

JTMR@um.dk

anjlev@um.dk

WILDERS PLADS 8K

1403 KØBENHAVN K

TELEFON 3269 8888

DIREKTE 3269 8979

MOBIL 3269 8979

EMKI@HUMANRIGHTS.DK

MENNESKERET.DK

J. NR. 540.10/30603/EMKI

2. MAJ 2014

SUBMISSION OF CONSULTATION RESPONSE TO DRAFT MID-TERM PROGRESS REPORT ON THE RECOMMENDATIONS OF UNHRC UNDER THE UNIVERSAL PERIODIC REVIEW MECHANISM

The Danish Ministry of Foreign Affairs has by e-mail of 2 April 2014 invited the Danish Institute for Human Rights (DIHR) to comment on the Government's draft mid-term progress report on the recommendations of UNHRC under the Universal Periodic Review mechanism (UPR).

As Denmark's national human rights institution DIHR welcomes the opportunity to comment on the draft report.

Due to the delay of the Government's mid-term progress report DIHR has already submitted a report on the Danish implementation of the UNHRC recommendations to UPR-info.org in January 2014. The report is provided as an annex to this consultation response.

The focus of this consultation response is the new information provided in the draft mid-term report and contains recommendations concerning clarifications, amendments or request for further information. For a more comprehensive review of the implementation with references to DIHR's recommendations for the improvement of the human rights situation in Denmark please refer to annex 1.

Further, DIHR has assisted civil society organizations joined in the Danish UPR Committee, established by the Danish Council for Human Rights (Institut for Menneskerettigheders Menneskerettighedsråd), with technical assistance and coordination in drafting a joint consultation response to the draft mid-term report, in accordance with Section 2(4) of the Act Establishing the Danish Institute for Human Rights, Act no. 553 of 18 June 2012, which states that DIHR should promote the

coordination of and provide assistance to the human rights work of civil society organizations.

DIHR'S COMMENTS AND RECOMMENDATIONS TO THE DRAFT MID-TERM PROGRESS REPORT

DIHR acknowledges the important initiatives taken to implement the received UNHRC recommendations and notes the increased number of accepted recommendations since 2011.

DIHR takes notice of an apparent change in the Government's assessment of whether to accept recommendations on issues where the Government considers national law and practice in compliance with Denmark's international human rights obligations. DIHR agrees that such recommendations in general should be accepted.

DIHR welcomes the opportunity to comment on the draft report and wishes to submit the following remarks:

- Recommendation no. 4, 11, 16, 17 and 21 on the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance:

DIHR recommends that the Government provides more details on the process and when the study is expected to be completed.

- Recommendation no. 15 on studying the possibility of ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families:

DIHR recommends that the Government makes the legal analysis prepared in spring of 2013 publicly available to ensure transparency and to foster a dialogue concerning the decision on whether to ratify the Convention based on the highest level of available information.

- Recommendation no. 47 on the continued efforts aimed at the promotion of human rights expertise and education and public awareness about human rights protection:

DIHR recommends that the Government provide information on how human rights education is included in the Danish public schools. Please refer to DIHR's status report for 2013 with regard to DIHR's recommendation to ensure human rights education in the education system.

- Recommendation no. 47 on the implementation of the UN Declaration on the Rights of Indigenous Peoples:

DIHR presumes that the reference made in the report with regard to recommendation no. 47 should have been to Act no. 473 of 12 June 2009 on Greenland Self-Government. Please refer to annex 1 with regard to the different understanding on whether the Act on Greenland Self-Government has clarified core issues relevant to the effective implementation of the Declaration.

- Recommendation no. 52 and 53 on responding to questionnaires from special procedures of the Human Rights Council:

DIHR recommends the Government to provide details on the remaining thematic questionnaires and to make received questionnaires and submissions to special procedures of the Human Rights Council publicly available to ensure transparency.

- Recommendation no. 61 on the human rights of foreigners, regardless of their migratory status :

During the last couple of months, there has been public debate and media coverage regarding the application of the UN Convention on the Rights of the Child in decisions taken in accordance with the Danish Aliens Act. There have been several examples of cases where children have received a negative decision and where there is a lack of clarity regarding the assessment of the best interest of the child in accordance with article 3 of the UN Convention on the Rights of the Child. DIHR recommends, that the Government provide details on measures taken to ensure that the UN Convention on the Rights of the Child is fully complied with in such decisions.

- Recommendation no. 89 on the victims of human trafficking:

Recommendation no. 89 contains both a recommendation regarding 1) that victims of human trafficking are not detained and 2) a recommendation to expand the reflection period. DIHR recognizes the initiatives taken to expand the reflection period but the first part of the recommendation concerning detention of victims of human trafficking is not addressed in the Government's mid-term progress report. With reference to annex 1 on recommendation no. 89 the Institute recommends the Government to include details on specific steps taken or considerations made on how to implement this part of the accepted recommendation.

- Recommendation no. 100 on incarceration and solitary confinement of minors:

DIHR recommends that the Government provides details on the use of solitary confinement of children in other situations than the detention in remand custody (e.g. the use of solitary confinement as a disciplinary punishment of young detainees, the use of solitary confinement related to order and security considerations, etc.). DIHR further recommends that the Government includes information on whether measures have been taken to reduce the use of solitary confinement of children in such situations.

- Recommendation no. 111 on undocumented children and education:

It is unclear which demographic group is covered by the government's response to recommendation 111. Questions could be raised as to whether asylum seeking children are 'undocumented' as the asylum process entails asylum seeking status including a formal documentation of the child. DIHR recommends that the Government provides information on the access to education for undocumented children who are *not* seeking asylum.

- Recommendation no. 115 on the granting of citizenship to stateless persons:

DIHR recommends that the Government includes its assessment of the compliance between the current legislation which contains a 'lawful residence requirement' for granting Danish born stateless persons citizenship and the UN Convention on the Reduction of Statelessness which in article 1(2)(b) only permit a 'habitual residence requirement'. Please refer to annex 1, rec. no. 115.

- Recommendation no. 125 on expulsion:

DIHR recommends that the Government includes its assessment of the compliance between the current rules whereby refugees may lose their refugee status when being convicted of minor offences and standards from the UNHCR. Please refer to annex 1, rec. no. 125.

- Recommendation no. 131 on detention of refugees, migrants and asylum-seekers:

DIHR recommends that the Government provides details on how vulnerable aliens with psychologically or physically illnesses in

detention are detected, the use of medical screening and the general access to medical examinations for aliens detained under the Danish Alien Act to ensure that special consideration is taken before the detention of vulnerable aliens. Please refer to DIHR's status report for 2013¹ with regard to DIHR's recommendation to introduce mandatory health screening to ensure that special consideration is taken before the detention of vulnerable aliens.

Best regards,

Emil Kiørboe

¹ An English summary of DIHR's Status report 2013 is available at:
http://www.humanrights.dk/sites/humanrights.dk/files/statusreport2013_eng.pdf